

CHAPTER 346.

OFFENSES AGAINST PUBLIC JUSTICE.

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346.01 Perjury and subornation. Any person, being lawfully required to depose the truth, on his oath, affirmation or declaration legally administered, who shall wilfully and corruptly swear, affirm or declare falsely to any material matter or thing in any cause or proceeding before any court or tribunal created by law, or in regard to any matter or thing respecting which such oath, affirmation or declaration is by law authorized or required, before any officer authorized to administer oaths, or before any committee of either house or of both houses of the legislature, shall be deemed guilty of the crime of perjury; and any person who shall wilfully and corruptly incite or procure another to commit the crime of perjury shall be deemed guilty of the crime of subornation of perjury, and in either case he shall be punished, if the perjury or subornation of perjury was committed on the trial of any person for a crime punishable by imprisonment for life, by imprisonment in the state prison not more than fifteen years nor less than three years; and if committed in any other cause, proceeding or matter he shall be punished by imprisonment in the state prison not more than five years nor less than two years.

In a prosecution for perjury before a grand jury, testimony of the grand jury foreman and of the defendant himself, that the defendant was sworn, were not mere conclusions of law by such witnesses but were statements of ultimate fact which, without more, constituted the necessary proof that the defendant gave his testimony before the grand jury under oath; it not being required that the state then prove each of the separate items which together constituted such ultimate fact, the burden of going forward then shifting to the defendant and it being incumbent on him, if he wished to contest that ultimate fact, to show that the formalities of a legally recognized oath were lacking. *State v. Jensen*, 262 W 464, 55 NW (2d) 377.

Where the untruth of the defendant's statement on a material matter was established and his explanation was rejected and the statement was under oath in a judicial proceeding, the elements of perjury were proved and the judgment on the verdict of guilty must be affirmed. *State v. Jensen*, 262 W 464, 55 NW (2d) 377.

346.02 False swearing. Any person being lawfully required to depose the truth on his oath, affirmation or declaration, legally administered, who shall wilfully swear, affirm or

declare falsely to any matter or thing in any cause or proceeding, before any court or tribunal created by law, or in regard to any matter or thing respecting which such oath, affirmation or declaration is by law authorized or required, before any officer authorized to administer oaths or before any committee of either house, or of both houses of the legislature, shall be deemed guilty of the crime of false swearing, and shall be punished therefor by imprisonment in the state prison not more than three years, or in the county jail not more than one year, or by fine not exceeding one thousand dollars.

346.03 Procuring commission of. Any person who shall endeavor to procure or incite any other person to commit the crime of perjury, though no perjury be committed, shall be punished by imprisonment in the state prison not more than three years nor less than one year.

346.06 Bribery of officers. (1) Any person who shall corruptly give, offer or promise to any executive, judicial, legislative, administrative or other officer of the state, or of any county, town, city, village, school district, or of other municipal corporation or subdivision therein, after his election or appointment, and either before or after he shall have been qualified or shall have taken his seat, any gift or gratuity, or any money, goods, thing in action, personal or real property, or any thing of value, or any pecuniary or other personal advantage, present or prospective, with intent to influence his vote, opinion, judgment or action upon any question, matter, cause or proceeding which may then be pending or which may by law come or be brought before him in his official capacity, and any such officer who shall corruptly accept or receive any such gift, gratuity, money, goods, thing in action, personal or real property or any thing of value, or any such pecuniary or other personal advantage, present or prospective, under any agreement or understanding that his vote, opinion, judgment or action should be thereby so influenced shall be punished by imprisonment in the state prison not more than five years nor less than one year, or by fine not exceeding one thousand dollars nor less than two hundred dollars.

(2) Any person who shall give, pay or render, or promise or offer to give, pay or render to any state treasurer or to any other person any money, credit, service or benefit whatsoever, except as expressly authorized by law, by reason or in consideration of the deposit, loan or forbearance of any state moneys or funds shall be guilty of bribery as defined, and be punished as provided, in subsection (1); and in any prosecution under this subsection no witness shall be excused from answering any question on the ground that his answer may tend to criminate himself or expose him to prosecution for any crime, misdemeanor or forfeiture; but no testimony so given shall be in any manner used against the person so testifying in any criminal prosecution, except for perjury committed in giving such testimony.

The evidence in a prosecution against a sheriff for bribery, disclosing that a series of payments was made by 2 certain tavern keepers to a deputy sheriff after the defendant's election as sheriff and paid by such deputy to the defendant, and that such tavern keepers kept their taverns open without interference by the defendant during hours when by law they were required to be closed, and that this was known to the defendant and his deputies, was sufficient to support a conviction under (1), for corruptly receiving money under an understanding that the defendant's action in his official capacity should be thereby influenced. State v. Jensen, 262 W 464, 55 NW (2d) 377.

In a prosecution against a town constable under (1) for accepting a bribe to use his influence in procuring a trailer-camp license from the town board for the payor of the bribe, the evidence failed to prove that an application for a trailer-camp license was pending before the board at the time of the alleged bribery or, as required in order for the alleged bribery to constitute an offense under the statute, that the matter of a trailer-camp license was one which might come or be brought before the constable "in his official capacity," or that the constable had any official duty in respect to the granting of such licenses. State v. Hibicke, 263 W 213, 56 NW (2d) 818.

346.07 Bribing juror, referee, appraiser, etc. Any person who shall corruptly give, offer or promise to any court commissioner, juror, arbitrator, umpire, referee or appraiser, lawfully selected or appointed, any gift, gratuity, money, goods, thing in action or any thing of value with intent to bias or influence his opinion, judgment or decision upon any question, matter, cause or proceeding pending in any court or before him, or before any inquest, or for the decision of which he has been so selected or appointed, and any such court commissioner, juror, arbitrator, umpire, referee or appraiser who shall wilfully and corruptly accept or receive any such gift, gratuity, money, goods, thing in action or any thing of value, under any agreement or understanding that his opinion, judgment or decision upon any such question, matter, cause or proceeding should be thereby so biased or influenced, shall be punished by imprisonment in the state prison not more than three years nor less than one year or by fine not exceeding five hundred dollars nor less than one hundred dollars.

