

2005 ASSEMBLY BILL 986

1 **AN ACT** *to renumber and amend* 943.25; *to amend* 938.18 (1) (a) 1., 941.291
2 (1) (b), 946.82 (4), 949.03 (1) (b) and 969.08 (10) (b); and *to create* 218.05 (15),
3 895.81, 939.03 (1) (f) and (g), 939.32 (2m), 941.38 (1) (b) 21. and subchapter IV
4 of chapter 943 [precedes 943.80] of the statutes; **relating to:** offenses against
5 financial institutions, community currency exchanges, and providing
6 penalties.

Analysis by the Legislative Reference Bureau

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

7 **SECTION 1.** 218.05 (15) of the statutes is created to read:
8 218.05 (15) A person who violates this section may be fined not more than
9 \$2,000 or imprisoned for not more than 9 months or both.
10 **SECTION 2.** 895.81 of the statutes is created to read:

ASSEMBLY BILL 986**SECTION 2**

1 **895.81 Indemnification of a financial institution.** A financial institution,
2 as defined in s. 943.80 (2), that compensates a customer for a pecuniary loss resulting
3 from a financial crime, as defined in s. 943.80 (1), or assumes the loss, may bring a
4 civil action against the person who committed the crime to recover the amount of the
5 loss, any other damages incurred by the financial institution as a result of the crime,
6 and the costs incurred to bring the action, including attorney's fees.

7 **SECTION 3.** 938.18 (1) (a) 1. of the statutes is amended to read:

8 938.18 (1) (a) 1. If the juvenile is alleged to have violated s. 940.03, 940.06,
9 940.225 (1) or (2), 940.305, 940.31, 943.10 (2), 943.32 (2), 943.87, or 961.41 (1) on or
10 after the juvenile's 14th birthday.

11 **SECTION 4.** 939.03 (1) (f) and (g) of the statutes are created to read:

12 939.03 (1) (f) The person violates s. 943.89 and the matter or thing is deposited
13 for delivery within this state or is received or taken within this state.

14 (g) The person violates s. 943.90 and the transmission is from within this state,
15 the transmission is received within this state, or it is reasonably foreseeable that the
16 transmission will be accessed by a person or machine within this state.

17 **SECTION 5.** 939.32 (2m) of the statutes is created to read:

18 939.32 (2m) MISDEMEANOR CRIMES AGAINST FINANCIAL INSTITUTION. Whoever
19 attempts to commit a crime under s. 943.81, 943.82 (1), 943.83, or 943.84 that is a
20 Class A misdemeanor under s. 943.91 (1) is subject to the penalty for a Class B
21 misdemeanor.

22 **SECTION 6.** 941.291 (1) (b) of the statutes is amended to read:

23 941.291 (1) (b) "Violent felony" means any felony, or the solicitation, conspiracy,
24 or attempt to commit any felony, under s. 943.23 (1m) or (1r), 1999 stats., or s. 940.01,
25 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19, 940.195, 940.20,

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1 940.201, 940.203, 940.21, 940.225, 940.23, 940.285 (2), 940.29, 940.295 (3), 940.30,
2 940.305, 940.31, 940.43 (1) to (3), 940.45 (1) to (3), 941.20, 941.26, 941.28, 941.29,
3 941.30, 941.327, 943.01 (2) (c), 943.011, 943.013, 943.02, 943.04, 943.06, 943.10 (2),
4 943.23 (1g), 943.32, 943.81, 943.82, 943.83, 943.85, 943.86, 943.87, 943.88, 943.89,
5 943.90, 946.43, 947.015, 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.06,
6 948.07, 948.08, or 948.30; or, if the victim is a financial institution, as defined in s.
7 943.80 (2), a felony, or the solicitation, conspiracy, or attempt to commit a felony
8 under s. 943.84 (1) or (2).

9 **SECTION 7.** 941.38 (1) (b) 21. of the statutes is created to read:

10 941.38 **(1)** (b) 21. A crime under s. 943.81, 943.82, 943.83, 943.85, 943.86,
11 943.87, 943.88, 943.89, or 943.90 or, if the victim is a financial institution, as defined
12 in s. 943.80 (2), a crime under s. 943.84 (1) or (2).

