



HO-CHUNK NATION LEGISLATURE

Governing Body of the Ho-Chunk Nation

HO-CHUNK NATION CODE (HCC)

TITLE 9 – CRIMINAL CODE

SECTION 943 – CRIMES AGAINST PROPERTY

ENACTED BY LEGISLATURE: May 5, 2015

CITE AS: 9 HCC § 943

TABLE OF CONTENTS

SUBCHAPTER I: DAMAGE

943.01	Damage to property	3
943.011	Damage or threat to property of witness	4
943.012	Criminal damage to or graffiti on religious and other property	4
943.013	Criminal damage; threat; property of judge	5
943.014	Demolition of historic building without authorization	5
943.015	Criminal damage; threat; property of Department of Treasury Employee	5
943.017	Graffiti	6
943.02	Arson of buildings; damage of property by explosives	7
943.04	Arson with intent to defraud	7
943.05	Placing of combustible materials an attempt	7
943.06	Molotov cocktails	7
943.065	Injury caused by arson: treble damages	8

SUBCHAPTER II: TRESPASS

943.10	Burglary	8
943.11	Entry into locked vehicle	9
943.12	Possession of burglarious tools	9
943.125	Entry into locked coin box	9
943.13	Trespass to land	9
943.145	Criminal trespass to a medical facility	13
943.15	Entry onto a construction site or into a locked building, dwelling or room	13

SUBCHAPTER III: MISAPPROPRIATION

943.20	Theft	14
943.205	Theft of trade secrets	16

943.209	Failure to disclose manufacturer of recording	16
943.21	Fraud on hotel or restaurant keeper, recreational attraction, taxicab operator, or gas station	17
943.212	Fraud on hotel or restaurant keeper, recreational attraction, taxicab operator, or gas station; civil liability	19
943.215	Absconding without paying rent	19
943.22	Use of cheating tokens	20
943.225	Refusal to pay for a motor bus ride	20
943.23	Operating vehicle without owner's consent	20
943.24	Issue of worthless check	21
943.245	Worthless checks; civil liability	22
943.26	Removing or damaging encumbered real property	23
943.27	Possession of records of certain usurious loans	24
943.28	Loan sharking prohibited	24
943.31	Threats to communicate derogatory information	24
943.34	Receiving stolen property	24
943.39	Fraudulent writings	24
943.392	Fraudulent data alteration	25
943.395	Fraudulent insurance and employee benefit program claims	25
943.40	Fraudulent destruction of certain writings	25
943.41	Financial transaction card crimes	25
943.50	Retail theft; theft of services	29
943.51	Retail theft; civil liability	31
943.60	Criminal slander of title	31
943.61	Theft of library material	32
943.70	Computer crimes	32
943.75	Unauthorized release of animals	34

SUBCHAPTER IV: CRIMES AGAINST FINANCIAL INSTITUTIONS

943.80	Definitions	35
943.81	Theft from a financial institution	35
943.82	Fraud against a financial institution	36
943.83	Loan fraud	36
943.84	Transfer of encumbered property	36
943.85	Bribery involving a financial institution	36
943.86	Extortion against a financial institution	37
943.87	Robbery of a financial institution	37
943.88	Organizer of financial crimes	37
943.89	Mail fraud	37
943.90	Wire fraud against a financial institution	37
943.91	Penalties	37
943.92	Increased penalty for multiple financial crimes	38

SUBCHAPTER I DAMAGE

943.01 Damage to property. (1) Whoever intentionally causes damage to any physical property of another without the person's consent is guilty of a Class A misdemeanor.

(2) Any person violating sub. (1) under any of the following circumstances is guilty of a felony:

(a) 1. In this paragraph, "highway" means any public way or thoroughfare, including bridges thereon, any roadways commonly used for vehicular traffic, whether public or private, any railroad, including street and interurban railways, and any navigable waterway or airport.

2. The property damaged is a vehicle or highway and the damage is of a kind which is likely to cause injury to a person or further property damage.

