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# Wisconsin Legislative Council

## AMENDMENT MEMO

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**2023 Assembly Bill 928**

**Assembly Amendment 1 to  
Assembly Substitute  
Amendment 1**

## 2023 ASSEMBLY BILL 928

### Increased Penalty for Theft

Under current law, the penalties for violating the general prohibition against theft and the prohibition against retail theft depend on the value of the property stolen. The penalties for violating the general theft statute range from a Class A misdemeanor, if the value of the property does not exceed \$2,500, to a Class F felony, if the value of the property exceeds \$100,000. Similarly, the penalties for violating prohibition against retail theft vary from a Class A misdemeanor, if the value of the merchandise does not exceed \$500, to a Class G felony, if the value of the merchandise exceeds \$10,000.

As relevant to 2023 Assembly Bill 928, the penalty for violating the general theft statute is a Class A misdemeanor if the value of the property does not exceed \$2,500 and a Class I felony if the value of the property exceeds \$2,500 but does not exceed \$5,000. Under the bill, the penalty for violating the general theft statute is a Class A misdemeanor if the value of the property does not exceed \$500 and a Class I felony if the value of the property exceeds \$500 but does not exceed \$5,000.

### Penalty Enhancer for Theft and Retail Theft

The bill also creates penalty enhancers for the crimes of theft and retail theft. The bill increases the maximum term of imprisonment for a felony violation of both offenses by 50 percent of the maximum term of imprisonment for the felony if, during the commission of the felony, the defendant's conduct created a substantial risk of bodily harm to another person.

### Aggregation of Value for Theft and Retail Theft

While the penalties for theft and retail theft depend on the value of property stolen, s. 971.36, Stats., permits multiple acts of theft to be prosecuted as a single crime under certain circumstances, such as where the property belonged to the same owner and the thefts were committed pursuant to a single intent and design or in execution of a single deceptive scheme. When multiple acts of theft are prosecuted as a single crime, the value of the property stolen may be aggregated for the purposes of determining the penalty.

The bill amends the theft and retail theft statutes to state that for purposes of charging and penalty determinations, the value of property from multiple violations committed by the same person in a six-month period may be aggregated. It also provides that where two or more acts are aggregated under these provisions, the trial may be in any county in which any of such acts occurred.

## **ASSEMBLY SUBSTITUTE AMENDMENT 1**

Assembly Substitute Amendment 1 requires the Department of Justice (DOJ) to award grants to district attorneys, law enforcement agencies, and counties for the purpose of forming task forces to improve response to investigation of, and prosecution of, organized retail theft crimes, vehicle and vehicle accessory theft crimes, and cargo theft crimes. The substitute amendment requires DOJ to submit an annual report to the chairpersons of the Joint Committee on Finance providing an account of the grants awarded under this section and the expenditures made with the grant moneys.

The substitute amendment also amends the theft and retail theft statutes to provide that for purposes of charging and penalty determinations, the value of property from multiple violations committed by the same person in a six-month period may be aggregated. It also provides that where two or more acts are aggregated under these provisions, the trial may be in any county in which any of such acts occurred.

## **ASSEMBLY AMENDMENT 1 TO ASSEMBLY SUBSTITUTE AMENDMENT 1**

Assembly Amendment 1 to Assembly Substitute Amendment 1 modifies the provisions related to aggregating the value of property from multiple theft or retail theft violations. Specifically, it provides that in any case involving the aggregation of thefts over a six-month period, the acts may be prosecuted as a single crime, notwithstanding the provisions in which current law allows multiple acts of theft to be aggregated. Thus, it allows multiple thefts over a six-month period to be aggregated, including if the property was not taken from the same owner or same place. If two or more violations are prosecuted as a single crime, the trial may be held in any county in which any of such acts occurred.

## **BILL HISTORY**

Representative Penterman offered Assembly Substitute Amendment 1 on January 17, 2024, and Assembly Amendment 1 to Assembly Substitute Amendment 1 on February 12, 2024. On February 14, 2024, the Assembly Committee on Criminal Justice and Public Safety voted to recommend adoption of Assembly Amendment 1 to Assembly Substitute Amendment 1 on a vote of Ayes, 15; Noes, 0; voted to recommend adoption of Assembly Substitute Amendment 1, as amended, on a vote of Ayes 14; Noes, 1; and voted to recommend adoption of the bill, as amended, on a vote of Ayes, 13; Noes, 2.

For a full history of the bill, visit the Legislature's [bill history page](#).

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