CHAPTER 943.

CRIMES AGAINST PROPERTY.

DAMAGE.
943.01 Criminal damage to property.
943.02 Arson of buildings; damage of property by explosives.
943.03 Arson of property other than building.
943.04 Arson with intent to defraud.
943.05 Placing of combustible materials an attempt.

TRESPASS.
943.10 Burglary.
943.11 Entry into locked vehicle.
943.12 Possession of burglarious tools.
943.13 Criminal trespass to land.
943.14 Criminal trespass to dwellings.

MISAPPROPRIATION.
943.20 Theft.
943.21 Fraud on hotel or restaurant keeper.
943.22 Use of cheating tokens.
943.23 Operating vehicle without owner's consent.
943.24 Issue of worthless check.
943.25 Transfer of encumbered property.
943.26 Removing or damaging encumbered real property.
943.30 Threats to injure or accuse of crime.
943.31 Threats to communicate derogatory information.
943.32 Robbery.
943.34 Receiving stolen property.
943.35 Receiving property from children.
943.37 Alteration of property identification marks.
943.38 Forgery.
943.39 Fraudulent writings.
943.40 Fraudulent destruction of certain writings.
943.41 Fraudulent use of credit cards.
943.45 Telecommunications service, obtaining by fraud.

DAMAGE.

943.01 Criminal damage to property. (1) Whoever intentionally causes damage to any physical property of another without his consent may be fined not more than $200 or imprisoned not more than 6 months or both.

(2) Any person violating sub. (1) may be fined not more than $1,000 or imprisoned not more than 3 years or both under the following circumstances:

(a) The property damaged is a vehicle or highway as defined in s. 941.03 (2) and the damage is of a kind which is likely to cause injury to a person or further property damage; or

(b) The property damaged belongs to a public utility or common carrier and the damage is of a kind which is likely to impair the services of the public utility or common carrier.

(3) If the total property damaged in violation of this section is reduced in value by more than $1,000, the person may be fined not more than $1,000 or imprisoned not more than 5 years or both. For the purposes of this subsection, property is reduced in value by the amount which it would cost either to repair or replace it, whichever is less.

(4) Where more than one item of property is damaged pursuant to a single intent and design, the damage to all the property may be prosecuted as a single crime.

(5) In any case of criminal damage involving more than one act of criminal damage but prosecuted as a single crime, it is sufficient to allege generally criminal damage to property committed between certain dates. On the trial, evidence may be given of any such criminal damage committed on or between the dates alleged.

943.02 Arson of buildings; damage of property by explosives. (1) Whoever does any of the following may be imprisoned not more than 15 years:

(a) By means of fire, intentionally damages any building of another without his consent; or

(b) By means of fire, intentionally damages any building with intent to defraud an insurer of that building; or

(c) By means of explosives, intentionally damages any property of another without his consent.

(2) In this section "building of another" means a building in which a person other than the actor has a legal or equitable interest which the actor has no right to defeat or impair, even though the actor may also have a legal or equitable interest in the building. Proof that the actor recovered or attempted to recover on a policy of insurance by reason of the fire is relevant but not essential to establish his intent to defraud the insurer.

History: 1961 c. 50.

943.03 Arson of property other than building. Whoever, by means of fire, intentionally damages any property (other than a building) of another without his consent, may, if the property is of the value of $100 or more, be fined not more than $1,000 or imprisoned not more than 3 years or both.

943.04 Arson with intent to defraud. Whoever, by means of fire, damages any property (other than a building) with intent to defraud an insurer of that property may be fined not more than $1,000 or imprisoned not more than 5 years or both. Proof that the actor recovered or attempted to recover on a policy of insurance by reason of the fire is relevant but not essential to establish his intent to defraud the insurer.

History: 1961 c. 50.

943.05 Placing of combustible materials an attempt. Whoever places any combustible or explosive material or device in or near any property with intent to set fire to or blow up such property is guilty of an attempt to violate either s. 943.01, 943.02, 943.03 or 943.04, depending on the facts of the particular case.

