



1995 SENATE BILL 633

March 19, 1996 - Introduced by Senator HUELSMAN, cosponsored by Representatives GREEN and HUBER, by request of ERROR: ORA-06107: NETTCP: ORACLE network server not found. Referred to Committee on Judiciary.

1 **AN ACT** *to renumber and amend* 973.12 (1); and *to create* 973.12 (1) (a) 2. of
2 the statutes; **relating to:** repeat offenders and persistent repeat offenders.

Analysis by the Legislative Reference Bureau

Under current law, criminal defendants who have certain types of prior criminal convictions may be prosecuted as repeaters or persistent repeaters. In that case, the district attorney may allege the applicable prior convictions in the criminal complaint, indictment or information (documents that describe the charges) in the current case or in any revisions of the complaint, indictment or information prior to the court's acceptance of any plea from the defendant. Prior to accepting a plea, the court may grant the district attorney time to investigate the defendant's possible prior convictions.

This bill sets new standards based on the type of plea that the defendant enters. If the defendant pleads guilty or no contest, the district attorney must make the repeater or persistent repeater allegation before the court accepts the defendant's plea. If the defendant pleads not guilty, the district attorney may make the repeater or persistent repeater allegation at any time before trial.

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

3 **SECTION 1.** 973.12 (1) of the statutes is renumbered 973.12 (1) (a) (intro.) and
4 amended to read:

5 973.12 (1) (a) (intro.) Whenever a person charged with a crime will be a
6 repeater or a persistent repeater under s. 939.62 if convicted, any applicable prior

1 convictions may be alleged in the complaint, indictment or information or
2 amendments ~~so alleging at any time before or at arraignment, and before acceptance~~
3 ~~of any plea.~~ to the complaint, indictment or information under the following
4 circumstances:

5 1. If there is a plea of guilty or no contest, the district attorney shall make the
6 repeater or persistent repeater allegation prior to the trial court's acceptance of the
7 plea. The court may, upon motion of the district attorney, grant a reasonable time
8 to investigate possible prior convictions before accepting a plea of guilty or no contest.

9 (b) If the prior convictions are admitted by the defendant or proved by the state,
10 he or she shall be subject to sentence under s. 939.62 unless he or she establishes that
11 he or she was pardoned on grounds of innocence for any crime necessary to constitute
12 him or her a repeater or a persistent repeater. An official report of the F.B.I. or any
13 other governmental agency of the United States or of this or any other state shall be
14 prima facie evidence of any conviction or sentence therein reported. Any sentence
15 so reported shall be deemed prima facie to have been fully served in actual
16 confinement or to have been served for such period of time as is shown or is consistent
17 with the report. The court shall take judicial notice of the statutes of the United
18 States and foreign states in determining whether the prior conviction was for a felony
19 or a misdemeanor.

20 **SECTION 2.** 973.12 (1) (a) 2. of the statutes is created to read:

21 973.12 (1) (a) 2. If there is a plea of not guilty, the district attorney may make
22 the repeater or persistent repeater allegation in the original complaint, information
23 or indictment, or may add the repeater or persistent repeater allegation to the
24 original or amended complaint, indictment or information at any time prior to trial.

1 The court may, upon motion of the district attorney, grant a reasonable time to
2 investigate possible prior convictions prior to trial.

3 **SECTION 3. Initial applicability.**

4 (1) This act first applies to actions commenced on the effective date of this
5 subsection.

6 (END)