(b) The property damaged belongs to a public utility or common carrier and the damage is of a kind which is likely to impair the services of the public utility or common carrier.

(c) The property damaged belongs to a person who is or was a grand or petit juror and the damage was caused by reason of any verdict or indictment assented to by the owner.

(d) If the total property damaged in violation of sub. (1) is reduced in value by more than \$2,500. For the purposes of this paragraph, property is reduced in value by the amount which it would cost either to repair or replace it, whichever is less.

(e) The property damaged is on state-owned land and is listed on the registry under sub. (5).

(f) 1. In this paragraph, "rock art site" means an archaeological site that contains paintings, carvings or other deliberate modifications of an immobile rock surface, such as a cave, overhang, boulder or bluff face, to produce symbols, stories, messages, designs or pictures. "Rock art site" includes artifacts and other cultural items, modified soils, bone and other objects of archaeological interest that are located adjacent to the paintings, carvings or other deliberate rock surface modifications.

2. The property damaged is a rock art site, any portion of a rock art site or any object that is part of a rock art site, if the rock art site is listed on the Nation's register of historic places, the national register of historic places in Wisconsin, or a state register of historic places.

(2d) (a) In this subsection, "plant research and development" means research regarding plants or development of plants, if the research or development is undertaken in conjunction or coordination with the tribal, state, a federal or local government agency, a university, or a private research facility.

(b) Any person violating sub. (1) under all of the following circumstances is guilty of a felony:

1. The property damaged is a plant, material taken, extracted, or harvested from a plant, or a seed or other plant material that is being used or that will be used to grow or develop a plant.

2. The plant referred to in subd. 1. is or was being grown as feed for animals being used or to be used for commercial purposes, for other commercial purposes, or in conjunction with plant research and development.

(2g) Any person violating sub. (1) under all of the following circumstances is guilty of a felony:

(a) The property damaged is a machine operated by the insertion of coins, currency, debit cards, credit cards or vouchers.

(b) The person acted with the intent to commit a theft from the machine.

(c) The total property damaged in violation of sub. (1) is reduced in value by more than \$500 but not more than \$2,500. For purposes of this paragraph, property is reduced in value by the amount that it would cost to repair or replace it, whichever is less, plus other monetary losses associated with the damage.

(2m) Whoever causes damage to any physical property of another under all of the following circumstances is subject to a Class B forfeiture:

(a) The person does not consent to the damage of his or her property.

(b) The property damaged is on tribal-owned land and is listed on the registry under sub. (5).

(3) If more than one item of property is damaged under a single intent and design, the damage to all the property may be prosecuted as a single forfeiture offense or crime.

(4) In any case of unlawful damage involving more than one act of unlawful damage but prosecuted as a single forfeiture offense or crime, it is sufficient to allege generally that unlawful damage to property was committed between certain dates. At the trial, evidence may be given of any such unlawful damage that was committed on or between the dates alleged.

(5) The Department of Heritage Preservation shall maintain a registry of prominent features in the landscape of tribal-owned land. To be included on the registry, a feature must have significant value to the people of this Nation.

943.011 Damage or threat to property of witness. (1) In this section:

(a) “Family member” means a parent, spouse, sibling, child, adopted child, stepchild, or foster child, dependent, aunt, uncle, niece, nephew, grandparent, grandchild or individual residing in the same home as the witness.

(b) “Witness” has the meaning given in s. 940.41 (3).

(2) Whoever does any of the following is guilty of a felony:

(a) Intentionally causes damage or threatens to cause damage to any physical property owned by a person who is or was a witness by reason of the owner having attended or testified as a witness and without the owner’s consent.

(b) Intentionally causes damage or threatens to cause damage to any physical property owned by a person who is a family member of a witness or a person sharing a common domicile with a witness by reason of the witness having attended or testified as a witness and without the owner’s consent.