TRESPASS.

943.10 Burglary. (1) Whoever intentionally enters any of the following places without the consent of the person in lawful possession and with intent to steal or commit a felony therein may be imprisoned not more than 10 years:

(a) Any building or dwelling; or

(b) An enclosed railroad car; or

(c) An enclosed portion of any ship or vessel; or

(d) A locked enclosed cargo portion of a truck or trailer; or

(e) A room within any of the above.

(2) Whoever violates sub. (1) under any of the following circumstances may be imprisoned not more than 20 years:

(a) While armed with a dangerous weapon; or

(b) While unarmed, but arms himself with a dangerous weapon while still in the burglarized enclosure; or

(c) While in the burglarized enclosure opens, or attempts to open, any depository by use of an explosive; or

(d) While in the burglarized enclosure commits a battery upon a person lawfully therein.

(3) For the purpose of this section, entry into a place during the time when it is open to the general public is with consent.

This section is applicable to the entry of public buildings. State v. Kennedy, 15 W (2d) 600, 113 NW (2d) 372.

943.11 Entry into locked vehicle. Whoever intentionally enters the locked and enclosed portion or compartment of the vehicle of another without consent and with intent to steal therefrom may be fined not more than $1,000 or imprisoned not more than one year in county jail or both.

943.12 Possession of burglarious tools. Whoever has in his possession any device or instrumentality designed and adapted for use in breaking into any depository designed for the safekeeping of any valuables or into any building or room, with intent to use such device or instrumentality to break into a depository, building or room, and to steal therefrom, may be fined not more than $1,000 or imprisoned not more than 10 years or both.

943.13 Criminal trespass to land. (1) Whoever does any of the following may be fined not more than $50 and in default of payment thereof shall be imprisoned not more than 30 days:

(a) Enters any enclosed or cultivated land of another with intent to catch or kill any birds, animals, or fish on such land or gather any products of the soil without the express or implied consent of the owner or occupant to engage in any of those activities; or

(b) Enters or remains on any land of another with intent to catch or kill any birds, animals or fish on such land or gather any product of the soil after having been notified by the owner or occupant not to engage in any of those activities; or

(c) Hunts or shoots on the premises of another after having been notified by the owner or occupant not to do so.

(2) A person has received notice from the owner or occupant within the meaning of this section if he has been notified personally, either orally or in writing, or if the land is posted. For land to be posted, a sign at least 11 inches square must be placed in at least 2 conspicuous places for every 40 acres to be protected. The sign must carry an appropriate notice and the name of the person giving the notice followed by the word "owner" if the person giving the notice is the holder of legal title to the land and by the word "occupant" if the person giving the notice is not the holder of legal title but is a lawful occupant of the land.

(3) Whoever erects on the land of another signs which are the same as or similar to those described in sub. (2) without obtaining the express consent of the lawful occupant of or holder of legal title to such land may be fined not more than $100.

943.14 Criminal trespass to dwellings. Whoever intentionally enters the dwelling of another without the consent of some person lawfully upon the premises, under circumstances tending to create or provoke a breach of the peace, may be fined not more than $200 or imprisoned not more than 6 months or both.

MISAPPROPRIATION.

943.20 Theft. (1) Whoever does any of the following may be penalized as provided in sub. (3):

(a) Intentionally takes and carries away, uses, transfers, conceals, or retains possession of movable property of another without his consent and with intent to deprive the owner permanently of possession of such property.

(b) By virtue of his office, business or employment, or as trustee or bailee, having possession or custody of money or of a negotiable security, instrument, paper or other negotiable writing of another, intentionally uses, transfers, conceals, or retains possession of such money, security, instrument, paper or writing without the owner's consent, contrary to his authority, and with intent to convert to his own use or to the use of any other person except the owner. A refusal to deliver any money or a negotiable security, instrument, paper or other negotiable writing, which is in his possession or custody by virtue of his office, business or employment, or as bailee, upon demand of the person entitled to receive it, or as required by law, is prima facie evidence of an intent to convert to his own use within the meaning of this paragraph.

