

# State of Wisconsin



2021 Assembly Bill 829

Date of enactment:  
Date of publication\*:

## 2021 WISCONSIN ACT

AN ACT *to amend* 973.12 (1) and 973.12 (2); and *to create* 939.6197 of the statutes; **relating to:** mandatory minimum sentence for three or more convictions for retail theft and providing a penalty.

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

**SECTION 1.** 939.6197 of the statutes is created to read:

**939.6197 Mandatory minimum sentence for repeat retail theft.** If a person is convicted for a violation of s. 943.50 and has 2 or more prior convictions for violations of s. 943.50 for acts that were committed on separate days no more than 5 years before the date that the person committed the act for which the person is sentenced under this section, the court shall sentence the person to a term of confinement in jail or prison for not less than 180 days, but otherwise the penalties for the crime apply, subject to any applicable penalty enhancement. The court may not place the defendant on probation.

**SECTION 2.** 973.12 (1) of the statutes is amended to read:

973.12 (1) Whenever a person charged with a crime will be a repeater or a persistent repeater under s. 939.62 or subject to a penalty under s. 939.6195 or 939.6197 if convicted, any applicable prior convictions may be alleged in the complaint, indictment or information or amendments so alleging at any time before or at arraignment, and before acceptance of any plea. The court may, upon motion of the district attorney, grant a reasonable time to investigate possible prior convictions before accepting a plea. If the prior convictions are admitted by the defendant or proved by the state, he or she shall be

subject to sentence under s. 939.6195, 939.6197, or 939.62 unless he or she establishes that he or she was pardoned on grounds of innocence for any crime necessary to constitute him or her a repeater or a persistent repeater. An official report of the F.B.I. or any other governmental agency of the United States or of this or any other state shall be prima facie evidence of any conviction or sentence therein reported. Any sentence so reported shall be deemed prima facie to have been fully served in actual confinement or to have been served for such period of time as is shown or is consistent with the report. The court shall take judicial notice of the statutes of the United States and foreign states in determining whether the prior conviction was for a felony or a misdemeanor.

**SECTION 3.** 973.12 (2) of the statutes is amended to read:

973.12 (2) In every case of sentence under s. 939.6195, 939.6197, or 939.62, the sentence shall be imposed for the present conviction, ~~but if.~~ If the court indicates in passing sentence how much thereof is imposed because the defendant is a repeater, it shall not constitute reversible error, but the combined terms shall be construed as a single sentence for the present conviction.

**SECTION 4. Initial applicability.**

(1) This act first applies to a person who violates s. 943.50 on the effective date of this subsection, but does

\* Section 991.11, WISCONSIN STATUTES: 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."

not preclude counting violations committed before the effective date of this subsection as prior violations for the

purposes of sentencing a person under s. 939.6197.