13 **SECTION 7m.** 943.25 of the statutes is renumbered 943.84, and 943.84 (1) and
14 (2) (intro.), as renumbered, are amended to read:

15 943.84 **(1)** Whoever, with intent to defraud, conveys real property which he or
16 she knows is encumbered, without informing the grantee of the existence of the
17 encumbrance is guilty of a Class I felony may be penalized as provided in s. 943.91.

18 **(2)** (intro.) Whoever, with intent to defraud, does any of the following is guilty
19 of a Class I felony may be penalized as provided in s. 943.91:

20 **SECTION 8.** Subchapter IV of chapter 943 [precedes 943.80] of the statutes is
21 created to read:

CHAPTER 943

SUBCHAPTER IV

CRIMES AGAINST

FINANCIAL INSTITUTIONS

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1 **943.80 Definitions.** In this subchapter:

2 **(1)** “Financial crime” means a crime under ss. 943.81 to 943.90 or any other
3 felony committed against a financial institution or an attempt or conspiracy to
4 commit one of these crimes.

5 **(2)** “Financial institution” means a bank, as defined in s. 214.01 (1) (c), a
6 savings bank, as defined in s. 214.01 (1) (t), a savings and loan association, a trust
7 company, a credit union, as defined in s. 186.01 (2), a mortgage banker, as defined
8 in s. 224.71 (3) (a), or a mortgage broker, as defined in s. 224.71 (4) (a), whether
9 chartered under the laws of this state, another state or territory, or under the laws
10 of the United States; a company that controls, is controlled by, or is under common
11 control with a bank, a savings bank, a savings and loan association, a trust company,
12 a credit union, a mortgage banker, or a mortgage broker; or a person licensed under
13 s. 138.09, other than a person who agrees for a fee to hold a check for a period of time
14 before negotiating or presenting the check for payment and other than a pawnbroker,
15 as defined in s. 138.10 (1) (a).

16 **943.81 Theft from a financial institution.** Whoever knowingly uses,
17 transfers, conceals, or takes possession of money, funds, credits, securities, assets,
18 or property owned by or under the custody or control of a financial institution without
19 authorization from the financial institution and with intent to convert it to his or her
20 own use or to the use of any person other than the owner or financial institution may
21 be penalized as provided in s. 943.91.

22 **943.82 Fraud against a financial institution. (1)** Whoever obtains money,
23 funds, credits, assets, securities, or other property owned by or under the custody or
24 control of a financial institution by means of false pretenses, representations, or

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1 promises, or by use of any fraudulent device, scheme, artifice, or monetary
2 instrument may be penalized as provided in s. 943.91.

3 (2) Whoever falsely represents that he or she is a financial institution or a
4 representative of a financial institution for the purpose of obtaining money, goods,
5 or services from any person or for the purpose of obtaining or recording a person's
6 personal identifying information, as defined in s. 943.201 (1) (b), is guilty of Class H
7 felony.

8 **943.83 Loan fraud.** Whoever with intent to defraud a financial institution
9 knowingly overvalues or makes a false statement concerning any land, security, or
10 other property for the purpose of influencing the financial institution to take or defer
11 any action in connection with a loan or loan application may be penalized as provided
12 in s. 943.91 according to the value of the loan.

13 **943.85 Bribery involving a financial institution. (1)** Whoever, with intent
14 to defraud a financial institution, confers, offers, or agrees to confer a benefit on an
15 employee, agent, or fiduciary of the financial institution without the consent of the
16 financial institution and with intent to influence the employee's, agent's, or
17 fiduciary's conduct in relation to the affairs of the institution is guilty of a Class H
18 felony.

19 (2) Any employee, agent, or fiduciary of a financial institution who without the
20 consent of the financial institution and with intent to defraud the financial
21 institution solicits, accepts, or agrees to accept any benefit from another person
22 pursuant to an agreement that the employee, agent, or fiduciary will act in a certain
23 manner in relation to the affairs of the financial institution is guilty of a Class H
24 felony.