(c) Having a legal interest in movable property, intentionally and without consent, takes such property out of the possession of a pledgee or other person having a superior right of possession, with intent thereby to deprive the pledgee or other person permanently of the possession of such property.

(d) Obtains title to property of another by intentionally deceiving him with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made. "False representation" includes a promise made with intent not to perform it if it is a part of a false and fraudulent scheme.

(2) DEFINITIONS. In this section:

(a) "Property" means all forms of tangible property, whether real or personal, without limitation including electricity, gas and documents which represent or embody a chose in action or other intangible rights.

(b) "Movable property" is property whose physical location can be changed, without limitation including electricity and gas, documents which represent or embody intangible rights, and things growing on, affixed to or found in land.

(c) "Value" means the market value at the time of the theft or the cost to the victim of replacing the property within a reasonable time after the theft, whichever is less, but if the property stolen is a document evidencing a chose in action or other intangible right, value means either the market value of the chose in action or other right or the intrinsic value of the document, whichever is greater. If the thief gave consideration for, or had a legal interest in, the stolen property, the amount of such consideration or value of such interest shall be deducted from the total value of the property.

(d) "Property of another" includes property in which the actor is a co-owner and property of a partnership of which the actor is a member, unless the actor and the victim are husband and wife.

(3) PENALTIES. Penalties for violation of this section shall be as follows:

(a) If the value of the property does not exceed $100, a fine of not more than $200 or imprisonment for not more than 6 months or both.

(b) If the value of the property exceeds $100 but not $2,500, a fine of not more than $5,000 or imprisonment for not more than 5 years or both.

(c) If the value of the property exceeds $2,500, a fine of not more than $10,000 or imprisonment for not more than 15 years or both.

(d) If the value of the property is less than $2,500 and any of the following circumstances exist, a fine of not more than $5,000 or imprisonment for not more than 5 years or both:

1. The property is a domestic animal; or
2. The property is taken from the person of another or from a corpse; or
3. The property is taken from a building which has been destroyed or left unoccupied because of physical disaster, riot, bombing or the proximity of battle; or
4. The property is taken after physical disaster, riot, bombing, or the proximity of battle has necessitated its removal from a building.

Cross Reference: Misapplication of funds by contractor or subcontractor as theft, see 289.02 (4).

Criminal misappropriation in Wisconsin. Baldwin, 44 MLR 253, 430.

943.21 Fraud on hotel or restaurant keeper. Any person having obtained any food, lodging or other service or accommodation at any hotel, motel, boarding or lodging house, or restaurant, who intentionally absconds without paying for it may be fined not more than $500 or imprisoned not more than one year or both.

943.22 Use of cheating tokens. Whoever obtains the property or services of another by depositing anything which he knows is not lawful money or an authorized token in any receptacle used for the deposit of coins or tokens may be fined not more than $50 or imprisoned not more than 60 days or both.

943.23 Operating vehicle without owner's consent. Whoever intentionally takes and drives any vehicle without the consent of the owner may be fined not more than $1,000 or imprisoned not more than 5 years or both.

943.24 Issue of worthless check. (1) Whoever issues any check or other order for the payment of money which, at the time of issuance, he intends shall not be paid is guilty of a misdemeanor and may be fined not more than $1,000 or imprisoned not more than one year or both.

(2) Any of the following is prima facie evidence that the person at the time he issued the check or other order for the payment of money, intended it should not be paid:

(a) Proof that, at the time of issuance, he did not have an account with the drawee; or

(b) Proof that, at the time of issuance, he did not have sufficient funds or credit with the drawee and that he failed within 5 days after receiving notice of nonpayment or dishonor to pay the check or other order; or

(c) Proof that, when presentment was made within a reasonable time, the issuer did not have sufficient funds or credit with the drawee and he failed within 5 days after receiving notice of nonpayment or dishonor to pay the check or other order.

