

1999 DRAFTING REQUEST

Bill

Received: 12/9/98

Received By: olsenje

Wanted: As time permits

Identical to LRB:

For: Scott Suder

By/Representing: Ann

This file may be shown to any legislator: NO

Drafter: olsenje

May Contact:

Alt. Drafters:

Subject: Criminal Law - miscellaneous

Extra Copies:

Topic:

Theft by caretaker of a vulnerable adult

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	olsenje 12/13/98	jgeller 12/15/98		_____			
/1			martykr 12/15/98	_____	lrb_docadmin 12/15/98	barmanj 12/17/98	
				_____	lrb_docadmin 12/17/98	lrb_docadmin 12/17/98	

FE Sent For:

Not Needed

<END>

1999 DRAFTING REQUEST

Bill

Received: **12/9/98**

Received By: **olsenje**

Wanted: **As time permits**

Identical to LRB:

For: **Scott Suder**

By/Representing: **Ann**

This file may be shown to any legislator: **NO**

Drafter: **olsenje**

May Contact:

Alt. Drafters:

Subject: **Criminal Law - miscellaneous**

Extra Copies:

Topic:

Theft by caretaker of a vulnerable adult

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	olsenje 12/13/98	ygeller 12/15/98		_____			
/1			martykr 12/15/98	_____	lrb_docadmin 12/15/98		

FE Sent For:

<END>

1999 DRAFTING REQUEST

Bill

Received: **12/9/98**

Received By: **olsenje**

Wanted: **As time permits**

Identical to LRB:

For: **Scott Suder**

By/Representing: **Ann**

This file may be shown to any legislator: **NO**

Drafter: **olsenje**

May Contact:

Alt. Drafters:

Subject: **Criminal Law - miscellaneous**

Extra Copies:

Topic:

Theft by caretaker of a vulnerable adult

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1/?	olsenje	12/15 Jlg	12/15 Jm	12/15 JS	12/15 Jm		

FE Sent For:

<END>

1999

Date (time) needed _____

LRB - 11961 1

BILL

D-Note

JED :jlg: _____

Use the appropriate components and routines developed for bills.

AN ACT . . . [generate catalog] *to repeal . . . ; to renumber . . . ; to consolidate and renumber . . . ; to renumber and amend . . . ; to consolidate, renumber and amend . . . ; to amend . . . ; to repeal and recreate . . . ; and to create . . .* of the statutes; relating to:

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

Analysis by the Legislative Reference Bureau

For the 3 titles used in an analysis, in the component bar:

For the main heading [old =M], execute: create → anal: → title: → head

For the subheading [old =S], execute: create → anal: → title: → sub

For the sub-subheading [old =P], execute: create → anal: → title: → sub-sub

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

SECTION #.



~~1997 ASSEMBLY BILL 539~~

~~September 29, 1997 - Introduced by Representatives ZUKOWSKI, SCHAPIR, LATWIG, OTT, OWENS, GREEN, ALBERS, OTTE, FREESE, LAZICH, HASENOHRL, RYBA, DOBYNS, HANDRICK, DUFF, TURNER, GOETSCH, SERATTI and KRUSICK, cosponsored by Senators FARROW, ROESSLER, A. LASEE and BRESKE. Referred to Committee on Aging and Long-Term Care.~~

1

~~AN ACT to create 939.627 of the statutes relating to:~~ committing theft against

2

certain persons and providing a penalty. ✓

Analysis by the Legislative Reference Bureau

Current law prohibits various forms of theft. One form of theft is sometimes known as embezzlement. A person commits theft by embezzlement if all of the following apply: 1) by virtue of his or her office, business or employment, or by virtue of being a trustee or other person to whom property is entrusted, the person has possession of money or a negotiable security or other negotiable instrument that is owned by another; 2) the person intentionally uses, transfers, conceals, or retains possession of, the money or negotiable instrument without the owner's consent; and 3) the person uses, transfers, conceals, or retains possession of, the money or negotiable instrument with the intent to convert it to his or her own use or to the use of any person other than the owner.

