

State of Wisconsin



1997 Assembly Bill 93

Date of enactment: April 27, 1998
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1997 WISCONSIN ACT 180

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

* Section 991.11, WISCONSIN STATUTES 1995–96: Effective date of acts. “Every act and every portion of an act enacted by the legislature over the governor’s partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated” by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

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

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

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

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

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

1. Results in bodily harm or great bodily harm to a patient or resident.
2. Intimidates, humiliates, threatens or otherwise harasses a patient or resident.

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

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

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

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

1. Substantially mentally incapable of providing for his or her needs for food, shelter, clothing or personal or health care; or
2. Unable to report cruel maltreatment without assistance.

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

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

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

940.295 (3) (b) 1r. Any Except as provided in subd. 1m., any person violating par. (a) 1. under circumstances

that cause or are likely to cause great bodily harm is guilty of a Class D felony.

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

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

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

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

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

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

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

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

SECTION 21. 940.295 (3) (b) 5. of the statutes is amended to read:

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

SECTION 22. 969.08 (10) (b) of the statutes is amended to read:

969.08 (10) (b) "Serious crime" means any crime specified in s. 346.62 (4), 940.01, 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (5), 940.20, 940.203, 940.21, 940.225 (1) to (3), 940.23, 940.24, 940.25, 940.29, 940.295 (3) (b) ~~1., 1g., 1m., 1r., 2. or 3.,~~ 940.31, 941.20 (2) or (3), 941.26, 941.30, 941.327, 943.01 (2) (c), 943.013, 943.02, 943.03, 943.04, 943.06, 943.10, 943.23 (1g), (1m) or (1r), 943.30, 943.32, 946.01, 946.02, 946.43, 947.015, 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.06, 948.07 or 948.30.