(3) This section does not apply to a postdated check or to a check given for a past consideration, except a pay roll check.

Under (1), creating the crime of writing a worthless check, and specifically designating it a misdemeanor and providing for a fine of not more than $1,000 or imprisonment of not more than one year, or both, but not stating the place of imprisonment, the punishment of such misdemeanor, when the sentence is for one year, may, in the discretion of the trial court, be served either in the state prison or in the county jail. Pruitt v. State, 16 W (2d) 169, 114 NW (2d) 148.

943.25 Transfer of encumbered property. (1) Whoever, with intent to defraud, conveys real property which he knows is encumbered, without informing the grantee of the existence of the encumbrance may be fined not more than $5,000 or imprisoned not more than 3 years or both.

(2) (a) Whoever, with intent to defraud, conceals, removes or transfers any personal property in which he knows another has a security interest may be fined not more than $1,000 or imprisoned not more than 2 years or both. It is prima facie evidence of an intent to defraud if a person, with knowledge that the security interest exists, removes or sells the property without either the consent of the holder of the security interest or authorization by law or by the agreement creating the security interest, and fails within 72 hours after service of written demand for the return of the property either to return it or, in the event that return is not possible, to make full disclosure to the holder of the security interest of all the information he has concerning its disposition, location and possession.

(b) In this section "security interest" means an interest in property which secures payment or other performance of an obligation.

NOTE: Chapter 158, laws of 1963, repealed sub. (2) and created (2), (3) and (4), effective July 1, 1965, to read:

"(2) Whoever, with intent to defraud, does any of the following may be fined not more than $1,000 or imprisoned not more than 2 years or both:

(a) Conceals, removes or transfers any personal property in which he knows another has a security interest; or

(b) In violation of the security agreement, fails or refuses to pay over to the secured party the proceeds from the sale of property subject to a security interest."

"(3) It is prima facie evidence of an intent to defraud within the meaning of sub. (2) (a) if a person, with knowledge that the security interest exists, removes or sells the property without either the consent of the secured party or authorization by the security agreement and fails within 72 hours after service of written demand for the return of the property either to return it or, in the event that return is not possible, to make full disclosure to the secured party of all the information he has concerning its disposition, location and possession."

"(4) In this section 'security interest' means an interest in property which secures payment or other performance of an obligation; 'security agreement' means the agreement creating the security interest; 'secured party' means the person designated in the security agreement as the person in whose favor there is a security interest or, in the case of an assignment of which the debtor has been notified, the assignee."

Legislative Council Note, 1963: The revision of s. 943.25, made by SECTIONS 38 and 39 of this bill, consists of 2 parts.

The first part involves a technical change. In the statutory prima facie case stated in s. 943.25 (2) of the statutes (and restated in s. 943.25 (3)) about the phrase "authorization by law or by the agreement creating the security interest" was changed to "authorization by the security agreement". The reference to authorization by law was deleted for the purpose of avoiding any implication that s. 409.311 of the commercial code constitutes an authorization by law to sell encumbered property which would negate the prima facie case set forth in s. 943.25. The commercial code's revision of the law relating to chattel security renders the reference to "authorization by law" obsolete in any event.

The second part of the revision consists of the creation of sub. (2) (b) and the last 2 definitions in sub. (4). Sub. (2) (b) is based upon s. 241.495 of the statutes which pertains only to trust receipt transactions. Since the commercial code does not deal specifically with trust receipt transactions as such, the new provision necessarily is broader than the old. That part of s. 241.495 which deals with the situation wherein the debtor has no "liberty of sale" is covered by sub (2) (a) of the revised section. (Bill No. 1-S)

History: 1963 c. 158.

943.26 Removing or damaging encumbered real property. (1) Any mortgagor of real property or vendee under a land contract who, without the consent of the mortgagee or vendor, intentionally removes or damages the real property so as to substantially impair the mortgagee's or vendor's security may be fined not more than $200 or imprisoned not more than 6 months or both.

