



1997 ASSEMBLY BILL 93

February 12, 1997 – Introduced by Representatives KRUSICK, AINSWORTH, BLACK, BOCK, CARPENTER, DOBYNS, FREESE, GUNDERSON, HAHN, HASENOHRL, KELSO, KREUSER, LADWIG, LA FAVE, J. LEHMAN, MEYER, MUSSER, NOTESTEIN, OLSEN, OTT, OURADA, PLALE, R. POTTER, POWERS, RILEY, RYBA, SERATTI, SPRINGER, STEINBRINK, TURNER, WALKER and WASSERMAN, cosponsored by Senators BUETTNER, DRZEWIECKI, FARROW, HUELSMAN, PLACHE, ROSENZWEIG and WIRCH. Referred to Committee on Criminal Justice and Corrections.

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

Analysis by the Legislative Reference Bureau

Current law provides various penalties for persons who abuse vulnerable adults. “Vulnerable adults” are 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 the following changes in these abuse laws:

1. The current abuse law does not cover situations in which the abuse results in the death of the vulnerable adult. 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

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40 years. Under the bill, the prosecutor will still have the option to prosecute such a violation under a general homicide statute.

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

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) 3. of the statutes is created to read:

5 940.285 (2) (a) 3. Negligently subjects a vulnerable adult to maltreatment.

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

8 940.285 (2) (b) 1r. Any person violating par. (a) 1. under circumstances that
9 ~~cause or~~ are likely to cause great bodily harm is guilty of a Class D felony.

10 **SECTION 4.** 940.285 (2) (b) 1g. of the statutes is created to read:

11 940.285 (2) (b) 1g. Any person violating par. (a) under circumstances that cause
12 death is guilty of a Class B felony.

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

14 940.285 (2) (b) 1m. Any person violating par. (a) under circumstances that
15 cause great bodily harm is guilty of a Class C felony.

16 **SECTION 6.** 940.285 (2) (b) 3. of the statutes is amended to read:

17 940.285 (2) (b) 3. Any person violating par. (a) 2. or 3. under circumstances that
18 ~~cause or~~ are likely to cause great bodily harm is guilty of a Class E felony.

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1 **SECTION 7.** 940.285 (2) (b) 4. of the statutes is amended to read:

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

4 **SECTION 8.** 940.285 (2) (b) 5. of the statutes is amended to read:

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

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

8 940.295 (1) (cm) “Developmentally disabled person” has the meaning given in
9 s. 55.01 (2).

10 **SECTION 10.** 940.295 (1) (hm) of the statutes is created to read:

11 940.295 (1) (hm) “Infirmities of aging” has the meaning given in s. 55.01 (3).

12 **SECTION 11.** 940.295 (1) (jm) of the statutes is created to read:

13 940.295 (1) (jm) “Mental illness” has the meaning given in s. 55.01 (4m).

14 **SECTION 12.** 940.295 (1) (km) of the statutes is created to read:

15 940.295 (1) (km) “Negligent abuse” means an act, omission or course of conduct
16 by another, if done negligently, that is not reasonably necessary for treatment or
17 maintenance of order and discipline in a program or facility under sub. (2) and that
18 does at least one of the following:

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

20 2. Intimidates, humiliates, threatens or otherwise harasses a patient or
21 resident.

22 **SECTION 13.** 940.295 (1) (kp) of the statutes is created to read:

23 940.295 (1) (kp) “Other like incapacities” has the meaning given in s. 55.01 (5).

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

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1 940.295 (1) (t) "Vulnerable person" means any person who either is a
2 developmentally disabled person or has infirmities of aging, mental illness or other
3 like incapacities and who is:

4 1. Substantially mentally incapable of providing for his or her needs for food,
5 shelter, clothing or personal or health care; or

6 2. Unable to report cruel maltreatment without assistance.

7 **SECTION 15.** 940.295 (3) (a) 3. of the statutes is created to read:

8 940.295 (3) (a) 3. Negligently abuses or neglects a patient or a resident.

9 **SECTION 16.** 940.295 (3) (b) 1. of the statutes is renumbered 940.295 (3) (b) 1r.
10 and amended to read:

11 940.295 (3) (b) 1r. Any Except as provided in subd. 1m., any person violating
12 par. (a) 1. under circumstances that cause or are likely to cause great bodily harm
13 is guilty of a Class D felony.

14 **SECTION 17.** 940.295 (3) (b) 1g. of the statutes is created to read:

15 940.295 (3) (b) 1g. Any person violating par. (a) under circumstances that cause
16 death to a vulnerable person is guilty of a Class B felony.

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

18 940.295 (3) (b) 1m. Any person violating par. (a) under circumstances that
19 cause great bodily harm to a vulnerable person is guilty of a Class C felony.

20 **SECTION 19.** 940.295 (3) (b) 3. of the statutes is amended to read:

21 940.295 (3) (b) 3. Any Except as provided in subd. 1m., any person violating par.
22 (a) 2. or 3. under circumstances that cause or are likely to cause great bodily harm
23 is guilty of a Class E felony.

24 **SECTION 20.** 940.295 (3) (b) 4. of the statutes is amended to read:

