



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-0356/1  
MLJ:kjf

## 2019 SENATE BILL 427

September 17, 2019 - Introduced by Senators TESTIN, CARPENTER, BERNIER, NASS, OLSEN, PETROWSKI and WANGGAARD, cosponsored by Representatives MACCO, WITTKER, BALLWEG, BOWEN, BRANDTJEN, DITTRICH, EDMING, GUNDRUM, HORLACHER, JAMES, KRUG, KULP, MAGNAFICI, MURSAU, NOVAK, PETERSEN, PETRYK, PLUMER, QUINN, RAMTHUN, ROHRKASTE, STEFFEN, SUMMERFIELD, TITTL, TRANEL and SKOWRONSKI. Referred to Committee on Judiciary and Public Safety.

1       **AN ACT to renumber** 813.125 (1) (am) 1. and 813.125 (1) (am) 2.; **to amend** 48.57  
2           (3p) (g) 2., 48.685 (1) (c) 2., 50.065 (1) (e) 1., 103.34 (1) (b) 2., 165.84 (7) (ab) 1.,  
3           301.048 (2) (bm) 1. a., 302.11 (1g) (a) 2., 303.07 (2), 813.123 (1) (eg), 813.125 (1)  
4           (am) (intro.), 895.45 (1) (a), 938.208 (1) (a), 938.34 (4m) (b) 1., 938.355 (2d) (b)  
5           3., 939.62 (2m) (a) 2m. b., 939.632 (1) (e) 1., 941.29 (1g) (a), 941.291 (1) (b),  
6           949.03 (1) (b), 968.26 (1b) (a) 2. a., 969.035 (1), 969.08 (10) (b), 973.01 (2) (c) 2.  
7           a., 973.0135 (1) (b) 2., 973.06 (1) (av) 2. a., 973.06 (1) (av) 2. b., 973.123 (1) and  
8           980.01 (6) (b); and **to create** 343.12 (7) (c) 9j., 813.12 (1) (ar), 813.12 (5b),  
9           813.123 (6g), 813.125 (1) (am) 3., 813.125 (1) (am) 4. (intro.), 813.125 (5b),  
10          939.623, 940.198, 940.225 (1) (d) and 971.109 of the statutes; **relating to:**  
11          increased penalties for crimes against elder persons; restraining orders for  
12          elder persons; freezing assets of a defendant charged with financial

**SENATE BILL 427**

- 1 exploitation of an elder person; sexual assault of an elder person; physical  
2 abuse of an elder person; and providing a penalty.
- 

***Analysis by the Legislative Reference Bureau*****SEXUAL ASSAULT OF AN ELDER PERSON**

Under this bill, any act of sexual misconduct that is currently a second degree sexual assault is a first degree sexual assault if the victim is 60 years of age or older. Under current law, if a person engages in any of the specified acts of sexual misconduct, he or she is guilty of a Class C felony. Under the bill, he or she is guilty of a Class B felony if the victim is 60 years of age or older, whether or not he or she knew the victim's age.

**PHYSICAL ABUSE OF AN ELDER PERSON**

This bill creates the crime of physical abuse of an elder person that is modeled after the current law prohibition of physical abuse of a child. Under the bill, an elder person is anyone who is 60 years of age or older, and a person may be prosecuted irrespective of whether he or she knew the age of the crime victim. Under the bill, the penalties range from a Class C felony for intentionally causing great bodily harm to a Class I felony for recklessly causing bodily harm.

**FREEZING OF ASSETS**

This bill creates a procedure for a court to freeze or seize assets from a defendant who has been charged with a financial exploitation crime when the victim is an elder person.

Under the bill, if a person is charged with a financial exploitation crime, the crime involves property valued at more than \$2,500, and the crime victim is at least 60 years old, a prosecuting attorney may file a petition with the court to freeze the funds, assets, or property of the person in an amount up to 100 percent of the alleged value of property involved in the person's pending criminal proceeding for purposes of preserving the property for future payment of restitution to the crime victim.

**INCREASED PENALTIES**

This bill creates a scheme that allows a term of imprisonment that is imposed for a criminal conviction to be increased in length if the crime victim was an elder person. Under the bill, a maximum term of imprisonment of one year or less may be increased to not more than two years; a maximum term of imprisonment of more than one year but not more than ten years may be increased by not more than four years; and a maximum term of imprisonment of more than ten years may be increased by not more than six years. Under the bill, the term of imprisonment may be lengthened irrespective of whether the defendant knew the age of the crime victim.

**RESTRAINING ORDERS FOR AN ELDER PERSON**

This bill allows an elder person who is seeking a domestic violence, individual-at-risk, or harassment restraining order to appear in a court hearing by

**SENATE BILL 427**

telephone or live audiovisual means. Under the bill, an elder person is anyone who is 60 years old or older.

Under current law, a person seeking a domestic violence, individual-at-risk, or harassment restraining order must appear in person in the courtroom at a hearing to obtain a restraining order.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report.

---

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

- 1           **SECTION 1.** 48.57 (3p) (g) 2. of the statutes is amended to read:
- 2           48.57 **(3p)** (g) 2. The person has had imposed on him or her a penalty specified
- 3           in s. 939.64, 1999 stats., or s. 939.641, 1999 stats., or s. 939.6195, 939.62, 939.621,
- 4           939.623, 939.63 or 939.645 or has been convicted of a violation of the law of any other
- 5           state or federal law under circumstances under which the person would be subject
- 6           to a penalty specified in any of those sections if convicted in this state.
- 7           **SECTION 2.** 48.685 (1) (c) 2. of the statutes is amended to read:
- 8           48.685 **(1)** (c) 2. A violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19
- 9           (2), (4), (5) or (6), 940.198 (2), 940.22 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2),
- 10          940.29, 940.295, 942.09 (2), 948.02 (1) or (2), 948.025, 948.03 (2) or (5) (a) 1., 2., 3.,
- 11          or 4., 948.05, 948.051, 948.055, 948.06, 948.07, 948.08, 948.081, 948.085, 948.11 (2)
- 12          (a) or (am), 948.12, 948.13, 948.21 (2), 948.215, 948.30, or 948.53.
- 13          **SECTION 3.** 50.065 (1) (e) 1. of the statutes is amended to read:
- 14          50.065 **(1)** (e) 1. "Serious crime" means a violation of s. 940.19 (3), 1999 stats.,
- 15          a violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19 (2), (4), (5) or (6),
- 16          940.198 (2), 940.22 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2), 940.29, 940.295,
- 17          948.02 (1), 948.025 or 948.03 (2) (a) or (5) (a) 1., 2., or 3., or a violation of the law of

**SENATE BILL 427****SECTION 3**

1 any other state or United States jurisdiction that would be a violation of s. 940.19 (3),  
2 1999 stats., or a violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19 (2), (4),  
3 (5) or (6), 940.198 (2), 940.22 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2), 940.29,  
4 940.295, 948.02 (1), 948.025 or 948.03 (2) (a) or (5) (a) 1., 2., or 3. if committed in this  
5 state.

6 **SECTION 4.** 103.34 (1) (b) 2. of the statutes is amended to read:

7 103.34 (1) (b) 2. A violation of s. 940.01, 940.02, 940.03, 940.05, 940.06, 940.07,  
8 940.08, 940.09, 940.10, 940.19 (2), (4), (5), or (6), 940.198 (2), 940.21, 940.225 (1), (2),  
9 or (3), 940.23, 940.235, 940.24, 940.25, 940.30, 940.302, 940.305, 940.31, 943.02,  
10 943.03, 943.04, 943.10, 943.30, 943.31, 943.32, 944.32, 944.34, 946.10, 948.02 (1) or  
11 (2), 948.025, 948.03 (2), (3), or (5) (a) 1., 2., 3., or 4., 948.04, 948.05, 948.051, 948.055,  
12 948.06, 948.07, 948.075, 948.08, 948.085, 948.11 (2) (a) or (am), 948.12, 948.13,  
13 948.21 (2), 948.215, or 948.30 or of a substantially similar federal law or law of  
14 another state.

15 **SECTION 5.** 165.84 (7) (ab) 1. of the statutes is amended to read:

16 165.84 (7) (ab) 1. A felony violation of s. 940.01, 940.05, 940.198 (2), 940.21,  
17 940.225 (1), (2), or (3), 940.235, 940.30, 940.302 (2), 940.305, 940.31, 940.32 (2), (2e),  
18 or (2m), 940.43, 940.45, 941.20, 941.21, 941.327, 943.02, 943.06, 943.10, 943.23 (1g)  
19 or (2), 943.32, 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c) or (5) (a) 1., 2., 3., or 4.,  
20 948.05, 948.051, 948.055, 948.07, 948.08, 948.085, 948.095, or 948.30 (2).