943.012 Criminal damage to or graffiti on religious and other property. Whoever intentionally causes damage to, intentionally marks, draws or writes with ink or another substance on or intentionally etches into any physical property of another, without the person’s consent and with knowledge of the character of the property, is guilty of a felony if the property consists of one or more of the following:

(1) Any church, synagogue or other building, structure or place primarily used for religious worship or another religious purpose.

(2) Any cemetery, mortuary or other facility used for burial or memorializing the dead.

(3) Any school, educational facility or community center publicly identified as associated with a group of persons of a particular race, religion, color, disability, sexual orientation, national origin or ancestry or by an institution of any such group.

(4) Any personal property contained in any property under subs. (1) to (3) if the personal property has particular significance or value to any group of persons of a particular race, religion, color,

disability, sexual orientation, national origin or ancestry and the actor knows the personal property has particular significance or value to that group.

943.013 Criminal damage; threat; property of judge. (1) In this section:

(a) “Family member” means a parent, spouse, sibling, child, adopted child, stepchild, foster child, dependent, aunt, uncle, niece, nephew, grandparent, grandchild or individual residing in the same home as the judge.

(b) “Judge” means a supreme court justice, trial court judge, traditional court members or pro tem judges and justices.

(2) Whoever intentionally causes or threatens to cause damage to any physical property that belongs to a judge or his or her family member under all of the following circumstances is guilty of a felony:

(a) At the time of the act or threat, the actor knows or should have known that the person whose property is damaged or threatened is a judge or a member of his or her family.

(b) The judge is acting in an official capacity at the time of the act or threat or the act or threat is in response to any action taken in an official capacity.

(c) There is no consent by the person whose property is damaged or threatened.

943.014 Demolition of historic building without authorization. (1) In this section, “historic building” means any building or structure that is listed on, or any building or structure within and contributing to a historic district that is listed on, the Nation’s register of historic places, the U.S. national register of historic places in Wisconsin, or a state register of historic places or any building or structure that is included on a list of historic places designated by the Nation or a city, village, town or county.

(2) Whoever intentionally demolishes a historic building without a permit issued by the Nation or a city, village, town or county or without an order issued by a Court with jurisdiction over the historic building is guilty of a Class A misdemeanor.

(3) Subsection (2) does not apply to any person if he or she acts as part of a tribal, state or federal agency action and the tribal, state or federal agency has complied with relevant laws authorizing and regulating the action.

943.015 Criminal damage; threat; property of Department of Treasury Employee. (1) In this section, “family member” means a parent, spouse, sibling, child, adopted child, stepchild, or foster child, dependent, aunt, uncle, niece, nephew, grandparent, grandchild or individual residing in the same home as the Department of Treasury employee.

(2) Whoever intentionally causes or threatens to cause damage to any physical property which belongs to a Department of Treasury official, employee or agent or his or her family member under all of the following circumstances is guilty of a felony:

(a) At the time of the act or threat, the actor knows or should have known that the person whose property is damaged or threatened is a department of treasury official, employee or agent or a member of his or her family.

(b) The official, employee or agent is acting in an official capacity at the time of the act or threat or the act or threat is in response to any action taken in an official capacity.

(c) There is no consent by the person whose property is damaged or threatened.

943.017 Graffiti. (1) Whoever intentionally marks, draws or writes with paint, ink or another substance on or intentionally etches into the physical property of another without the other person's consent is guilty of a Class A misdemeanor.

(2) Any person violating sub. (1) under any of the following circumstances is guilty of a felony:

(a) The property under sub. (1) is a vehicle or a highway, as defined in s. 943.01 (2) (a) 1., and the marking, drawing, writing or etching is of a kind which is likely to cause injury to a person or further property damage.

(b) The property under sub. (1) belongs to a public utility or common carrier and the marking, drawing, writing or etching is of a kind which is likely to impair the services of the public utility or common carrier.

(c) The property under sub. (1) belongs to a person who is or was a grand or petit juror and the marking, drawing, writing or etching was caused by reason of any verdict or indictment assented to by the owner.