346.08 Receiving bribe by officer. Any sheriff, constable or other officer authorized to serve legal process who shall receive from any defendant or any other person any money or other valuable thing as a consideration, reward or inducement for delaying or omitting to arrest any defendant, or to carry him before a magistrate, or for delaying to

take any person to prison, or for postponing the sale of any property under an execution, or for omitting or delaying to perform any duty pertaining to his office shall be punished by imprisonment in the county jail not more than one year or by fine not exceeding five hundred dollars.

346.09. Bribery at elections. (1) The following persons shall be deemed guilty of bribery at elections:

(a) Every person who shall, directly or indirectly, by himself or by any other person on his behalf, give, lend, or agree to give or lend, or offer, promise or promise to procure or endeavor to procure any money or valuable consideration, to or for any voter, to or for any person on behalf of any voter, or to or for any other person in order to induce any voter to vote or refrain from voting, or do any such act as aforesaid, corruptly, on account of such voter having voted or refrained from voting at any election.

(b) Every person who shall, directly or indirectly, by himself or by any other person on his behalf, give or procure, or agree to give or procure, or offer, promise or endeavor to procure any office, place of employment, public or private, to or for any voter, or to or for any person on behalf of any voter, or to or for any other person in order to induce such voter to vote or refrain from voting, or do any such act as aforesaid, corruptly, on account of any voter having voted or refrained from voting at any election.

(c) Every person who shall, directly or indirectly, by himself or by any other person on his behalf, make any such gift, loan, offer, promise, procurement or agreement as aforesaid to or for any person in order to induce such person to procure or endeavor to procure the election of any person to a public office, or the vote of any voter at any election.

(d) Every person who shall, upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procure, or engage, promise or endeavor to procure the election of any person to a public office or the vote of any voter at any election.

(e) Every person who shall advance or pay or cause to be paid any money to or for the use of any other person with the intent that such money or any part thereof shall be expended in bribery at any election, or who shall knowingly pay or cause to be paid any money wholly or in part expended in bribery at any election.

(2) And any person so offending shall be punished by imprisonment in the state prison for a term of not less than six months nor more than two years; provided, that the foregoing shall not be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses authorized by law and bona fide incurred at or concerning any election.

Giving flag emblem of slight intrinsic ready voted is not a violation of law. 39 value at the polls to persons who have al- Atty. Gen. 371.

346.10 Same subject. The following persons shall also be deemed guilty of bribery at elections:

(1) Every voter who shall, before or during any election, directly or indirectly, by himself or by any other person on his behalf, receive, agree or contract for any money, gift, loan or valuable consideration, office, place of employment, public or private, for himself or for any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting at any election.

(2) Every person who shall, after any election, directly or indirectly, by himself or by any other person in his behalf, receive any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting at any election; and any voter or other person so offending shall be punished by imprisonment in the county jail not less than one month nor more than one year.

346.11 Bribery at nominating conventions and primaries. No person shall, directly or indirectly, himself or through another, give, or promise or offer to give, or with knowledge of the same permit to be given, promised or offered, to any elector or other person any money or thing of value of any pecuniary advantage or benefit, for the purpose of inducing or influencing such elector or other person to vote for him or for any specified person at any convention or meeting or primary held for the purpose of nominating a candidate or candidates to be voted for at an election, as a nominee of such convention or meeting or primary and a candidate to be voted for at such election; nor make any such gift, promise or offer to any elector or other person for the purpose of inducing or influencing such elector or other person to sign any nomination paper for the placing of any specified name upon any primary ballot; nor ask, solicit or receive any money, thing of value or pecuniary advantage from any candidate or other person as a consideration or inducement for his vote at any such convention or meeting or primary; or for his signature to any such nomination paper; nor knowingly cause a nomination paper or papers to be signed in his behalf by more than the maximum number of qualified electors provided for his district by subdivision (5) of section 5.05. Every person violating any provision of

this section shall be punished, upon conviction thereof, by imprisonment in the county jail not more than one year or by fine not exceeding five hundred dollars.

346.12 Political contributions by corporations prohibited. No foreign or domestic corporation, and no association organized under chapter 185 doing business in this state, shall pay or contribute, or offer, consent or agree to pay or contribute, directly or indirectly, any money, property, free service of its officers or employes or thing of value to any political party, organization, committee or individual for any political purpose whatsoever, or for the purpose of influencing legislation of any kind, or to promote or defeat the candidacy of any person for nomination, appointment or election to any political office.

346.13 Penalty. Any officer, employe, agent or attorney or other representative of any corporation, acting for and in behalf of such corporation, who shall violate sections 346.12 to 346.16, shall be punished upon conviction by a fine of not less than one hundred nor more than five thousand dollars, or by imprisonment in the state prison for a period of not less than one nor more than five years, or by both such fine and imprisonment in the discretion of the court or judge before whom such conviction is had and if the corporation shall be subject to a penalty then by forfeiture in double the amount of any fine so imposed to be collected as other actions by forfeiture are collected and if a domestic corporation, it may be dissolved, if after a proper proceeding upon quo warranto, in either the circuit or supreme court of the state to be prosecuted by the attorney-general of the state, the court shall find and give judgment that section 346.12 has been violated as charged, and if a foreign or nonresident corporation, its right to do business in this state may be declared forfeited.