21 **SECTION 6.** 301.048 (2) (bm) 1. a. of the statutes is amended to read:

22 301.048 (2) (bm) 1. a. A crime specified in s. 940.19 (3), 1999 stats., s. 940.195  
23 (3), 1999 stats., s. 943.23 (1m), 1999 stats., or s. 943.23 (1r), 1999 stats., or s. 940.01,  
24 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (4) or (5), 940.195 (4)  
25 or (5), 940.198 (2), 940.20, 940.201, 940.203, 940.21, 940.225 (1) to (3), 940.23,

**SENATE BILL 427**

1 940.235, 940.285 (2) (a) 1. or 2., 940.29, 940.295 (3) (b) 1g., 1m., 1r., 2., or 3., 940.31,  
2 940.43 (1) to (3), 940.45 (1) to (3), 941.20 (2) or (3), 941.26, 941.30, 941.327, 943.01  
3 (2) (c), 943.011, 943.013, 943.02, 943.04, 943.06, 943.10 (2), 943.23 (1g), 943.30,  
4 943.32, 946.43, 947.015, 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.051,  
5 948.06, 948.07, 948.08, 948.085, or 948.30.

6 **SECTION 7.** 302.11 (1g) (a) 2. of the statutes is amended to read:

7 302.11 (1g) (a) 2. Any felony under s. 940.09 (1), 1999 stats., s. 943.23 (1m),  
8 1999 stats., s. 948.35 (1) (b) or (c), 1999 stats., or s. 948.36, 1999 stats., or s. 940.02,  
9 940.03, 940.05, 940.09 (1c), 940.19 (5), 940.195 (5), 940.198 (2), 940.21, 940.225 (1)  
10 or (2), 940.305 (2), 940.31 (1) or (2) (b), 943.02, 943.10 (2), 943.23 (1g), 943.32 (2),  
11 946.43 (1m), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c) or (5) (a) 1., 2., 3., or 4.,  
12 948.05, 948.06, 948.07, 948.08, or 948.30 (2).

13 **SECTION 8.** 303.07 (2) of the statutes is amended to read:

14 303.07 (2) When convicted persons are subject to commitment to the county  
15 jail, or to the Wisconsin state prisons under s. 939.62 (1) (a) or 939.623 (2) (a) for a  
16 term not exceeding 2 years, the court may instead commit them for equivalent terms  
17 to a reforestation camp authorized under sub. (1).

18 **SECTION 9.** 343.12 (7) (c) 9j. of the statutes is created to read:

19 343.12 (7) (c) 9j. Physical abuse of an elder person under s. 940.198 (2).

20 **SECTION 10.** 813.12 (1) (ar) of the statutes is created to read:

21 813.12 (1) (ar) "Elder person" means any individual who is 60 years of age or  
22 older.

23 **SECTION 11.** 813.12 (5b) of the statutes is created to read:

**SENATE BILL 427****SECTION 11**

1           813.12 (5b) ELDER PERSON PETITIONER. If the petitioner is an elder person, the  
2 court shall permit the petitioner to participate in hearings under this section by  
3 telephone or live audiovisual means.

4           **SECTION 12.** 813.123 (1) (eg) of the statutes is amended to read:

5           813.123 (1) (eg) “Harassment” has the meaning given in s. 813.125 (1) (am) 4.

6           **SECTION 13.** 813.123 (6g) of the statutes is created to read:

7           813.123 (6g) ELDER ADULT-AT-RISK PETITIONER. If the petitioner is an elder adult  
8 at risk, the court shall permit the petitioner to participate in hearings under this  
9 section by telephone or live audiovisual means.

10          **SECTION 14.** 813.125 (1) (am) (intro.) of the statutes is amended to read:

11          813.125 (1) (am) (intro.) In this section, ~~“harassment” means any of the~~  
12 following:

13          **SECTION 15.** 813.125 (1) (am) 1. of the statutes is renumbered 813.125 (1) (am)  
14 4. a.

