

1979 Assembly Bill 822

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## CHAPTER 245, Laws of 1979

AN ACT to amend 939.49 (2); and to create 59.07 (100), 60.82 and 943.60 of the statutes, relating to theft of library material and providing penalties.

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

SECTION 1. 59.07 (100) of the statutes is created to read:

59.07 (100) LIBRARY THEFT. Enact and enforce an ordinance to prohibit conduct which is the same as or similar to that prohibited by s. 943.60 and provide a forfeiture for a violation of the ordinance.

SECTION 2. 60.82 of the statutes is created to read:

**60.82 Library theft.** The town board may enact and enforce an ordinance to prohibit conduct which is the same as or similar to that prohibited by s. 943.60 and provide a forfeiture for a violation of the ordinance.

SECTION 3. 939.49 (2) of the statutes is amended to read:

939.49 (2) A person is privileged to defend a ~~third~~ 3rd person's property from real or apparent unlawful interference by another under the same conditions and by the same means as those under and by which ~~he~~ the person is privileged to defend his or her own

property from real or apparent unlawful interference, provided that ~~he~~ the person reasonably believes that the facts are such as would give the ~~third~~ 3rd person the privilege to defend his ~~or her~~ own property, that his ~~or her~~ intervention is necessary for the protection of the ~~third~~ 3rd person's property, and that the ~~third~~ 3rd person whose property ~~he~~ the person is protecting is a member of his ~~or her~~ immediate family or household or a person whose property ~~he~~ the person has a legal duty to protect, or is a merchant and the actor is the merchant's employe or agent. An official or adult employe or agent of a library is privileged to defend the property of the library in the manner specified in this subsection.

SECTION 4. 943.60 of the statutes is created to read:

**943.60 Theft of library material.** (1) In this section:

(a) "Archives" means a place in which public or institutional records are systematically preserved.

(b) "Library" means any public library; library of an educational, historical or eleemosynary institution, organization or society; archives; or museum.

(c) "Library material" includes any book, plate, picture, photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microform, sound recording, audiovisual materials in any format, magnetic or other tapes, electronic data processing records, artifacts or other documentary, written or printed materials, regardless of physical form or characteristics, belonging to, on loan to or otherwise in the custody of a library.

(2) Whoever intentionally takes and carries away, transfers, conceals or retains possession of any library material without the consent of a library official, agent or employe and with intent to deprive the library of possession of the material may be penalized as provided in sub. (5).

(3) The concealment of library material beyond the last station for borrowing library material in a library is evidence of intent to deprive the library of possession of the material. The discovery of library material which has not been borrowed in accordance with the library's procedures or taken with consent of a library official, agent or employe and which is concealed upon the person or among the belongings of the person or concealed by a person upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing the material.

(4) An official or adult employe or agent of a library who has probable cause for believing that a person has violated this section in his or her presence may detain the person in a reasonable manner for a reasonable length of time to deliver the person to a peace officer, or to the person's parent or guardian in the case of a minor. The detained person shall be promptly informed of the purpose for the detention and be permitted to make phone calls, but shall not be interrogated or searched against his or her will before the arrival of a peace officer who may conduct a lawful interrogation of the accused person. Compliance with this subsection entitles the official, agent or employe effecting the detention to the same defense in any action as is available to a peace officer making an arrest in the line of duty.

(5) Whoever violates this section is guilty of:

(a) A Class A misdemeanor, if the value of the library materials does not exceed \$500.

(b) A Class E felony, if the value of the library materials exceeds \$500 but not \$2,500.

(c) A Class C felony, if the value of the library materials exceeds \$2,500.