(2) If the security is impaired by more than $1,000, the mortgagor or vendee may be fined not more than $1,000 or imprisoned not more than 5 years or both.

943.30 Threats to injure or accuse of crime. Whoever, either verbally or by any written or printed communication, maliciously threatens to accuse another of any crime or offense, or to do any injury to the person, property, business, profession, calling or trade, or the profits and income of any business, profession, calling or trade of another, with intent thereby to extort money or any pecuniary advantage whatever, or with intent to compel the person so threatened to do any act against his will or omit to do any lawful act, may be fined not more than $2,000 or imprisoned not more than 5 years or both.

943.31 Threats to communicate derogatory information. Whoever threatens to communicate to anyone information, whether true or false, which would injure the reputation of the threatened person or another unless the threatened person transfers property to a person known not to be entitled to it may be fined not more than $1,000 or imprisoned not more than one year or both.

943.32 Robbery. (1) Whoever, with intent to steal, takes property from the person or presence of the owner by either of the following means may be imprisoned not more than 10 years:

(a) By using force against the person of the owner with intent thereby to overcome his physical resistance or physical power of resistance to the taking or carrying away of the property; or

(b) By threatening the imminent use of force against the person of the owner or of another who is present with intent thereby to compel the owner to acquiesce in the taking or carrying away of the property.

(2) Whoever violates sub. (1) while armed with a dangerous weapon may be imprisoned not more than 30 years.

(3) In this section "owner" means a person in possession of property whether his possession is lawful or unlawful.

943.34 Receiving stolen property. Whoever intentionally receives or conceals stolen property may be penalized as follows:

(1) If the value of the property does not exceed $100, by a fine of not more than $200 or by imprisonment for not more than 6 months or both.

(2) If the value of the property exceeds $100 but not more than $2,500, by a fine of not more than $5,000 or by imprisonment for not more than 5 years or both.

(3) If the value of the property exceeds $2,500, by a fine of not more than $10,000 or by imprisonment for not more than 15 years or both.

943.35 Receiving property from children. Whoever does either of the following may be fined not more than $100 or imprisoned not more than 6 months or both:

(1) As a dealer in secondhand articles or junk, purchases any personal property, except old rags and waste paper, from any minor under 18 years of age, without the written consent of his parent or guardian; or

(2) As a pawnbroker or other person who loans money and takes personal property as security therefor, receives personal property as security for a loan from any minor under 18 years of age without the written consent of his parent or guardian.

943.37 Alteration of property identification marks. Whoever does any of the following with intent to prevent the identification of the property involved may be fined not more than $200 or imprisoned not more than 6 months or both:

(1) Alters or removes any identification mark on any log or other lumber without the consent of the owner; or

(2) Alters or removes any identification mark from any receptacle used by the manufacturer of any beverage; or

(3) Alters or removes any manufacturer's identification number on personal property or possesses any personal property with knowledge that the manufacturer's identification number has been removed or altered. Possession of 2 or more similar items of personal property with the manufacturer's identification number altered or removed is prima facie evidence of knowledge of the alteration or removal and of an intent to prevent identification of the property.

943.38 Forgery. (1) Whoever with intent to defraud falsely makes or alters a writing or object of any of the following kinds so that it purports to have been made by another, or at another time, or with different provisions, or by authority of one who did not give such authority, may be fined not more than $5,000 or imprisoned not more than 10 years or both:

(a) A writing or object whereby legal rights or obligations are created, terminated or transferred, or any writing commonly relied upon in business or commercial transactions as evidence of debt or property rights; or

(b) A public record or a certified or authenticated copy thereof; or

(c) An official authentication or certification of a copy of a public record; or

(d) An official return or certificate entitled to be received as evidence of its contents.