15          **SECTION 16.** 813.125 (1) (am) 2. of the statutes is renumbered 813.125 (1) (am)  
16 4. b.

17          **SECTION 17.** 813.125 (1) (am) 3. of the statutes is created to read:

18          813.125 (1) (am) 3. “Elder person” means any individual who is 60 years of age  
19 or older.

20          **SECTION 18.** 813.125 (1) (am) 4. (intro.) of the statutes is created to read:

21          813.125 (1) (am) 4. (intro.) “Harassment” means any of the following:

22          **SECTION 19.** 813.125 (5b) of the statutes is created to read:

23          813.125 (5b) ELDER PERSON PETITIONER. If the petitioner is an elder person, the  
24 court shall permit the petitioner to participate in hearings under this section by  
25 telephone or live audiovisual means.

**SENATE BILL 427**

1           **SECTION 20.** 895.45 (1) (a) of the statutes is amended to read:

2           895.45 (1) (a) “Abusive conduct” means domestic abuse, as defined under s.  
3           49.165 (1) (a), 813.12 (1) (am), or 968.075 (1) (a), harassment, as defined under s.  
4           813.125 (1) (am) 4, sexual exploitation by a therapist under s. 940.22, sexual assault  
5           under s. 940.225, child abuse, as defined under s. 813.122 (1) (a), or child abuse under  
6           ss. 948.02 to 948.11.

7           **SECTION 21.** 938.208 (1) (a) of the statutes is amended to read:

8           938.208 (1) (a) Probable cause exists to believe that the juvenile has committed  
9           a delinquent act that would be a felony under s. 940.01, 940.02, 940.03, 940.05,  
10          940.19 (2) to (6), 940.198, 940.21, 940.225 (1), 940.31, 941.20 (3), 943.02 (1), 943.23  
11          (1g), 943.32 (2), 947.013 (1t), (1v) or (1x), 948.02 (1) or (2), 948.025, 948.03, or 948.085  
12          (2), if committed by an adult.

13          **SECTION 22.** 938.34 (4m) (b) 1. of the statutes is amended to read:

14          938.34 (4m) (b) 1. The juvenile has committed a delinquent act that would be  
15          a felony under s. 940.01, 940.02, 940.03, 940.05, 940.19 (2) to (6), 940.198, 940.21,  
16          940.225 (1), 940.31, 941.20 (3), 943.02 (1), 943.23 (1g), 943.32 (2), 947.013 (1t), (1v)  
17          or (1x), 948.02 (1) or (2), 948.025, 948.03, or 948.085 (2) if committed by an adult.

18          **SECTION 23.** 938.355 (2d) (b) 3. of the statutes is amended to read:

19          938.355 (2d) (b) 3. That the parent has committed a violation of s. 940.19 (3),  
20          1999 stats., or s. 940.19 (2), (4), or (5), 940.198 (2) (a) or (3) (a), 940.225 (1) or (2),  
21          948.02 (1) or (2), 948.025, 948.03 (2) (a), (3) (a), or (5) (a) 1., 2., or 3., or 948.085 or a  
22          violation of the law of any other state or federal law, if that violation would be a  
23          violation of s. 940.19 (2), (4), or (5), 940.198 (2) (a) or (3) (a), 940.225 (1) or (2), 948.02  
24          (1) or (2), 948.025, or 948.03 (2) (a), (3) (a), or (5) (a) 1., 2., or 3. if committed in this  
25          state, as evidenced by a final judgment of conviction, and that the violation resulted

**SENATE BILL 427****SECTION 23**

1 in great bodily harm, as defined in s. 939.22 (14), or in substantial bodily harm, as  
2 defined in s. 939.22 (38), to the juvenile or another child of the parent.

3 **SECTION 24.** 939.62 (2m) (a) 2m. b. of the statutes is amended to read:

4 939.62 **(2m)** (a) 2m. b. Any felony under s. 940.09 (1), 1999 stats., s. 943.23 (1m)  
5 or (1r), 1999 stats., s. 948.35 (1) (b) or (c), 1999 stats., or s. 948.36, 1999 stats., or s.  
6 940.01, 940.02, 940.03, 940.05, 940.09 (1c), 940.16, 940.19 (5), 940.195 (5), 940.198  
7 (2) (a) or (c), 940.21, 940.225 (1) or (2), 940.305, 940.31, 941.327 (2) (b) 4., 943.02,  
8 943.10 (2), 943.23 (1g), 943.32 (2), 946.43 (1m), 948.02 (1) or (2), 948.025, 948.03 (2)  
9 (a) or (c) or (5) (a) 1., 2., 3., or 4., 948.05, 948.06, 948.07, 948.075, 948.08, 948.081,  
10 948.085, or 948.30 (2).