346.14 Fines and forfeitures; district attorney. The violation of sections 346.12 to 346.16, by any officer, employe, agent, attorney or other representative of a corporation, shall be prima facie evidence of said violation by such corporation. All fines or forfeitures recovered under any of the provisions of sections 346.12 to 346.16, shall, when collected, be paid into the proper treasury of the county for the use of the school fund, and it is hereby made the duty of the district attorney of each county to conduct prosecutions under sections 346.12 to 346.16, upon complaint as in other actions.

346.15 A felony to aid, advise or abet violations. Any person or persons who shall aid, abet or advise a violation of sections 346.12 to 346.16 shall be guilty of a felony and upon conviction shall be punished as in section 346.12.

346.16 Place of trial. Violations of sections 346.12 to 346.16 may be prosecuted in the county where such payment or contribution is made or services rendered or in any county wherein such money has been paid or distributed.

346.17 Use of threats, etc., on elector. Every person who shall, directly or indirectly, by himself or by any other person on his behalf, make use of or threaten to make use of any force, violence or restraint in order to induce or compel any person to vote or refrain from voting at any election, or who shall, by abduction, duress or any fraudulent device or contrivance, impede or prevent the free exercise of the franchise at any election, or shall thereby compel, induce or prevail upon any elector either to give or refrain from giving his vote at any election for or against any particular candidate or measure, shall be punished by imprisonment in the county jail not less than one month nor more than one year.

346.18 Office obtained by bribery vacant. Any person who shall obtain any office by bribery or shall have been elected to any office at any election, at which election he shall have induced or procured any elector to vote for him for such office by bribery, shall be disqualified from holding said office, and he shall be ousted therefrom, and said office shall be deemed and held vacant, to be filled by election or appointment as other vacancies, according to law.

346.19 Corrupt means to influence legislation; disclosure of interest. Any person who shall, directly or indirectly, give or agree or offer to give any money or property or valuable thing or any security therefor to any person, for the service of such person or of any other person in procuring the passage or defeat of any measure before the legislature or before either house or any committee thereof, upon the contingency or condition of the passage or defeat of such measure, or who shall receive, directly or indirectly, or agree to receive any such money, property, thing of value or security therefor for such service, upon any such contingency or condition, or who, having a pecuniary or other interest, or acting as the agent or attorney of any person in procuring or attempting to procure the passage or defeat of any measure before the legislature or before either house or any committee thereof, shall attempt in any manner to influence any member of such legislature for or against such measure, without first making known to such member the real and true in-

terest he has in such measure, either personally or as such agent or attorney, shall be punished by imprisonment in the county jail not more than one year or by fine not exceeding two hundred dollars.

346.20 Lobbying regulated; legislative purpose. The purpose of sections 346.20 to 346.29 is to promote a high standard of ethics in the practice of lobbying, to prevent unfair and unethical lobbying practices and to provide for the licensing of lobbyists and the suspension or revocation of such licenses.

346.205 Definitions. The following words and phrases shall have the meaning respectively ascribed to them:

(1) **LOBBYING.** The practice of promoting or opposing the introduction or enactment of legislation before the legislature or the legislative committees or the members thereof.

(2) **LOBBYIST.** Any person who engages in the practice of lobbying for hire except in the manner authorized by section 346.27. Lobbying for hire shall include activities of any officers, agents, attorneys or employes of any principal who are paid a regular salary or retainer by such principal and whose duties include lobbying.

(3) **UNPROFESSIONAL CONDUCT.** A violation of any of the provisions of sections 346.19 to 346.28, or soliciting employment from any principal, or instigating the introduction of legislation for the purpose of obtaining employment in opposition thereto, or attempting to influence the vote of legislators on any measure pending or to be proposed by the promise of support or opposition at any future election, or by any other means than a full and fair argument on the merits thereof, or by making public any unsubstantiated charges of improper conduct on the part of any other lobbyist or of any legislator, or engaging in practices which reflect discredit on the practice of lobbying or the legislature.

(4) **PRINCIPAL.** (a) Any person, corporation or association which engages a lobbyist or other person in connection with any legislation, pending before the legislature or to be proposed, affecting the pecuniary interest of such person, corporation or association.

(b) Any board, department, commission or other agency of the state, or any county or municipal corporation, which engages a lobbyist or other person in connection with any legislation pending or to be proposed affecting the statutory powers, duties or appropriation of such agency, county or municipal corporation.

(5) **DOCKET.** The register of licensed lobbyists maintained by the secretary of state pursuant to section 346.23.

(6) **REPORT.** The statement of expenses filed with the secretary of state by lobbyists pursuant to section 346.245.

(7) **PECUNIARY INTEREST.** This term includes without limitation any legislation which creates, alters or repeals any statutory charge by way of tax, license fee, registration fee or otherwise, or which creates, alters or repeals any statutory privilege, power, restriction or obligation of any principal, or which creates, alters or repeals the powers or duties of any court or governmental agency before which the principal does business.

346.21 Licenses for lobbyists; suspension or revocation. (1) **LICENSES; FEES; ELIGIBILITY.** Any person of full age and good moral character who is a citizen of the United States and otherwise qualified under sections 346.20 to 346.29 shall be licensed as a lobbyist as herein provided. The secretary of state shall provide for the form of application for license. Such application may be obtained in the office of the secretary of state and filed therein. Upon approval of such application and payment of the license fee of \$10 to the secretary of state, a license shall be issued which shall entitle the licensee to practice lobbying on behalf of any one or more principals. Each license shall expire on December 31 of each even-numbered year. No application shall be disapproved without affording the applicant a hearing which shall be held and decision entered within 10 days of the date of filing of the application. Denial of a license may be reviewed under the provisions of chapter 227.

