



## 1995 ASSEMBLY BILL 311

April 13, 1995 - Introduced by Representatives KRUSICK, GOETSCH, KREUSER, CARPENTER, DUFF, GROBSCHMIDT, HANSON, HASENOHRL, MUSSER, NOTESTEIN, PLACHE, RILEY, ROBSON, RYBA, SPRINGER, SILBAUGH and WIRCH, cosponsored by Senators DRZEWIECKI, ANDREA and BURKE. Referred to Committee on Criminal Justice and Corrections.

1     **AN ACT** *to renumber and amend* 940.285 (2) (b) 1., 940.29 and 940.295 (3) (b)  
2           1.; *to amend* 939.25 (2), 940.285 (2) (a) (intro.), 940.285 (2) (b) 3., 940.285 (2)  
3           (b) 4., 940.285 (2) (b) 5., 940.295 (3) (b) 3., 940.295 (3) (b) 4., 940.295 (3) (b) 5.  
4           and 969.08 (10) (b); and *to create* 940.285 (2) (a) 3., 940.285 (2) (b) 1g., 940.285  
5           (2) (b) 1m., 940.29 (1), 940.29 (3), 940.29 (4), 940.295 (1) (km), 940.295 (1) (t),  
6           940.295 (3) (a) 3., 940.295 (3) (b) 1g. and 940.295 (3) (b) 1m. of the statutes;  
7           **relating to:** abuse and providing penalties.

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### *Analysis by the Legislative Reference Bureau*

Current law provides various penalties for persons who abuse vulnerable adults or persons who are in penal institutions, treatment facilities or other facilities. "Vulnerable adults" refers to certain persons who have limitations due to developmental disabilities or problems such as aging or mental illness. The penalties vary depending on the type of harm caused or likely to be caused and whether the conduct was intentional or reckless. This bill makes various changes in these abuse laws:

1. The current abuse law does not cover death situations. Prosecutors may charge an abuse incident that results in death under one of the general homicide statutes. This bill provides a specific penalty for intentionally, recklessly or negligently causing the death of a vulnerable adult. Upon conviction, violators may be imprisoned for not more than 40 years. The prosecutor has the option to continue to prosecute such a violation under a general homicide statute.

2. Under current law, if a person is convicted of abuse of a vulnerable adult that is intentional and causes or is likely to cause great bodily harm, in most situations the person may be fined not more than \$10,000 or imprisoned for not more than 5

years or both. Under this bill, if a person is convicted of intentional, reckless or negligent abuse of a vulnerable adult that causes great bodily harm, the violator may be fined not more than \$10,000 or imprisoned for not more than 10 years or both.

3. The bill adds penalties for persons who negligently abuse vulnerable adults or persons who are in penal institutions, treatment facilities or other facilities. The penalties are the same as the penalties for reckless violations.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 939.25 (2) of the statutes is amended to read:

2           939.25 (2) If criminal negligence is an element of a crime in chs. 939 to 951 or  
3 s. 346.62, the negligence is indicated by the term “negligent” or “negligently”.

4           **SECTION 2.** 940.285 (2) (a) (intro.) of the statutes is amended to read:

5           940.285 (2) (a) (intro.) Any person, other than a person in charge of or employed  
6 in a facility under s. 940.29 (2) or in a facility or program under s. 940.295 (2), who  
7 does any of the following may be penalized under par. (b):

8           **SECTION 3.** 940.285 (2) (a) 3. of the statutes is created to read:

9           940.285 (2) (a) 3. Negligently subjects a vulnerable adult to maltreatment.

10          **SECTION 4.** 940.285 (2) (b) 1. of the statutes is renumbered 940.285 (2) (b) 1r.  
11 and amended to read:

12          940.285 (2) (b) 1r. Any person violating par. (a) 1. under circumstances that  
13 ~~cause or~~ are likely to cause great bodily harm is guilty of a Class D felony.

14          **SECTION 5.** 940.285 (2) (b) 1g. of the statutes is created to read:

15          940.285 (2) (b) 1g. Any person violating par. (a) under circumstances that cause  
16 death is guilty of a Class B felony.