(2) Whoever utters as genuine or possesses with intent to utter as false or as genuine any forged writing or object mentioned in sub. (1), knowing it to have been thus falsely made or altered, may be fined or imprisoned or both as provided in said subsection.

(3) Whoever, with intent to defraud, does any of the following may be fined not more than $200 or imprisoned not more than 6 months or both:

(a) Falsely makes or alters any object so that it appears to have value because of antiquity, rarity, source or authorship which it does not possess; or possesses any such object knowing it to have been thus falsely made or altered and with intent to transfer it as original and genuine, by sale or for security purposes; or

(b) Falsely makes or alters any writing of a kind commonly relied upon for the purpose of identification or recommendation; or

(c) Without consent, places upon any merchandise an identifying label or stamp which is or purports to be that of another craftsman, tradesman, packer or manufacturer; or

(d) Falsely makes or alters a membership card purporting to be that of a fraternal, business or professional association or of a labor union; or possesses any such card knowing it to have been thus falsely made or altered and with intent to use it or cause or permit its use to deceive another; or

(e) Falsely makes or alters any writing purporting to evidence a right to transportation on any common carrier; or

(f) Falsely makes or alters a certified abstract of title to real estate.

943.39 Fraudulent writings. Whoever, with intent to injure or defraud, does any of the following may be fined not more than $2,500 or imprisoned not more than 3 years or both:

(1) Makes any written statement which he knows is false in a claim made for insurance benefits; or

(2) Being a director, officer, agent or employe of any corporation falsifies any record, account or other document belonging to that corporation by alteration, false entry or omission, or makes, circulates or publishes any written statement regarding the corporation which he knows is false; or

(3) By means of deceit obtains a signature to a writing which is the subject of forgery under s. 943.38 (1); or

(4) Makes a false written statement with knowledge that it is false and with intent that it shall ultimately appear to have been signed under oath.

943.40 Fraudulent destruction of certain writings. Whoever with intent to defraud does either of the following may be fined not more than $2,500 or imprisoned not more than 3 years or both:

(1) Destroys or mutilates any corporate books of account or records; or

(2) Completely erases, obliterates or destroys any writing which is the subject of forgery under s. 943.38 (1) (a).

943.41 Fraudulent use of credit cards. (1) Whoever obtains or attempts to obtain property or services on credit by any of the following means may, if the value of the property or services does not exceed $100, be fined not more than $100 or imprisoned not more than 30 days, or both, or if the value of the property or services exceeds $100, be fined not more than $500 or imprisoned not more than one year, or both:

(a) Uses a credit card which was issued to another, without his consent.

(b) Uses a credit card knowing that it has been revoked or canceled.

(c) Uses a credit card knowing that it has been falsely made or altered in any material respect.

(d) Uses the pretended number or description of a fictitious credit card.

(e) With intent to defraud, uses a credit card which has expired.

(2) In this section "credit card" means any device issued by a business organization or association of business organizations, or any club, authorizing the holder to obtain property or services on credit. It includes the number or description of any such device when the device itself is not produced at the time of obtaining credit.

(3) For purposes of this section a credit card may be revoked or canceled by notice given orally in person or by telephone, or in writing by mail or telegram. In the absence of proof of earlier delivery, such notice directed to the holder at the address given on his card or his last known address, bearing the return address of the sender, and deposited in the United States mail with sufficient postage attached, is presumed to have been received on the second day after mailing, or, if filed in the office of a telegraph company serving such address, is presumed to have been received on the day following such filing, unless, in either case, the sender has been notified of nondelivery.

History: 1963 c. 67.

943.45 Telecommunications service, obtaining by fraud. Whoever with intent to defraud obtains or attempts to obtain telecommunications service by any of the following means may be fined not more than $100 or imprisoned not more than 30 days, or both:

(1) Charging such service to an existing telephone number or credit card number without the consent of the subscriber thereto or the legitimate holder thereof.

(2) Charging such service to a false, fictitious, suspended, terminated, expired, canceled or revoked telephone number or credit card number.

History: 1961 c. 248.