(2) **SUSPENSION OR REVOCATION OF LICENSE.** Upon verified complaint in writing to the district attorney of Dane county charging the holder of a license with having been guilty of unprofessional conduct or with having procured his license by fraud or perjury or through error, the district attorney is hereby authorized to bring civil action in the circuit court for Dane county against the holder and in the name of the state as plaintiff to revoke the license. Hearing shall be held by the court unless the defendant licensee demands a jury trial. The trial shall be held as soon as possible and at least 20 days after the filing of the charges and shall take precedence over all other matters pending before the court. If the court finds for the plaintiff judgment shall be rendered revoking the license and the clerk of the court shall file a certified copy of the judgment with

the secretary of state. Costs shall be paid by the county, but if the court shall determine that the complaint made to the district attorney was without proper cause, it shall enter judgment against the person making the complaint for the costs of the action and the payment of the same may be enforced by execution against the body as in civil action. The licensing authority may commence any such action on his own motion.

(3) **SUSPENSION OF LOBBYING PRIVILEGES.** No lobbyist whose license has been suspended or revoked and no person who has been convicted of a violation of any provision of sections 346.20 to 346.29 shall engage in any activity permitted by section 346.27 until he has been reinstated to the practice of lobbying and duly licensed.

The person who complained to the district attorney need not be joined as a party in an action for the revocation of the license of a lobbyist. Under provisions in (2) as to costs, a defendant is not prejudiced by failure to join the complainant as a party. State v. Hoebel, 256 W 549, 41 NW (2d) 865. Duty of secretary of state to pass on qualifications of applicant for lobby license rests on statute and is not affected by pendency or nonpendency of criminal proceedings against applicant. 40 Atty. Gen. 3.

346.22 Lobby registry. Except as provided in section 346.27 (2) every principal who employs any lobbyist shall within one week after such employment cause the name of said lobbyist to be entered upon the docket. It shall also be the duty of the lobbyist to enter his name upon the docket. Upon the termination of such employment such fact may be entered opposite the name of the lobbyist either by the lobbyist or the principal.

346.23 Docket; authorization. (1) The secretary of state shall prepare and keep a docket in which shall be entered the name and business address of each lobbyist, the name and business address of his principal, and the subject or subjects of legislation to which the employment relates. Such docket shall be a public record and open to the inspection of any citizen upon demand at any time during the regular business hours of the office of the secretary of state.

(2) Any principal employing any lobbyist shall when further subjects of legislation are introduced or arise which such lobbyist is to promote or oppose, make or cause to be made additional entries in the docket stating such employment so that the docket will show at all times all subjects of legislation in relation to which the lobbyist is employed. The docket may also show the number or designation of bills, resolutions or other measures in relation to which the lobbyist is employed.

(3) Within 10 days after his registration in the docket, a lobbyist shall file with the secretary of state a written authorization to act as such signed by his principal.

346.24 Restrictions on practice of lobbying. (1) No person shall practice as a lobbyist unless he has been duly licensed under the provisions of section 346.21 and unless his name appears upon the docket as employed in respect to such matters as he shall be promoting or opposing. No principal shall directly or indirectly authorize or permit any lobbyist employed by him to practice lobbying in respect to any legislation affecting the pecuniary interest of such principal until such lobbyist is duly licensed and the name of such lobbyist is duly entered on the docket. No person shall be employed as a lobbyist for a compensation dependent in any manner upon the passage or defeat of any proposed or pending legislation or upon any other contingency connected with the action of the legislature or of either branch thereof or of any committee thereof.

(2) Before or within 5 days after delivering any written or printed statement, argument or brief to the entire membership of either or both houses of the legislature, 3 copies shall be deposited with the secretary of state.

(3) The restrictions upon the practice of lobbying provided by sections 346.20 to 346.29 shall be effective only during the regular and special sessions of the legislature and for the period between the general election and the commencement of the regular session.

346.245 Reports by lobbyists; reports to legislature. (1) Every lobbyist required to have his name entered upon the docket shall, within 10 days after the end of each calendar month of any regular or special session of the legislature, file with the secretary of state a sworn statement of expenses made and obligations incurred by himself or any agent in connection with or relative to his activities as such lobbyist for the preceding month or fraction thereof, except that he need not list his own personal living and travel expenses in such statement.

(2) Beginning with the third Tuesday following the beginning of any regular or special session of the legislature and on every Tuesday thereafter for the duration of such session, the secretary of state shall from his records report to each house of the legislature the names of lobbyists registered under section 346.22 who were not previously reported, the names of the persons whom they represent as such lobbyist, and the subjects of legislation in which they are interested. Such reports shall be incorporated into the journal of each house. The secretary of state shall also forward to each house a copy of each statement required to be filed under subsection (1). Such copy shall be

open to public inspection but shall not be incorporated in the journal unless the house so orders. Any expenditures made or obligations incurred by any lobbyist in behalf of or for the entertainment of any state official or employe concerning pending or proposed legislative matters shall be reported according to the provisions of this section.

The lobbying law is not so vague, indefinite or uncertain that it denies due process of law. If a thing of value is given to a friend of a legislator for the purpose of inducing the friend to use his efforts on the legislator on behalf of the lobbyist or his cause, such expenditure is made by the lobbyist "relative to his activities" as such, so that the failure to report it is a violation. *State v. Hoebel*, 256 W 549, 41 NW (2d) 865.

A lobbyist is not required to report items which may aid his work, in this case expenses for meals, travel, and hotel rooms for stenographers, but which are incurred and paid directly by his principal, in this case a city, which as such principal is itself required by 346.25 to file a report of expenditures at the end of the legislative session. *State v. Decker*, 258 W 177, 45 NW (2d) 98.