17          **SECTION 6.** 940.285 (2) (b) 1m. of the statutes is created to read:

18          940.285 (2) (b) 1m. Any person violating par. (a) under circumstances that  
19 cause great bodily harm is guilty of a Class C felony.

1           **SECTION 7.** 940.285 (2) (b) 3. of the statutes is amended to read:

2           940.285 (2) (b) 3. Any person violating par. (a) 2. or 3. under circumstances that  
3           ~~cause or~~ are likely to cause great bodily harm is guilty of a Class E felony.

4           **SECTION 8.** 940.285 (2) (b) 4. of the statutes is amended to read:

5           940.285 (2) (b) 4. Any person violating par. (a) 2. or 3. under circumstances that  
6           cause or are likely to cause bodily harm is guilty of a Class A misdemeanor.

7           **SECTION 9.** 940.285 (2) (b) 5. of the statutes is amended to read:

8           940.285 (2) (b) 5. Any person violating par. (a) 1. ~~or~~ 2. or 3. under circumstances  
9           not causing and not likely to cause bodily harm is guilty of a Class B misdemeanor.

10          **SECTION 10.** 940.29 of the statutes is renumbered 940.29 (2) and amended to  
11          read:

12          940.29 (2) Any person in charge of or employed in a penal or correctional  
13          institution or other place of confinement who intentionally, recklessly or negligently  
14          abuses, neglects or ill-treats any person confined in or a resident of any such  
15          institution or place or who knowingly permits another person to do so is guilty of a  
16          Class E felony.

17          **SECTION 11.** 940.29 (1) of the statutes is created to read:

18          940.29 (1) In this section, “vulnerable adult” has the meaning given in s.  
19          940.285 (1) (e).

20          **SECTION 12.** 940.29 (3) of the statutes is created to read:

21          940.29 (3) A person who violates sub. (2) and causes death to a vulnerable adult  
22          is guilty of a Class B felony.

23          **SECTION 13.** 940.29 (4) of the statutes is created to read:

24          940.29 (4) A person who violates sub. (2) and causes great bodily harm to a  
25          vulnerable adult is guilty of a Class C felony.

1           **SECTION 14.** 940.295 (1) (km) of the statutes is created to read:

2           940.295 (1) (km) “Negligent abuse” means an act, omission or course of conduct  
3 by another, if done negligently, that is not reasonably necessary for treatment or  
4 maintenance of order and discipline in a program or facility under sub. (2) and that  
5 does at least one of the following:

6           1. Results in bodily harm or great bodily harm to a patient or resident.

7           2. Intimidates, humiliates, threatens, frightens or otherwise harasses a  
8 patient or resident.

9           **SECTION 15.** 940.295 (1) (t) of the statutes is created to read:

10          940.295 (1) (t) “Vulnerable adult” has the meaning given in s. 940.285 (1) (e).

11          **SECTION 16.** 940.295 (3) (a) 3. of the statutes is created to read:

12          940.295 (3) (a) 3. Negligently abuses or negligently neglects a patient or a  
13 resident.

14          **SECTION 17.** 940.295 (3) (b) 1. of the statutes is renumbered 940.295 (3) (b) 1r.  
15 and amended to read:

16          940.295 (3) (b) 1r. ~~Any~~ Except as provided in subd. 1m., any person violating  
17 par. (a) 1. under circumstances that cause or are likely to cause great bodily harm  
18 is guilty of a Class D felony.

19          **SECTION 18.** 940.295 (3) (b) 1g. of the statutes is created to read:

20          940.295 (3) (b) 1g. Any person violating par. (a) under circumstances that cause  
21 death to a vulnerable adult is guilty of a Class B felony.

22          **SECTION 19.** 940.295 (3) (b) 1m. of the statutes is created to read:

23          940.295 (3) (b) 1m. Any person violating par. (a) under circumstances that  
24 cause great bodily harm to a vulnerable adult is guilty of a Class C felony.

25          **SECTION 20.** 940.295 (3) (b) 3. of the statutes is amended to read:

