



2011 ASSEMBLY BILL 397

1 **AN ACT** *to renumber and amend* 948.23; *to amend* 940.11 (2), 940.11 (3),
2 948.23 (title), 973.015 (1) (c) 2., 979.01 (1g), 979.01 (2), 979.01 (3), 979.01 (3m)
3 and 979.01 (4); and *to create* 948.23 (1) (intro.), 948.23 (1) (b), 948.23 (2) and
4 948.23 (3) of the statutes; **relating to:** failing to report the death of a child or
5 to report a missing child, moving the corpse of a child, hiding a corpse to collect
6 public benefits, and providing 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.** 940.11 (2) of the statutes is amended to read:
8 940.11 (2) Whoever hides or buries a corpse, with intent to conceal a crime or
9 avoid apprehension, prosecution or conviction for a crime or notwithstanding s.
10 49.141 (7), 49.49 (1), or 49.795 with intent to collect benefits under one of those
11 sections, is guilty of a Class G felony.

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1 **SECTION 2.** 940.11 (3) of the statutes is amended to read:

2 940.11 **(3)** A person may not be subject to prosecution under both this section
3 and s. 946.47 or under both this section and s. 948.23 (2) for his or her acts regarding
4 the same corpse.

5 **SECTION 3.** 948.23 (title) of the statutes is amended to read:

6 **948.23** (title) **Concealing or not reporting death of a child; not**
7 **reporting disappearance of a child.**

8 **SECTION 4.** 948.23 of the statutes is renumbered 948.23 (1) (a) and amended
9 to read:

10 948.23 **(1)** (a) ~~Any person who conceals~~ Conceals the corpse of any issue of a
11 woman's body with intent to prevent a determination of whether it was born dead or
12 alive ~~is guilty of a Class I felony.~~

13 **SECTION 5.** 948.23 (1) (intro.) of the statutes is created to read:

14 948.23 **(1)** (intro.) Whoever does any of the following is guilty of a Class I felony:

15 **SECTION 6.** 948.23 (1) (b) of the statutes is created to read:

16 948.23 **(1)** (b) Unless a physician or an authority of a hospital, sanatorium,
17 public or private institution, convalescent home, or any institution of a like nature
18 is required to report the death under s. 979.01 (1) or unless a report conflicts with
19 religious tenets or practices, fails to report to law enforcement the death of a child
20 immediately after discovering the death, or as soon as practically possible if
21 immediate reporting is impossible, if the actor is the parent, stepparent, guardian,
22 or legal custodian of the child and if any of the following applies:

23 1. The death involves unexplained, unusual, or suspicious circumstances.

24 2. The death is or appears to be a homicide or a suicide.

25 3. The death is due to poisoning.

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1 4. The death follows an accident, whether the injury is or is not the primary
2 cause of the death.

3 **SECTION 7.** 948.23 (2) of the statutes is created to read:

4 948.23 (2) Whoever, without authorization under s. 69.18 or other legal
5 authority to move a corpse, hides or buries the corpse of a child is guilty of a Class
6 F felony.

7 **SECTION 8.** 948.23 (3) of the statutes is created to read:

8 948.23 (3) (ag) In this subsection, “missing” means absent without a reasonable
9 explanation if the absence would raise concern in a reasonable person for the child’s
10 well-being.

11 (am) Within the period under par. (b), an individual must report to law
12 enforcement a child as missing if the individual is the parent, stepparent, guardian,
13 or legal custodian of the child.

14 (b) 1. The report under par. (am) must be made within 24 hours after the child
15 is discovered to be missing if the child is under 13 years of age when the discovery
16 is made.

17 2. The report under par. (am) must be made within 48 hours after the child is
18 discovered to be missing if the child is at least 13 years of age but under 16 years of
19 age when the discovery is made.

20 3. The report under par. (am) must be made within 72 hours after the child is
21 discovered to be missing if the child is at least 16 years of age when the discovery is
22 made.

23 (c) Whoever violates par. (am) is guilty of the following:

24 1. Except as provided in subs. 2. to 4., a Class A misdemeanor.

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1 2. If the child suffers bodily harm or substantial bodily harm while he or she
2 is missing, a Class H felony.

3 3. If the child suffers great bodily harm while he or she is missing, a Class F
4 felony.

5 4. If the child dies while he or she is missing or as a result on an injury he or
6 she suffered while missing, a Class D felony.

7 **SECTION 9.** 973.015 (1) (c) 2. of the statutes is amended to read:

8 973.015 (1) (c) 2. A Class I felony, if the person has, in his or her lifetime, been
9 convicted of a prior felony offense, or if the felony is a violent offense, as defined in
10 s. 301.048 (2) (bm), or is a violation of s. 948.23 (1) (a).

11 **SECTION 10.** 979.01 (1g) of the statutes is amended to read:

12 979.01 (1g) A sheriff or police chief shall, immediately upon notification of a
13 ~~death~~ under sub. (1) or s. 948.23 (1) (b) of a death, notify the coroner or the medical
14 examiner, and the coroner or medical examiner of the county where death took place,
15 if the crime, injury, or event occurred in another county, shall immediately report the
16 death to the coroner or medical examiner of that county.

17 **SECTION 11.** 979.01 (2) of the statutes is amended to read:

18 979.01 (2) Any Unless s. 948.23 (1) (b) applies, any person who violates this
19 section shall be fined not more than \$1,000 or imprisoned not more than 90 days.

20 **SECTION 12.** 979.01 (3) of the statutes is amended to read:

21 979.01 (3) In all cases of death reportable under sub. (1) or s. 948.23 (1) (b)
22 where an autopsy is not performed, the coroner or medical examiner may take for
23 analysis any and all specimens, body fluids and any other material which will assist
24 him or her in determining the cause of death. The specimens, body fluids and other
25 material taken under this subsection shall not be admissible in evidence in any civil

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1 action against the deceased or the deceased's estate, as the result of any act of the
2 deceased.

3 **SECTION 13.** 979.01 (3m) of the statutes is amended to read:

4 979.01 **(3m)** In all cases of death reportable under sub. (1) or s. 948.23 (1) (b)
5 where an autopsy is not performed, the coroner or medical examiner shall take for
6 analysis any and all specimens, body fluids and any other material that will assist
7 him or her in determining the cause of death if requested to do so by a spouse, parent,
8 child or sibling of the deceased person and not objected to by any of those family
9 members. The specimens, body fluids and other material taken under this
10 subsection shall not be admissible in evidence in any civil action against the deceased
11 or his or her estate, as the result of any act of the deceased.

12 **SECTION 14.** 979.01 (4) of the statutes is amended to read:

13 979.01 **(4)** No person may embalm or perform an autopsy on the body of any
14 person who has died under any of the circumstances listed in this section or on the
15 body of any person whose death has been reported under s. 948.23 (1) (b) unless the
16 person obtains the written authorization of the coroner of the county in which the
17 injury or cause of death occurred. Such authorization shall be issued by the coroner
18 or a deputy within 12 hours after notification of the reportable death, or as soon
19 thereafter as possible in the event of unexplained, unusual or suspicious
20 circumstances.

21 **SECTION 15. Initial applicability.**

22 (1) The treatment of section 948.23 (1) (intro.) and (b) and (3) of the statutes
23 first applies to discoveries made on the effective date of this subsection.

24

(END)