346.25 Statement of expense by principal. Within 30 days after the sine die adjournment of the legislature, every principal whose name appears upon the docket or who has employed any person to engage in any activity permitted under section 346.27 shall file with the secretary of state a complete and detailed statement verified under oath by the person making the same, or in the case of a corporation by its president or treasurer, of all expenses paid or incurred by such principal in connection with the employment of lobbyists or in connection with promoting or opposing in any manner the passage by the legislature of any legislation affecting the pecuniary interest of such principal. The accounts shall be rendered in such form as shall be prescribed by the secretary of state. Such accounts shall be open to public inspection.

346.26 Penalties. (1) Any principal violating any of the provisions of sections 346.20 to 346.25 shall for such offense be fined not less than \$200 nor more than \$5,000.

(2) Any lobbyist who shall fail to comply with any of the provisions of said sections or any person who shall act as lobbyist without being duly licensed shall be fined not less than \$100 nor more than \$1,000 and shall be disbarred from acting as a lobbyist for the period of 3 years from the date of such conviction.

(3) Any lobbyist who fails to make and file the statement required by section 346.245 shall be punished by a fine not to exceed \$500 or by imprisonment in the county jail not to exceed 6 months or by both such fine and imprisonment. Any lobbyist who shall file a false statement shall be punished by a fine of not less than \$500 nor more than \$1,000 or by imprisonment in the county jail for not less than 30 days nor more than one year. It shall be the duty of the attorney-general upon information to bring prosecutions for the violation of the provisions of sections 346.20 to 346.27.

The provision that it is the duty of the attorney-general on information to bring prosecutions for the violation of the lobby law imposes an additional duty on the attorney-general, but does not give him exclusive authority, and does not deprive the district attorney, as prosecuting attorney in his county, of the right or duty to proceed in such case where information of a violation occurring within his county reaches him. *State ex rel. Authur v. Superior Court*, 257 W 430, 43 NW (2d) 434.

346.27 Personal lobbying prohibited, exceptions. (1) It shall be unlawful for any person other than a licensed lobbyist to attempt personally and directly to influence any member of the legislature to vote for or against any measure pending therein, or to be proposed, otherwise than by appearing before the regular committees thereof when in session, or by newspaper publications, or by public addresses to persons other than legislators, or by written or printed statements, arguments or briefs delivered to each member of the legislature; provided, that before or within 5 days after delivering such statement, argument or brief, 3 copies thereof shall be deposited with the secretary of state. No officer, agent, appointee or employe, in the service of the state of Wisconsin, or of the United States, shall attempt to influence any member of the legislature to vote for or against any measure pending therein, affecting the pecuniary interests of such person, excepting in the manner authorized herein in the case of lobbyists. Nothing in this section shall be construed to deprive any citizen not lobbying for hire of his constitutional right to communicate with members of the legislature.

(2) Any person who limits his lobbying solely to appearances before legislative committees or either house in committee of the whole and registers his appearance on the records of such committee or house in writing, shall not be required to be licensed as a lobbyist, pay a license fee, register with the secretary of state or make any reports of expenditures.

346.28 Lobbyists restricted during daily sessions. It shall be unlawful for any person lobbying to go onto the floor of the chamber of either house of the legislature during the daily sessions, except upon the invitation of such house.

346.29 Penalty. Any person violating the provisions of section 346.27 shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment in the county jail, not more than 6 months, and by a fine not exceeding \$200.

346.295 Compensation for published articles on matters pending before legislature to be reported; penalty. (1) Whenever money or other thing of value is paid, or a promise or agreement to pay money or other thing of value is given, to the owner or publisher or any editor, reporter, agent or employe of any newspaper or other periodical for the publication therein of any article, editorial or other matter favoring or opposing, or which is intended or tends to favor or oppose, any bill, resolution or other matter pending in the legislature, excepting a paid advertisement showing the name and address of the person authorizing the publication and the amount paid or agreed to be paid therefor, the owner or publisher of such newspaper or periodical shall, within ten days after such publication, file with the secretary of state a statement showing the amount of money or other thing of value paid or agreed to be paid and the name and address of the person, firm or corporation from whom such payment or agreement was received.

(2) Violation of this section shall be deemed a misdemeanor and punishable by a fine not less than five hundred dollars nor more than five thousand dollars for each offense.

346.30 Logrolling prohibited. Any member of the legislature who shall, directly or indirectly, give, offer or promise to give his vote or influence in favor of or against any measure or proposition pending, or proposed to be introduced in, the legislature in consideration or upon condition that any other person elected to the same legislature will give or will promise or agree to give his vote or influence in favor of or against any other measure or proposition pending or proposed to be introduced in such legislature, or who shall give, offer or promise to give his vote or influence for or against any measure on condition that any other member will give his vote or influence in favor of any change in any other bill pending or proposed to be introduced in the legislature, shall be guilty of felony, and shall be punished by a fine of not less than five hundred dollars, nor more than one thousand dollars, or by imprisonment in the state prison not less than one year nor more than three years, or by both such fine and imprisonment.

346.31 Executive favor. Any member of the legislature who shall give, offer or promise to give his vote or influence in favor of or against any measure or proposition pending or proposed to be introduced in the legislature, or that has already been passed by either house of the legislature, in consideration of or on condition that any person, being governor of the state, shall approve or disapprove, veto or sign, or agree to approve or disapprove, veto or sign, any other measure or proposition pending or proposed to be introduced in the legislature or that has already been passed by the legislature, or either house thereof, or in consideration or upon condition that any person, being governor of this state, shall nominate for appointment or appoint or remove any person or persons to or from any office or position under the laws of this state, shall be guilty of a felony, and shall be punished by a fine of not less than five hundred dollars nor more than one thousand dollars, or by imprisonment in the state prison not less than one year nor more than two years, or by both such fine and imprisonment.

346.32 Freedom of debate confirmed. Nothing in sections 346.30, 346.31 and 346.32 shall be construed as prohibiting free discussion and deliberation upon any question pending before the legislature by members thereof, privately or publicly, nor as prohibiting, agreements by members to support any single measure pending, on condition that certain changes be made in such measure, nor shall said sections be construed as prohibiting agreements to compromise conflicting provisions of different measures.