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1 **943.86 Extortion against a financial institution.** Whoever for the purpose
2 of obtaining money, funds, credits, securities, assets, or property owned by or under
3 the custody or control of a financial institution threatens to cause bodily harm to an
4 owner, employee, or agent of a financial institution or to cause damage to property
5 owned by or under the custody or control of the financial institution is guilty of a
6 Class H felony.

7 **943.87 Robbery of a financial institution.** Whoever by use of force or threat
8 to use imminent force takes from an individual or in the presence of an individual
9 money or property that is owned by or under the custody or control of a financial
10 institution is guilty of Class C felony.

11 **943.88 Organizer of financial crimes.** Whoever commits 3 or more financial
12 crimes within an 18-month period is guilty of a Class E felony if all of the following
13 conditions apply:

14 (1) Each of the crimes is committed in concert with a person whom the actor
15 supervises, organizes, finances, or manages. The person need not be the same for
16 each of the crimes.

17 (2) At least one of the crimes is committed on or after the effective date of this
18 subsection [revisor inserts date].

19 **943.89 Mail fraud.** Whoever does any of the following to further commission
20 of a financial crime or to sell, dispose of, loan, exchange, alter, give away, distribute,
21 supply, furnish, or procure for an unlawful purpose any counterfeit currency,
22 obligation, or security is guilty of a Class H felony:

23 (1) Deposits or causes any matter to be deposited in a United States post office
24 or authorized depository for United States mail.

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1 **(2)** Deposits or causes to be deposited any matter or thing to be sent or delivered
2 by a commercial carrier.

3 **(3)** Takes or receives any matter or a thing sent or delivered by United States
4 mail or by a commercial carrier.

5 **943.90 Wire fraud against a financial institution.** Whoever transmits or
6 causes to be transmitted electrically, electromagnetically, or by light any signal,
7 writing, image, sound, or data for the purpose of committing a financial crime is
8 guilty of a Class H felony.

9 **943.91 Penalties.** Whoever violates s. 943.81, 943.82 (1), 943.83, or 943.84 is
10 guilty of the following:

11 **(1)** If the value of the money, funds, credits, securities, assets, property,
12 proceeds from sale, or loan does not exceed \$500, a Class A misdemeanor.

13 **(2)** If the value of the money, funds, credits, securities, assets, property,
14 proceeds from sale, or loan does not exceed \$500, and the person has previously been
15 convicted of an misdemeanor or felony under s. 943.10, 943.12, 943.20 to 943.75, or
16 943.81 to 943.90, a Class I felony.

17 **(3)** If the value of the money, funds, credits, securities, assets, property,
18 proceeds from sale, or loan exceeds \$500 but does not exceed \$10,000, a Class H
19 felony.

20 **(4)** If the value of the money, funds, credits, securities, assets, property,
21 proceeds from sale, or loan exceeds \$10,000 but does not exceed \$100,000, a Class G
22 felony.

23 **(5)** If the value of the money, funds, credits, securities, assets, property,
24 proceeds from sale, or loan exceeds \$100,000, a Class E felony.

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1 **943.92 Increased penalty for multiple financial crimes.** If a person is
2 convicted of committing 3 or more financial crimes in an 18-month period, the term
3 of imprisonment for the 3rd or subsequent crime in the 18-month period may be
4 increased as follows:

5 **(1)** A maximum term of imprisonment of one year or less may be increased to
6 not more than 2 years.

7 **(2)** A maximum term of imprisonment of more than one year but not more than
8 10 years may be increased by not more than 2 years if the prior convictions were for
9 misdemeanors and by not more than 4 years if at least one of the prior convictions
10 was for a felony.

11 **(3)** A maximum term of imprisonment of more than 10 years may be increased
12 by not more than 2 years if the prior convictions were for misdemeanors and by not
13 more than 6 years if at least one of the prior convictions was for a felony.

