

2005 Assembly Bill 986

Date of enactment: **March 27, 2006**

Date of publication\*: **April 10, 2006**

## 2005 WISCONSIN ACT 212

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

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

**SECTION 1.** 218.05 (15) of the statutes is created to read:

218.05 (15) A person who violates this section may be fined not more than \$2,000 or imprisoned for not more than 9 months or both.

**SECTION 2.** 895.81 of the statutes is created to read:

**895.81 Indemnification of a financial institution.**

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

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

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

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

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

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

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

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

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

941.291 (1) (b) "Violent felony" means any felony, or the solicitation, conspiracy, or attempt to commit any felony, under s. 943.23 (1m) or (1r), 1999 stats., or s. 940.01, 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19, 940.195, 940.20, 940.201, 940.203, 940.21, 940.225, 940.23, 940.285 (2), 940.29, 940.295 (3), 940.30, 940.305, 940.31, 940.43 (1) to (3), 940.45 (1) to (3), 941.20, 941.26, 941.28, 941.29, 941.30, 941.327, 943.01 (2) (c), 943.011, 943.013, 943.02, 943.04, 943.06,

\* Section 991.11, WISCONSIN STATUTES 2003-04 : 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].

943.10 (2), 943.23 (1g), 943.32, 943.81, 943.82, 943.83, 943.85, 943.86, 943.87, 943.88, 943.89, 943.90, 946.43, 947.015, 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.06, 948.07, 948.08, or 948.30; or, if the victim is a financial institution, as defined in s. 943.80 (2), a felony, or the solicitation, conspiracy, or attempt to commit a felony under s. 943.84 (1) or (2).

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

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

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

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

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

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

#### CHAPTER 943

##### SUBCHAPTER IV

##### CRIMES AGAINST

##### FINANCIAL INSTITUTIONS

**943.80 Definitions.** In this subchapter:

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

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

**943.81 Theft from a financial institution.** Whoever knowingly uses, transfers, conceals, or takes possession of money, funds, credits, securities, assets, or property owned by or under the custody or control of a financial institution without authorization from the

financial institution and with intent to convert it to his or her own use or to the use of any person other than the owner or financial institution may be penalized as provided in s. 943.91.

**943.82 Fraud against a financial institution.** (1) Whoever obtains money, funds, credits, assets, securities, or other property owned by or under the custody or control of a financial institution by means of false pretenses, representations, or promises, or by use of any fraudulent device, scheme, artifice, or monetary instrument may be penalized as provided in s. 943.91.

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

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

**943.85 Bribery involving a financial institution.**

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

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

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

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

**943.88 Organizer of financial crimes.** Whoever commits 3 or more financial crimes within an 18-month

period is guilty of a Class E felony if all of the following conditions apply:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

946.82 (4) "Racketeering activity" means any activity specified in 18 USC 1961 (1) in effect as of April 27, 1982, or the attempt, conspiracy to commit, or commission of any of the felonies specified in: chs. 945 and 961 and ss. 49.49, 134.05, 139.44 (1), 180.0129, 181.0129, 185.825, 201.09 (2), 215.12, 221.0625, 221.0636, 221.0637, 221.1004, 551.41, 551.42, 551.43, 551.44, 553.41 (3) and (4), 553.52 (2), 940.01, 940.19 (4) to (6), 940.20, 940.201, 940.203, 940.21, 940.30, 940.305, 940.31, 941.20 (2) and (3), 941.26, 941.28, 941.298, 941.31, 941.32, 942.09, 943.01 (2), (2d), or (2g), 943.011, 943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06, 943.10, 943.20 (3) (bf) to (e), 943.201, 943.203, 943.23 (1g), (2) and (3), 943.24 (2), ~~943.25~~, 943.27, 943.28, 943.30, 943.32, 943.34 (1) (bf), (bm), and (c), 943.38, 943.39, 943.40, 943.41 (8) (b) and (c), 943.50 (4) (bf), (bm), and (c), 943.60, 943.70, 943.76, ~~943.81, 943.82, 943.83, 943.84, 943.85, 943.86, 943.87, 943.88, 943.89, 943.90~~, 944.21 (5) (c) and (e), 944.32, 944.33 (2), 944.34, 945.03 (1m), 945.04 (1m), 945.05 (1), 945.08, 946.10, 946.11, 946.12, 946.13, 946.31, 946.32 (1), 946.48, 946.49, 946.61, 946.64, 946.65, 946.72, 946.76, 946.79, 947.015, 948.05, 948.08, 948.12, and 948.30.

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

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

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

969.08 (10) (b) "Serious crime" means any crime specified in s. 943.23 (1m), 1999 stats., or s. 943.23 (1r), 1999 stats., or s. 346.62 (4), 940.01, 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (5), 940.195 (5), 940.20, 940.201, 940.203, 940.21, 940.225 (1) to (3), 940.23, 940.24, 940.25, 940.29, 940.295 (3) (b)

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1g., 1m., 1r., 2. or 3., 940.31, 941.20 (2) or (3), 941.26, 941.30, 941.327, 943.01 (2) (c), 943.011, 943.013, 943.02, 943.03, 943.04, 943.06, 943.10, 943.23 (1g), 943.30, 943.32, 943.81, 943.82, 943.83, 943.85, 943.86, 943.87, 943.88, 943.89, 943.90, 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 or, if the victim is a

financial institution, as defined in s. 943.80 (2), a crime under s. 943.84 (1) or (2).

**SECTION 12. Initial applicability.**

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

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