11 **SECTION 25.** 939.623 of the statutes is created to read:

12 **939.623 Increased penalty for elder person victims. (1)** In this section,  
13 “elder person” means any individual who is 60 years of age or older.

14 **(2)** If the crime victim is an elder person, and the present conviction is for any  
15 crime for which imprisonment may be imposed, the maximum term of imprisonment  
16 prescribed by law for that crime may be increased as follows:

17 (a) A maximum term of imprisonment of one year or less may be increased to  
18 not more than 2 years.

19 (b) A maximum term of imprisonment of more than one year but not more than  
20 10 years may be increased by not more than 4 years.

21 (c) A maximum term of imprisonment of more than 10 years may be increased  
22 by not more than 6 years.

23 **(3)** This section applies irrespective of whether the defendant had actual  
24 knowledge of the crime victim’s age. A mistake regarding the crime victim’s age is  
25 not a defense to an increased penalty under this section.



**SENATE BILL 427**

1           **SECTION 26.** 939.632 (1) (e) 1. of the statutes is amended to read:

2           939.632 (1) (e) 1. Any felony under s. 940.01, 940.02, 940.03, 940.05, 940.09  
3           (1c), 940.19 (2), (4) or (5), 940.198 (2) (a) or (c), 940.21, 940.225 (1), (2) or (3), 940.235,  
4           940.305, 940.31, 941.20, 941.21, 943.02, 943.06, 943.10 (2), 943.23 (1g), 943.32 (2),  
5           948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c) or (5) (a) 1., 2., 3., or 4., 948.05, 948.051,  
6           948.055, 948.07, 948.08, 948.085, or 948.30 (2) or under s. 940.302 (2) if s. 940.302  
7           (2) (a) 1. b. applies.

8           **SECTION 27.** 940.198 of the statutes is created to read:

9           **940.198 Physical abuse of an elder person. (1) DEFINITIONS.** In this  
10          section:

11          (a) “Elder person” means any individual who is 60 years of age or older.

12          (b) “Recklessly” means conduct that creates a situation of unreasonable risk of  
13          harm to and demonstrates a conscious disregard for the safety of the elder person.

14          **(2) INTENTIONAL CAUSATION OF BODILY HARM.** (a) Whoever intentionally causes  
15          great bodily harm to an elder person is guilty of a Class C felony.

16          (b) Whoever intentionally causes bodily harm to an elder person is guilty of a  
17          Class H felony.

18          (c) Whoever intentionally causes bodily harm to an elder person under  
19          circumstances or conditions that are likely to produce great bodily harm is guilty of  
20          a Class F felony.

21          **(3) RECKLESS CAUSATION OF BODILY HARM.** (a) Whoever recklessly causes great  
22          bodily harm to an elder person is guilty of a Class E felony.

23          (b) Whoever recklessly causes bodily harm to an elder person is guilty of a Class  
24          I felony.

**SENATE BILL 427****SECTION 27**

1 (c) Whoever recklessly causes bodily harm to an elder person under  
2 circumstances or conditions that are likely to produce great bodily harm is guilty of  
3 a Class H felony.

4 (4) KNOWLEDGE OF AGE NOT REQUIRED. This section applies irrespective of  
5 whether the defendant had actual knowledge of the victim's age. A mistake  
6 regarding the victim's age is not a defense to a prosecution under this section.

7 **SECTION 28.** 940.225 (1) (d) of the statutes is created to read:

8 940.225 (1) (d) Commits a violation under sub. (2) against an individual who  
9 is 60 years of age or older. This paragraph applies irrespective of whether the  
10 defendant had actual knowledge of the victim's age. A mistake regarding the victim's  
11 age is not a defense to a prosecution under this paragraph.