346.33 Attempt to aid escape. Any person who shall convey into any prison, jail, house of correction or other like place of confinement any disguise, tool, instrument, weapon or other thing, adapted or useful to aid any prisoner to make his escape, with intent to facilitate the escape of any prisoner therein lawfully confined, committed or detained, or shall by any means whatever aid or assist any such prisoner in his endeavor to escape therefrom, whether such escape be attempted or effected or not, and any person who shall forcibly rescue any prisoner held in custody upon any conviction or charge of an offense shall be punished by imprisonment in the state prison not more than four years nor less than two years; or if the person whose escape or rescue was effected or intended was charged with an offense not punishable by imprisonment in the state prison he shall be punished by imprisonment in the county jail not more than one year or by fine not exceeding two hundred dollars.

346.34 Aiding escape from officer. (1) Any person who shall aid or assist any prisoner in escaping or in attempting to escape from any officer or person who shall have the lawful custody of such prisoner shall be punished by imprisonment in the county jail not more than one year or by fine not exceeding five hundred dollars.

(2) Any person, who shall aid, persuade, or entice a parolee from any of the penal or correctional institutions of this state, or a person lawfully placed on probation in this state, to escape from the custody of the legally appointed guardian having charge of such

parolee or probationer, or who shall interfere with any parolee or probationer in such a manner as to cause or be likely to cause such parolee or probationer to violate the terms and conditions of his parole or probation, shall be punished by imprisonment in the county jail or state prison for a period of not more than one year, or by a fine not to exceed five hundred dollars, or both.

346.35 Allowing escape. Any jailer or other officer who shall voluntarily suffer any prisoner in his custody upon conviction of any criminal charge or so held to answer any criminal charge to escape, he shall suffer the like punishment and penalties as the prisoner so suffered to escape was sentenced to or would be liable to suffer upon conviction for the crime or offense wherewith he stood charged, unless such prisoner was convicted of or charged with an offense punishable by imprisonment for life, in which case he shall be punished by imprisonment in the state prison not more than twenty-five years nor less than five years.

346.36 Escape through negligence; refusal to receive prisoner. Any jailer or other officer who shall, through negligence, suffer any prisoner in his custody upon conviction or upon any criminal charge to escape, or shall wilfully refuse to receive into his custody any prisoner lawfully committed thereto on any criminal charge or conviction, or any lawful process whatever shall be punished by imprisonment in the county jail not more than one year or by fine not exceeding three hundred dollars.

Officer who permitted prisoner to leave escape under 346.36, but query whether he the jail inclosure to work without a guard is guilty of voluntarily allowing escape is guilty at least of negligently allowing under 346.35. 41 Atty. Gen. 219.

346.37 Refusing to make arrest. Any officer authorized to serve process who shall wilfully and corruptly refuse to execute any lawful process to him directed and requiring him to apprehend or confine any person convicted or charged with any offense, or shall wilfully and corruptly omit or delay to execute such process, whereby such person shall escape and go at large, shall be punished by imprisonment in the county jail not more than one year or by fine not exceeding three hundred dollars.

346.38 Refusing to aid officer. Any person, being required in the name of the state of Wisconsin by any sheriff, deputy sheriff, coroner, constable, or other officer or person authorized to require such assistance, who shall neglect or refuse to assist him in the execution of his office in any criminal case, or in the preservation of the peace, or in the apprehending or securing of any person for a breach of the peace, or in any case of escape or rescue of any person arrested upon civil process shall be punished by fine not exceeding one hundred dollars.

346.39 Resisting officer. Any person who shall knowingly resist any sheriff, deputy sheriff, constable, marshal, conservation warden or other ministerial officer while engaged in the lawful execution of any civil or criminal process issued by any court, body, board or officer authorized to issue the same, or in lawfully doing any act as such officer, or who shall, in any way, knowingly and intentionally counsel, advise or procure any other person to resist any such officer so lawfully engaged in the execution of such process or in lawfully doing such other act as such officer, shall be punished by imprisonment in the county jail not more than one year or by fine not exceeding three hundred dollars.

A person might be guilty of counseling is not necessary to participate by any physical or advising another to resist an officer even cal act in the resistance itself. Teske v. State, 256 W 440, 41 NW (2d) 642. though such other refused to follow such State, 256 W 440, 41 NW (2d) 642. counsel or advice. To "counsel or advise," it

346.40 Convict, escape by. (1) Any convict committed or transferred to the state prison, the prison for women, the state reformatory, or house of correction of Milwaukee county convicted of a crime punishable by imprisonment in the state prison, under sentence for a limited time, who shall escape from the lawful custody of such institution, or attempt by violence to escape, or assault the warden or other officer or person employed in any capacity in said prison, reformatory or house of correction shall be punished by imprisonment in said prison, reformatory, or house of correction not more than 10 years in addition to his former sentence.

(2) Any woman sentenced to the Wisconsin home for women who shall escape therefrom, or who shall attempt by violence to escape, or shall assault the superintendent or any other officer or employe of said institution, may be punished by imprisonment in said home for a term of not to exceed 2 years in addition to her former sentence.

(3) Any prisoner in a house of correction who escapes, while employed or while in the custody of an officer outside of said house of correction, or while confined in the Milwaukee county hospital undergoing treatment, shall be punished by imprisonment in said house of correction not more than one year nor less than thirty days in addition to the sentence he is then serving, or by a fine not exceeding one thousand dollars.

(4) Any prisoner in a county workhouse who shall escape while employed or while in the custody of an officer outside of such institution shall be punished by imprisonment in said workhouse not more than thirty days in addition to the sentence he is then serving.