✓
ANALYSIS
INSERT A

~~If a person is convicted of theft by embezzlement for taking property the value of which exceeds \$2,500, he or she may be imprisoned for not more than 10 years or fined not more than \$10,000 or both. In addition, a person convicted of theft by embezzlement may be fined not more than \$10,000 or imprisoned for not more than 5 years or both if the value of the property taken does not exceed \$2,500 but the theft occurs under certain circumstances. One such circumstance is if the property is taken either from: 1) a patient or resident of a protective facility or program (such as an adult day care center, a hospice, a group home, a community-based residential facility, an inpatient health care facility or a treatment facility); or 2) a vulnerable adult (a disabled adult who is substantially mentally incapable of caring for himself~~

ASSEMBLY BILL 539

~~or herself). Finally, current law provides a number of penalty enhancement provisions to allow for increased penalties whenever crimes are committed under specified circumstances.~~

This bill provides for an increased penalty for the theft by embezzlement of property worth more than \$2,500 from a vulnerable adult or from a patient or resident of a protective facility or program if the theft by embezzlement is committed by a caretaker of that vulnerable adult or patient or resident. The bill defines "caretaker" to mean a guardian, custodian or trustee of a vulnerable adult or a patient or resident of a protective facility or program, whether or not appointed by a court, or any other person in a position of trust with a vulnerable adult or a patient or resident of a protective facility or program. If a caretaker is convicted of theft by embezzlement under the circumstances covered by the bill, the maximum period of imprisonment is increased by ^{five} 3 years and the maximum fine is increased by \$5,000.

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

1 SECTION 1. 939.627^X of the statutes is created to read:

2 **939.627 Increased penalty; theft by caretaker of vulnerable adult. (1)**

3 In this section:

4 (a) "Caretaker" means a guardian, custodian, trustee or other person, whether
5 or not appointed by a court, who is responsible for the care, custody or control of a
6 vulnerable adult[✓] or the estate of a vulnerable adult, or any other person who stands
7 in a position of trust with a vulnerable adult. "Caretaker" includes a person acting
8 under a durable power of attorney.

9 (b) "Developmentally disabled person" has the meaning given in s. 55.01 (2).[✓]

10 (c) "Durable power of attorney" has the meaning given in s. 243.07 (1) (a).[✓]

11 (d) "Infirmities of aging" has the meaning given in s. 55.01 (3).[✓]

12 (e) "Mental illness" has the meaning given in s. 55.01 (4m).[✓]

13 (f) "Other like incapacities" has the meaning given in s. 55.01 (5).[✓]

14 (g) "Vulnerable adult" means a person who meets any of the following criteria:

C
N
D

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1196/lins
JEO:.....

ANALYSIS INSERT A:

Under current law, the penalties for theft are generally based on the value of the property stolen. If the value of the property taken does not exceed \$1,000, the theft is a misdemeanor. If the value of the property is more than \$1,000 but not more than \$2,500, the theft is a less serious class of felony. If the value of the property exceeds \$2,500, the theft is a more serious class of felony. For instance, if a person is convicted of theft by embezzlement and the value of the property embezzled exceeds \$2,500, the person may be imprisoned for not more than ~~10~~ ^{ten} years or fined not more than \$10,000 or both, if the theft is committed before December 31, 1999. If the theft is committed on or after December 31, 1999, the person may be imprisoned for not more than 15 years or fined not more than \$10,000 or both.

However, current law also provides that theft is a more serious felony if the value of the property taken does not exceed \$2,500 but the theft occurs under certain circumstances. One such circumstance is if the property is taken either from: 1) a patient or resident of a protective facility or program (such as an adult day care center, a hospice, a group home, a community-based residential facility, an inpatient health care facility or a treatment facility); or 2) a vulnerable adult (a disabled adult who is substantially mentally incapable of caring for himself or herself). Thus, if a theft by embezzlement of less than \$2,500 is committed against a vulnerable adult or a patient or resident of a protective facility or program before December 31, 1999, the person committing the theft may be fined not more than \$10,000 or imprisoned for not more than ~~5~~ ^{five} years or both. If the theft is committed on or after December 31, 1999, the person may be imprisoned for not more than ~~10~~ ^{ten} years or fined not more than \$10,000 or both.

LRB-1196/1 In
JEO: jg:

D-Note

This is a redraft of 1997

Assembly Bill 539. ✓

JEO

1
2
3
4
5

6

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1196/1dn
JEO:jl:km

December 15, 1998

This is a redraft of 1997 Assembly Bill 539.

Jefren E. Olsen
Legislative Attorney
266-8906

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 12/15/98

To: Representative Suder

Relating to LRB drafting number: LRB-1196

Topic

Theft by caretaker of a vulnerable adult

Subject(s)

Criminal Law - miscellaneous

1. **JACKET** the draft for introduction _____

in the **Senate** ____ or the **Assembly** (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Jefren E. Olsen, Legislative Attorney
Telephone: (608) 266-8906

Not Needed

2