12 **SECTION 29.** 941.29 (1g) (a) of the statutes is amended to read:

13 941.29 (1g) (a) "Violent felony" means any felony under s. 943.23 (1m), 1999  
14 stats., or s. 943.23 (1r), 1999 stats., this section, or s. 940.01, 940.02, 940.03, 940.05,  
15 940.06, 940.08, 940.09, 940.10, 940.19, 940.195, 940.198, 940.20, 940.201, 940.203,  
16 940.21, 940.225, 940.23, 940.235, 940.285 (2), 940.29, 940.295 (3), 940.30, 940.302,  
17 940.305, 940.31, 940.43 (1) to (3), 940.45 (1) to (3), 941.20, 941.26, 941.28, 941.2905,  
18 941.292, 941.30, 941.327 (2) (b) 3. or 4., 943.02, 943.04, 943.06, 943.10 (2), 943.23  
19 (1g), 943.32, 943.87, 946.43, 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05,  
20 948.051, 948.06, 948.07, 948.08, 948.085, or 948.30.

21 **SECTION 30.** 941.291 (1) (b) of the statutes is amended to read:

22 941.291 (1) (b) "Violent felony" means any felony, or the solicitation, conspiracy,  
23 or attempt to commit any felony, under s. 943.23 (1m) or (1r), 1999 stats., or s. 940.01,  
24 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19, 940.195, 940.198,  
25 940.20, 940.201, 940.203, 940.21, 940.225, 940.23, 940.285 (2), 940.29, 940.295 (3),

**SENATE BILL 427**

1 940.30, 940.305, 940.31, 940.43 (1) to (3), 940.45 (1) to (3), 941.20, 941.26, 941.28,  
2 941.29, 941.30, 941.327, 943.01 (2) (c), 943.011, 943.013, 943.02, 943.04, 943.06,  
3 943.10 (2), 943.23 (1g), 943.32, 943.81, 943.82, 943.83, 943.85, 943.86, 943.87,  
4 943.88, 943.89, 943.90, 946.43, 947.015, 948.02 (1) or (2), 948.025, 948.03, 948.04,  
5 948.05, 948.06, 948.07, 948.08, 948.085, or 948.30; or, if the victim is a financial  
6 institution, as defined in s. 943.80 (2), a felony, or the solicitation, conspiracy, or  
7 attempt to commit a felony under s. 943.84 (1) or (2).

8 **SECTION 31.** 949.03 (1) (b) of the statutes is amended to read:

9 949.03 (1) (b) The commission or the attempt to commit any crime specified in  
10 s. 346.62 (4), 346.63 (2) or (6), 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08,  
11 940.09, 940.10, 940.19, 940.198, 940.20, 940.201, 940.21, 940.22 (2), 940.225, 940.23,  
12 940.235, 940.24, 940.25, 940.285, 940.29, 940.30, 940.302 (2), 940.305, 940.31,  
13 940.32, 941.327, 942.09, 943.02, 943.03, 943.04, 943.10, 943.20, 943.23 (1g), 943.32,  
14 943.81, 943.86, 943.87, 948.02, 948.025, 948.03, 948.04, 948.05, 948.051, 948.06,  
15 948.07, 948.075, 948.08, 948.085, 948.09, 948.095, 948.20, 948.21 (1), 948.30 or  
16 948.51.

17 **SECTION 32.** 968.26 (1b) (a) 2. a. of the statutes is amended to read:

18 968.26 (1b) (a) 2. a. Section 940.04, 940.11, 940.19 (2), (4), (5), or (6), 940.195  
19 (2), (4), (5), or (6), 940.198 (2) (b) or (c) or (3), 940.20, 940.201, 940.203, 940.205,  
20 940.207, 940.208, 940.22 (2), 940.225 (3), 940.29, 940.302 (2) (c), 940.32, 941.32,  
21 941.38 (2), 942.09 (2), 943.10, 943.205, 943.32 (1), 946.43, 946.44, 946.47, 946.48,  
22 948.02 (3), 948.03 (2) (b) or (c), (3), or (4), 948.04, 948.055, 948.095, 948.10 (1) (a),  
23 948.11, 948.13 (2) (a), 948.14, 948.20, 948.23 (1), (2), or (3) (c) 2. or 3., or 948.30 (1).