(5) Any person transferred from the Wisconsin school for boys to the Wisconsin state reformatory, or transferred from the Wisconsin school for girls to the Wisconsin home for women, who shall escape from the lawful custody of such institution, or attempt by violence to escape, or assault the superintendent or any other person employed in the institution, may be punished by imprisonment for a term not to exceed 2 years in addition to the original commitment.

History: 1953 c. 177.

346.41 Permitting escape. Any officer or other person employed in the state prison or the Wisconsin state reformatory who shall voluntarily suffer any convict confined therein to escape or shall, in any way, consent to such escape shall be punished by imprisonment in said prison or reformatory not more than twenty years.

346.42 Unlawful privilege for convict. Any officer or person employed in the state prison or the Wisconsin state reformatory who shall knowingly permit any convict under sentence of solitary confinement therein to be at large or out of the cell assigned him, or shall suffer any convict confined in said prison or reformatory to be at large, or allow him to be visited, conversed with or in any manner to be relieved or comforted, except as provided by law or the regulations of said prison or reformatory, shall be punished by fine not exceeding five hundred dollars.

346.43 Delivering articles to convict. Any officer or other person who shall deliver or procure to be delivered or shall have in his possession with intent to deliver to any convict confined in the state prison or the Wisconsin state reformatory, or shall deposit or conceal in or about said prison or reformatory, or the dependencies thereof, or in any carriage or other vehicle going into the premises belonging to said prison or reformatory, any article or thing whatever, with intent that any convict confined therein shall obtain or receive the same, or who shall receive from any convict any article or thing whatever with intent to convey the same out of said prison or reformatory, contrary to the rules or regulations and without the knowledge or permission of the warden or superintendent thereof, shall be punished by imprisonment in said state prison or reformatory not more than two years or by fine not exceeding five hundred dollars.

346.44 Escape of persons under arrest. Any person who may be detained or imprisoned in any police station, lockup or municipal or county jail pursuant to a lawful arrest, with or without a warrant or other process, for felony, misdemeanor or violation of any ordinance, who shall break such prison and escape, shall be punished by imprisonment in the county jail not more than one year or by fine of not more than \$500, or by both such imprisonment and fine. Illegality of the arrest shall be a defense but in every such case the arrest shall be presumed to have been lawful unless the defendant shall establish the contrary, and mere technical irregularities in the warrant or other process, if any, shall be no defense if an offense is substantially charged therein nor shall the guilt or innocence of the defendant of the offense for which he was arrested be material.

346.45 Escape from county jail or workhouse. (1) Any person who may be imprisoned, pursuant to a sentence, in the county jail or county workhouse, or who shall have been committed for the purpose of detaining him for trial for any offense not punishable by imprisonment for life, and who shall break prison and escape shall be punished by imprisonment in the county jail not more than six months.

(2) Any such prisoner under sentence who shall escape or attempt to escape while employed in prison labor outside of the prison inclosure as authorized by law shall be punished by a fine of not more than five hundred dollars or by imprisonment in the state prison or county jail not more than one year.

Prisoner who is unlawfully permitted to go outside the jail enclosure to work with a guard and escapes without force does not break prison and cannot be prosecuted under (1) or (2). 41 Atty. Gen. 219.

346.46 Breaking by person charged with murder. Any person who shall be committed to prison for the purpose of detaining him for trial for an offense punishable by imprisonment in the state prison for life and who shall break prison and escape shall be punished by imprisonment in the state prison for the term of two years.

346.47 Giving liquor to prisoners; mingling sexes. Any sheriff, jailer or keeper of any prison or any other person who shall sell, give or deliver to any prisoner, or wilfully or negligently permit any such prisoner to have any spirituous or intoxicating liquor, and any prisoner who shall use such liquor, in violation of section 53.37 (2), or who shall have in his possession in the precincts of any prison, with intent to sell, give or deliver

the same to some prisoner, such spirituous or intoxicating liquor, or who shall place or keep together or knowingly permit to be kept together prisoners of different sexes, shall be punished by fine not exceeding \$100, or by imprisonment in the county jail not less than 30 days nor more than 6 months.

346.48 Refusing to aid in making arrest. Any person when required by any justice of the peace, upon view of any breach of the peace or other offense proper for his cognizance, to apprehend and bring before him the offender, who shall refuse or neglect to obey such justice, shall be punished by fine not exceeding one hundred dollars.

346.49 Assuming to be officer. Any person who shall falsely assume or pretend to be a justice of the peace, sheriff, deputy sheriff, coroner, constable, notary, policeman, attorney at law, detective, peace officer or any public officer, civil or military, and shall take upon himself to act as such, or who assumes without authority, any uniform or badge, by which such officer or person is lawfully distinguished, and in such assumed character does an act purporting to be official, whereby another is injured or defrauded, or who under the color of any process or other legal authority arrests any person or detains him against his will, or seizes or levies upon any property without a regular process or other lawful authority therefor, shall be punished by imprisonment in the county jail not more than one year or by a fine not exceeding five hundred dollars.

A conviction in the municipal court for impersonating an assistant fire chief of the city of Ripon is set aside for failure of proof that an assistant fire chief of that city is a public officer. State v. Hackbarth, 256 W 545, 41 NW (2d) 594, 42 NW (2d) 358.

346.50 Obstructing execution of law. Any person who shall in any manner disguise himself with intent to obstruct the due execution of the law or with intent to intimidate, hinder or interrupt any officer or any other person in the legal performance of his duty or the exercise of his rights under the laws of the United States or of this state, whether such intent shall be effected or not, shall be punished by imprisonment in the county jail not more than six months or by fine not exceeding one hundred dollars.