(d) If the total property affected in violation of sub. (1) is reduced in value by more than \$2,500. For the purposes of this paragraph, property is reduced in value by the amount which it would cost to repair or replace it or to remove the marking, drawing, writing or etching, whichever is less.

(e) The property affected is on tribal-owned land and is listed on the registry under s. 943.01.

(2m) (a) In this subsection:

1. "Family member" means a parent, spouse, sibling, child, adopted child, stepchild, or foster child, dependent, aunt, uncle, niece, nephew, grandparent, grandchild or a person sharing a common domicile as the witness..

2. "Witness" has the meaning given in s. 940.41 (3).

(b) Whoever does any of the following is guilty of a felony:

1. Intentionally marks, draws or writes with paint, ink or another substance on or intentionally etches into, or threatens to mark, draw or write on or etch into, any physical property owned by a person who is or was a witness by reason of the owner having attended or testified as a witness and without the owner's consent.

2. Intentionally marks, draws or writes with paint, ink or another substance on or intentionally etches into, or threatens to mark, draw or write on or etch into, any physical property owned by a family member of a witness or by a person sharing a common domicile with a witness by reason of the witness having attended or testified as a witness and without the owner's consent.

(3) (a) In addition to any other penalties that may apply to a crime under this section, the court may require that a convicted defendant perform 100 hours of community service work for an individual, a public agency or a nonprofit charitable organization. The court may order community service work that is designed to show the defendant the impact of his or her wrongdoing. The court shall allow the victim to make suggestions regarding appropriate community service work. If the court orders community service work, the court shall ensure that the defendant receives a written statement of the community service order and that the community service order is monitored.

(b) Any individual, organization or agency acting in good faith to whom or to which a defendant is assigned pursuant to an order under this subsection has immunity from any civil liability in excess of \$25,000 for acts or omissions by or impacting on the defendant.

(c) This subsection applies whether the court imposes a sentence or places the defendant on probation.

(d) If the defendant is not placed on probation and the court orders community service work, the court shall specify in its order under this subsection the method of monitoring the defendant's compliance with this subsection and the deadline for completing the work that is ordered. The court shall inform the defendant of the potential penalties for noncompliance that would apply under s. 973.07.

(4) If more than one item of property is marked, drawn or written upon or etched into under a single intent and design, the markings, drawings or writings on or etchings into all of the property may be prosecuted as a single crime.

(5) In any case under this section involving more than one act of marking, drawing, writing or etching but prosecuted as a single crime, it is sufficient to allege generally that unlawful marking, drawing or writing on or etching into property was committed between certain dates. At the trial, evidence may be given of any such unlawful marking, drawing, writing or etching that was committed on or between the dates alleged.

943.02 Arson of buildings; damage of property by explosives. (1) Whoever does any of the following is guilty of a felony:

(a) By means of fire, intentionally damages any building of another without the other's consent; or

(b) By means of fire, intentionally damages any building with intent to defraud an insurer of that building; or

(c) By means of explosives, intentionally damages any property of another without the other's consent.

(2) In this section "building of another" means a building in which a person other than the actor has a legal or equitable interest which the actor has no right to defeat or impair, even though the actor may also have a legal or equitable interest in the building. Proof that the actor recovered or attempted to recover on a policy of insurance by reason of the fire is relevant but not essential to establish the actor's intent to defraud the insurer.

943.04 Arson with intent to defraud. Whoever, by means of fire, damages any property, other than a building, with intent to defraud an insurer of that property is guilty of a felony. Proof that the actor recovered or attempted to recover on a policy of insurance by reason of the fire is relevant but not essential to establish the actor's intent to defraud the insurer.

943.05 Placing of combustible materials an attempt. Whoever places any combustible or explosive material or device in or near any property with intent to set fire to or blow up such property is guilty of an attempt to violate either s. 943.01, 943.012, 943.013, 943.02, 943.03 or 943.04, depending on the facts of the particular case.