24 **SECTION 33.** 969.035 (1) of the statutes is amended to read:

**SENATE BILL 427****SECTION 33**

1           969.035 (1) In this section, “violent crime” means any crime specified in s.  
2           940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08, 940.10, 940.19 (5), 940.195  
3           (5), 940.198 (2) (a) or (c), 940.21, 940.225 (1), 940.23, 941.327, 948.02 (1) or (2),  
4           948.025, 948.03, or 948.085.

5           **SECTION 34.** 969.08 (10) (b) of the statutes is amended to read:

6           969.08 (10) (b) “Serious crime” means any crime specified in s. 943.23 (1m),  
7           1999 stats., or s. 943.23 (1r), 1999 stats., or s. 346.62 (4), 940.01, 940.02, 940.03,  
8           940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (5), 940.195 (5), 940.198 (2) (a) or (c),  
9           940.20, 940.201, 940.203, 940.21, 940.225 (1) to (3), 940.23, 940.24, 940.25, 940.29,  
10          940.295 (3) (b) 1g., 1m., 1r., 2. or 3., 940.302 (2), 940.31, 941.20 (2) or (3), 941.26,  
11          941.30, 941.327, 943.01 (2) (c), 943.011, 943.013, 943.02, 943.03, 943.04, 943.06,  
12          943.10, 943.23 (1g), 943.30, 943.32, 943.81, 943.82, 943.83, 943.85, 943.86, 943.87,  
13          943.88, 943.89, 943.90, 946.01, 946.02, 946.43, 947.015, 948.02 (1) or (2), 948.025,  
14          948.03, 948.04, 948.05, 948.051, 948.06, 948.07, 948.085, or 948.30 or, if the victim  
15          is a financial institution, as defined in s. 943.80 (2), a crime under s. 943.84 (1) or (2).

16          **SECTION 35.** 971.109 of the statutes is created to read:

17          **971.109 Freezing assets of a person charged with financial**  
18          **exploitation of an elder person. (1) DEFINITIONS.** In this section:

19               (a) “Elder person” means any individual who is 60 years of age or older.

20               (b) “Financial exploitation” has the meaning given in s. 46.90 (1) (ed).

21               **(2) SEIZURE OF ASSETS.** (a) If a defendant is charged with a crime that is  
22               financial exploitation, the crime involves the taking or loss of property valued at  
23               more than \$2,500, and the crime victim is an elder person, a prosecuting attorney  
24               may file a petition with the court in which the defendant has been charged to freeze  
25               the funds, assets, or property of the defendant in an amount up to 100 percent of the

**SENATE BILL 427**

1 alleged value of funds, assets, or property in the defendant's pending criminal  
2 proceeding for purposes of restitution to the crime victim. The hearing on the  
3 petition may be held ex parte if necessary to prevent additional exploitation of the  
4 victim.

5 (b) If there is a showing of probable cause in the hearing, the court shall issue  
6 an order to freeze or seize the funds, assets, or property of the defendant in the  
7 amount calculated under par. (a). A copy of the order shall be served upon the  
8 defendant whose funds, assets, or property has been frozen or seized.

9 (c) The court's order shall prohibit the sale, gifting, transfer, or wasting of the  
10 funds, assets, or real or personal property of the elder person that are owned by or  
11 vested in the defendant without the express permission of the court.

12 **(3) RELEASE OF FUNDS.** (a) At any time within 30 days after service of the order  
13 under sub. (2) (b), the defendant or any person claiming an interest in the funds,  
14 assets, or property may file a petition to release the funds, assets, or property. The  
15 court shall hold a hearing on the motion within 10 days from the date the motion is  
16 filed.

17 (b) In any proceeding under par. (a), the state has the burden of proving by a  
18 preponderance of the evidence that the defendant used, was using, is about to use,  
19 or is intending to use any funds, assets, or property in a way that constitutes or would  
20 constitute financial exploitation. If the court finds that any funds, assets, or property  
21 were used, are about to be used, or are intended to be used in a way that constitutes  
22 or would constitute financial exploitation, the court shall order the funds, assets, or  
23 property frozen or held until further order of the court.

**SENATE BILL 427****SECTION 35**

1           **(4) DISMISSAL OR ACQUITTAL.** If the prosecution of a charge of financial  
2 exploitation is dismissed or if a judgment of acquittal is entered, the court shall  
3 vacate the order issued under sub. (2) (b).