346.51 Compounding or concealing offenses. Any person having knowledge of the commission of any offense who shall take any money, gratuity, reward or any engagement therefor upon an agreement or understanding, express or implied, to compound or conceal such offense or not to prosecute therefor, or not to give evidence thereof, when such offense is punishable by imprisonment for life, shall be punished by imprisonment in the state prison not more than two years nor less than one year; and when such offense is punishable in a less degree shall be punished by imprisonment in the county jail not more than six months or by fine not exceeding one hundred dollars.

346.52 Official malfeasance in preparing jury list. Any person who shall ask or solicit any jury commissioner appointed pursuant to section 255.03, or the sheriff or other officer to select him or any other person, or place his name or the name of any other person on any list as a grand or petit juror in any court, and any such jury commissioner or sheriff or other officer who shall select such person or place his name upon any such list upon such solicitation shall be punished by imprisonment in the county jail not more than six months or by fine not exceeding one hundred dollars.

346.53 Grand jury stenographer; violation of oath. Every stenographic reporter and every typewriter operator who takes and violates the oath required of him by s. 255.13, shall, upon conviction thereof, be punished by imprisonment in the state prison not less than one nor more than 5 years.

346.54 Fine for official neglect in impaneling jury. When, by neglect of any of the duties required in chapter 255 to be performed by any of the officers or persons therein mentioned, the jurors to be returned shall not be duly drawn and summoned to attend the court, every person guilty of such neglect shall pay a fine not exceeding twenty dollars, to be imposed by the same court, into the treasury of the county in which the offense is committed.

346.55 Penalty upon clerk for fraud. If the clerk of any court shall be guilty of any fraud, either by practicing on a jury tumbler previously to a draft, or in drawing a juror, or in returning into the tumbler the name of any juror which had been lawfully drawn out, and drawing or substituting another in his stead, or in any other way, or in the drawing of jurors, he shall forfeit for each such offense not less than \$50 nor more than \$500.

346.56 Contempt of legislature. Any person who shall be adjudged guilty of any contempt of the legislature of this state or either house thereof shall be deemed guilty also of a misdemeanor, and after the adjournment of such legislature may be prosecuted therefor in the county of Dane, and be punished by imprisonment in the county jail not more than one year or by fine not exceeding two hundred dollars.

346.57 Attorney not to office with certain officers. No practicing attorney at law shall have his office or place of business in the same room with any clerk of the circuit court, district attorney, circuit, county, municipal or other judge, police justice or justice of the peace, unless he is a partner of such judge, district attorney, police justice or justice of the peace, in which case he shall not practice as an attorney before such judge, police justice or justice of the peace, court commissioner or attorney in any case in which it is the duty of such district attorney to appear or prosecute for the state; except that the law partner of any district attorney may, at the request of the district attorney, without fee or compensation therefor, assist the district attorney in the prosecution of any case on the part of the state; and any such attorney who shall violate the above provisions or any of them, and any such clerk, judge, district attorney, police justice or justice of the peace who shall knowingly permit any such violation shall be punished by fine not exceeding one hundred dollars.

346.58 Suppressing will. Any person who shall wilfully suppress or secrete any last will and testament of a person then deceased or who, having the custody of any such will and testament, shall wilfully fail or neglect to produce and deliver the same to the judge of the county court having jurisdiction of its probate within a reasonable time after the death of the testator thereof, with intent to injure or defraud any person interested therein, shall be punished by imprisonment in the county jail not more than one year or by fine not exceeding five hundred dollars.

346.59 Injuring, or taking animal from, pound. Any person who shall wilfully injure any public pound maintained by any town, city or village or shall wrongfully and forcibly take, drive or release therefrom any animal lawfully confined therein shall be punished by imprisonment in the county jail not more than three months or by fine not exceeding fifty dollars.

346.60 Unauthorizedly acting as justice. Any person who shall act as a justice of the peace, knowing that he is not qualified so to act according to law, shall be punished by fine not exceeding five hundred dollars.

346.61 Officers not to buy claims to sue. Any justice of the peace, police justice or constable who shall, directly or indirectly, buy or be interested in buying any bond, note or other demand or cause of action for the purpose of commencing any action thereon before a justice of the peace or police justice, or who shall, before or after action brought, lend or advance or agree to lend or advance or procure to be lent or advanced any money or other valuable thing to any person in consideration of, or as a reward for or inducement to, the placing or having placed in the hands of such justice or constable any debt, demand or cause of action whatever for prosecution or collection, and any justice of the peace who shall purchase, directly or indirectly, or be interested in the purchase of any judgment rendered by him or of any witness or jury fees allowed in any case tried before him shall be punished by imprisonment in the county jail not more than six months or by fine not exceeding one hundred dollars, and the sentence therefor shall operate as a forfeiture of his office.

346.62 Suits on claims for collections. Any person who holds the office of judge of any court, justice of the peace or police justice who shall, directly or indirectly, bring or cause to be brought, either by himself, his agent or any confederate, any action or proceeding in his court or the court of which he shall be such judge or justice upon any claim, account or demand placed in his hands as agent or attorney for collection shall be punished by fine of not less than five dollars nor more than one hundred dollars, and shall also be liable in a civil action to any person against whom he may bring or cause such action to be brought for the full amount of damages and costs recovered in such action upon such claim, account or demand.

346.63 Alteration, etc., of records. Any person who shall feloniously, wilfully and maliciously, with intent to injure or defraud any person, private, public or municipal corporation or the public or to gain an unlawful advantage for himself or any other person alter, mutilate or destroy any records, files or papers of any court or any records, files or papers whatever shall be punished by imprisonment in the state prison not exceeding two years or by fine not exceeding one thousand dollars, or by both fine and imprisonment; provided, that this section shall not affect the provisions of section 343.68.

346.64 False corporation reports. Any person who shall file any statement required by section 182.008 or section 180.833 of the statutes which shall be false in any respect shall be subject to the penalty provided by section 346.02 of the statutes.