

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 111**

September 14, 1999 – Offered by Representative GOETSCH.

1 **AN ACT ...; relating to:** committing theft against certain persons and providing
2 a penalty.

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

3 **SECTION 1.** 939.627 (title) of the statutes, as created by 1999 Wisconsin Act ...
4 (this act), is renumbered 973.017 (5m) (title) and amended to read:

5 973.017 **(5m)** (title) ~~INCREASED-PENALTY~~ AGGRAVATING FACTORS; THEFT BY
6 CARETAKER OF VULNERABLE ADULT.

7 **SECTION 2.** 939.627 of the statutes is created to read:

8 **939.627 Increased penalty; theft by caretaker of vulnerable adult. (1)**

9 In this section:

10 (a) “Caretaker” means a guardian, custodian, trustee or other person, whether
11 or not appointed by a court, who is responsible for the care, custody or control of a
12 vulnerable adult or the estate of a vulnerable adult, or any other person who stands

1 in a position of trust with a vulnerable adult. “Caretaker” includes a person acting
2 under a durable power of attorney.

3 (b) “Developmentally disabled person” has the meaning given in s. 55.01 (2).

4 (c) “Durable power of attorney” has the meaning given in s. 243.07 (1) (a).

5 (d) “Infirmities of aging” has the meaning given in s. 55.01 (3).

6 (e) “Mental illness” has the meaning given in s. 55.01 (4m).

7 (f) “Other like incapacities” has the meaning given in s. 55.01 (5).

8 (g) “Vulnerable adult” means a person who meets any of the following criteria:

9 1. The person is 18 years of age or older, is a developmentally disabled person
10 or has infirmities of aging, mental illness or other like incapacities, and is
11 substantially mentally incapable of providing for his or her needs for food, shelter,
12 clothing or personal or health care.

13 2. The person is a patient or resident of a facility or program specified in s.
14 940.295 (2).

15 **(2)** (a) If a person commits a violation of s. 943.20 (1) (b) under all of the
16 following circumstances, the penalties are increased as provided in par. (b):

17 1. The person who commits the violation is a caretaker.

18 2. The victim of the violation is a vulnerable adult for whom the person is a
19 caretaker.

20 3. The value of the property taken exceeds \$2,500.

21 (b) If par. (a) applies, the maximum period of imprisonment may be increased
22 by 5 years and the maximum fine may be increased by \$5,000.

23 **(3)** This section provides for the enhancement of the penalties applicable for
24 the underlying crime. The court shall direct that the trier of fact find a special verdict
25 as to all of the issues specified in sub. (2).

1 **SECTION 3.** 939.627 (1) of the statutes, as created by 1999 Wisconsin Act (this
2 act), is renumbered 973.017 (5m) (a), and 973.017 (5m) (a) (intro.), as renumbered,
3 is amended to read:

4 973.017 **(5m)** (a) (intro.) In this section subsection:

5 **SECTION 4.** 939.627 (2) (a) of the statutes, as created by 1999 Wisconsin Act
6 (this act), is renumbered 973.017 (5m) (b), and 973.017 (5m) (b) (intro.), 1. and 2., as
7 renumbered, are amended to read:

8 973.017 **(5m)** (b) (intro.) If When making a sentencing decision concerning a
9 person commits a violation of convicted of violating s. 943.20 (1) (b), the court shall
10 consider as an aggravating factor the fact that the violation was committed under all
11 of the following circumstances, ~~the penalties are increased as provided in par. (b):~~

12 1. The person who ~~commits~~ committed the violation is a caretaker.

13 2. The victim of the violation is was a vulnerable adult for whom the person is
14 was a caretaker.

15 **SECTION 5.** 939.627 (2) (b) of the statutes, as created by 1999 Wisconsin Act
16 (this act), is repealed.

17 **SECTION 6.** 939.627 (3) of the statutes, as created by 1999 Wisconsin Act (this
18 act), is repealed.

19 **SECTION 7. Nonstatutory provisions.**

20 (1) RECONCILIATION PROVISION. The renumbering and amendment of section
21 939.627 (title), (1) and (2) (a) of the statutes, as created by this act, the repeal of
22 section 939.627 (2) (b) and (3) of the statutes, as created by this act, and SECTION 8
23 (1), (2) and (3) of this act are void unless 1999 Assembly Bill 465 is enacted into law
24 before July 1, 2000, and unless 1999 Assembly Bill 465 creates section 973.017 of the

1 statutes in exactly the same form as it appears in section 757 of 1999 Assembly Bill
2 465.

3 **SECTION 8. Effective dates.** This act takes effect on the day after publication,
4 except as follows:

5 (1) If 1999 Assembly Bill 465 has been enacted on or before the day after
6 publication of this act and the day after publication of this act is on or before
7 December 31, 1999, the renumbering and amendment of section 939.627 (title), (1)
8 and (2) (a) of the statutes, as created by this act, and the repeal of section 939.627
9 (2) (b) and (3) of the statutes, as created by this act, take effect on December 31, 1999.

10 (2) If 1999 Assembly Bill 465 has been enacted on or before the day after
11 publication of this act and the day after publication of this act is after December 31,
12 1999, the renumbering and amendment of section 939.627 (title), (1) and (2) (a) of the
13 statutes, as created by this act, and the repeal of section 939.627 (2) (b) and (3) of the
14 statutes, as created by this act, take effect on the day after publication of this act.

15 (3) If 1999 Assembly Bill 465 is enacted after the day after publication of this
16 act but before July 1, 2000, the renumbering and amendment of section 939.627
17 (title), (1) and (2) (a) of the statutes, as created by this act, and the repeal of section
18 939.627 (2) (b) and (3) of the statutes, as created by this act, take effect on December
19 31, 1999, or on the date that the creation of section 973.017 of the statutes by 1999
20 Assembly Bill 465 takes effect, whichever is later.

21 (END)