4           **SECTION 36.** 973.01 (2) (c) 2. a. of the statutes is amended to read:

5           973.01 **(2)** (c) 2. a. Sections 939.621, 939.623, 939.632, 939.635, 939.645, 946.42  
6 (4), 961.442, 961.46, and 961.49.

7           **SECTION 37.** 973.0135 (1) (b) 2. of the statutes is amended to read:

8           973.0135 **(1)** (b) 2. Any felony under s. 940.09 (1), 1999 stats., s. 943.23 (1m)  
9 or (1r), 1999 stats., s. 948.35 (1) (b) or (c), 1999 stats., or s. 948.36, 1999 stats., s.  
10 940.01, 940.02, 940.03, 940.05, 940.09 (1c), 940.16, 940.19 (5), 940.195 (5), 940.198  
11 (2) (a) or (c), 940.21, 940.225 (1) or (2), 940.305, 940.31, 941.327 (2) (b) 4., 943.02,  
12 943.10 (2), 943.23 (1g), 943.32 (2), 946.43 (1m), 948.02 (1) or (2), 948.025, 948.03 (2)  
13 (a) or (c) or (5) (a) 1., 2., 3., or 4., 948.05, 948.051, 948.06, 948.07, 948.075, 948.08, or  
14 948.30 (2).

15           **SECTION 38.** 973.06 (1) (av) 2. a. of the statutes is amended to read:

16           973.06 **(1)** (av) 2. a. The defendant was charged under s. 946.41 solely because  
17 he or she recanted a report of abusive conduct, including interspousal battery, as  
18 described under s. 940.19 or 940.20 (1m), domestic abuse, as defined in s. 49.165 (1)  
19 (a), 813.12 (1) (am), or 968.075 (1) (a), harassment, as defined in s. 813.125 (1) (am)  
20 4., sexual exploitation by a therapist under s. 940.22, sexual assault under s.  
21 940.225, child abuse, as defined under s. 813.122 (1) (a), or child abuse under ss.  
22 948.02 to 948.11.

23           **SECTION 39.** 973.06 (1) (av) 2. b. of the statutes is amended to read:

24           973.06 **(1)** (av) 2. b. The defendant was a victim of abusive conduct, including  
25 interspousal battery, as described under s. 940.19 or 940.20 (1m), domestic abuse, as

**SENATE BILL 427**

1 defined in s. 49.165 (1) (a), 813.12 (1) (am), or 968.075 (1) (a), harassment, as defined  
2 in s. 813.125 (1) (am) 4, sexual exploitation by a therapist under s. 940.22, sexual  
3 assault under s. 940.225, child abuse, as defined under s. 813.122 (1) (a), or child  
4 abuse under ss. 948.02 to 948.11, and he or she was charged under s. 946.41 based  
5 on information he or she omitted or false information he or she provided during the  
6 course of an investigation into the crime committed against him or her.

7 **SECTION 40.** 973.123 (1) of the statutes is amended to read:

8 973.123 (1) In this section, “violent felony” means any felony under s. 943.23  
9 (1m), 1999 stats., or s. 943.23 (1r), 1999 stats., or s. 940.01, 940.02, 940.03, 940.05,  
10 940.06, 940.08, 940.09, 940.10, 940.19, 940.195, 940.198, 940.20, 940.201, 940.203,  
11 940.21, 940.225, 940.23, 940.235, 940.285 (2), 940.29, 940.295 (3), 940.30, 940.302,  
12 940.305, 940.31, 940.43 (1) to (3), 940.45 (1) to (3), 941.20, 941.26, 941.28, 941.29,  
13 941.292, 941.30, 941.327 (2) (b) 3. or 4., 943.02, 943.04, 943.06, 943.10 (2), 943.23  
14 (1g), 943.32, 943.87, 946.43, 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05,  
15 948.051, 948.06, 948.07, 948.08, 948.085, or 948.30.

16 **SECTION 41.** 980.01 (6) (b) of the statutes is amended to read:

17 980.01 (6) (b) Any crime specified in s. 940.01, 940.02, 940.03, 940.05, 940.06,  
18 940.19 (2), (4), (5), or (6), 940.195 (4) or (5), 940.198 (2) or (3), 940.30, 940.305, 940.31,  
19 941.32, 943.10, 943.32, or 948.03 that is determined, in a proceeding under s. 980.05  
20 (3) (b), to have been sexually motivated.

21 (END)