14 **SECTION 9.** 946.82 (4) of the statutes is amended to read:

15 **946.82 (4)** “Racketeering activity” means any activity specified in 18 USC 1961
16 (1) in effect as of April 27, 1982, or the attempt, conspiracy to commit, or commission
17 of any of the felonies specified in: chs. 945 and 961 and ss. 49.49, 134.05, 139.44 (1),
18 180.0129, 181.0129, 185.825, 201.09 (2), 215.12, 221.0625, 221.0636, 221.0637,
19 221.1004, 551.41, 551.42, 551.43, 551.44, 553.41 (3) and (4), 553.52 (2), 940.01,
20 940.19 (4) to (6), 940.20, 940.201, 940.203, 940.21, 940.30, 940.305, 940.31, 941.20
21 (2) and (3), 941.26, 941.28, 941.298, 941.31, 941.32, 942.09, 943.01 (2), (2d), or (2g),
22 943.011, 943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06, 943.10, 943.20 (3)
23 (bf) to (e), 943.201, 943.203, 943.23 (1g), (2) and (3), 943.24 (2), ~~943.25~~, 943.27,
24 943.28, 943.30, 943.32, 943.34 (1) (bf), (bm), and (c), 943.38, 943.39, 943.40, 943.41
25 (8) (b) and (c), 943.50 (4) (bf), (bm), and (c), 943.60, 943.70, 943.76, 943.81, 943.82,

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1 943.83, 943.84, 943.85, 943.86, 943.87, 943.88, 943.89, 943.90, 944.21 (5) (c) and (e),
2 944.32, 944.33 (2), 944.34, 945.03 (1m), 945.04 (1m), 945.05 (1), 945.08, 946.10,
3 946.11, 946.12, 946.13, 946.31, 946.32 (1), 946.48, 946.49, 946.61, 946.64, 946.65,
4 946.72, 946.76, 946.79, 947.015, 948.05, 948.08, 948.12, and 948.30.

5 **SECTION 10.** 949.03 (1) (b) of the statutes is amended to read:

6 949.03 (1) (b) The commission or the attempt to commit any crime specified in
7 s. 346.62 (4), 346.63 (2) or (6), 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08,
8 940.09, 940.10, 940.19, 940.20, 940.201, 940.21, 940.22 (2), 940.225, 940.23, 940.24,
9 940.25, 940.285, 940.29, 940.30, 940.305, 940.31, 940.32, 941.327, 943.02, 943.03,
10 943.04, 943.10, 943.20, 943.23 (1g), 943.32, 943.81, 943.86, 943.87, 948.02, 948.025,
11 948.03, 948.04, 948.07, 948.095, 948.20, 948.30 or 948.51.

12 **SECTION 11.** 969.08 (10) (b) of the statutes is amended to read:

13 969.08 (10) (b) “Serious crime” means any crime specified in s. 943.23 (1m),
14 1999 stats., or s. 943.23 (1r), 1999 stats., or s. 346.62 (4), 940.01, 940.02, 940.03,
15 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (5), 940.195 (5), 940.20, 940.201,
16 940.203, 940.21, 940.225 (1) to (3), 940.23, 940.24, 940.25, 940.29, 940.295 (3) (b) 1g.,
17 1m., 1r., 2. or 3., 940.31, 941.20 (2) or (3), 941.26, 941.30, 941.327, 943.01 (2) (c),
18 943.011, 943.013, 943.02, 943.03, 943.04, 943.06, 943.10, 943.23 (1g), 943.30, 943.32,
19 943.81, 943.82, 943.83, 943.85, 943.86, 943.87, 943.88, 943.89, 943.90, 946.01,
20 946.02, 946.43, 947.015, 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.06,
21 948.07 or 948.30 or, if the victim is a financial institution, as defined in s. 943.80 (2),
22 a crime under s. 943.84 (1) or (2).

23 **SECTION 12. Initial applicability.**

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SECTION 12

1 (1m) The treatment of sections 895.81, 943.25, and 946.82 (4) of the statutes
2 first applies to offenses committed on the effective date of this subsection.

3 (END)