943.06 Molotov cocktails. (1) As used in this section, "fire bomb" means a breakable container containing a flammable liquid with a flash point of 150 degrees Fahrenheit or less, having a wick or similar device capable of being ignited, but does not mean a device commercially manufactured primarily for the purpose of illumination.

(2) Whoever possesses, manufactures, sells, offers for sale, gives or transfers a fire bomb is guilty of a felony.

(3) This section shall not prohibit the authorized use or possession of any such device by a member of the armed forces or by fire fighters or law enforcement officers.

943.065 Injury caused by arson: treble damages. (1) Any person who incurs injury to his or her person or his, her or its business or property by reason of a violation of s. 943.02, 943.03, 943.04, 943.05 or 943.06, including the Nation, state or any municipality which incurs costs in extinguishing or investigating the cause of a fire under those circumstances, may sue the person convicted of the violation for damages. A court shall award treble damages, plus costs and attorney fees, to a person, including the Nation, state or a municipality, proving injury under this section. The damages, costs and fees are payable only by the person convicted of the violation. This section does not impose any duty upon a company providing insurance coverage to defend its insured in any action brought under this section.

(2) The treble damages requirement under sub. (1) applies in any wrongful death action based on a violation specified in sub. (1).

SUBCHAPTER II TRESPASS

943.10 Burglary. (1g) In this section:

(a) “Boat” means any ship or vessel that has sleeping quarters.

(b) “Motor home” means a motor vehicle designed to be operated upon a highway for use as a temporary or recreational dwelling and having the same internal characteristics and equipment as a mobile home.

(1m) Whoever intentionally enters any of the following places without the consent of the person in lawful possession and with intent to steal or commit a felony in such place is guilty of a felony:

(a) Any building or dwelling; or

(b) An enclosed railroad car; or

(c) An enclosed portion of any ship or vessel; or

(d) A locked enclosed cargo portion of a truck or trailer; or

(e) A motor home or other motorized type of home or a trailer home, whether or not any person is living in any such home; or

(f) A room within any of the above.

(2) Whoever violates sub. (1m) under any of the following circumstances is guilty of a felony:

(a) The person is armed with a dangerous weapon or a device or container described under s. 941.26 (4) (a).

(b) The person is unarmed, but arms himself with a dangerous weapon or a device or container described under s. 941.26 (4) (a) while still in the burglarized enclosure.

(c) While the person is in the burglarized enclosure, he or she opens, or attempts to open, any depository by use of an explosive.

(d) While the person is in the burglarized enclosure, he or she commits a battery upon a person lawfully therein.

(e) The burglarized enclosure is a dwelling, boat, or motor home and another person is lawfully present in the dwelling, boat, or motor home at the time of the violation.

(3) For the purpose of this section, entry into a place during the time when it is open to the general public is with consent.

943.11 Entry into locked vehicle. Whoever intentionally enters the locked and enclosed portion or compartment of the vehicle of another without consent and with intent to steal therefrom is guilty of a Class A misdemeanor.

943.12 Possession of burglarious tools. Whoever has in personal possession any device or instrumentality intended, designed or adapted for use in breaking into any depository designed for the safekeeping of any valuables or into any building or room, with intent to use such device or instrumentality to break into a depository, building or room, and to steal therefrom, is guilty of a felony.

943.125 Entry into locked coin box. (1) Whoever intentionally enters a locked coin box of another without consent and with intent to steal therefrom is guilty of a Class A misdemeanor.

(2) Whoever has in personal possession any device or instrumentality intended, designed or adapted for use in breaking into any coin box, with intent to use the device or instrumentality to break into a coin box and to steal therefrom, is guilty of a Class A misdemeanor.

(3) In this section, “coin box” means any device or receptacle designed to receive money or any other thing of value. The term includes a depository box, parking meter, vending machine, pay telephone, money changing machine, coin-operated phonograph and amusement machine if they are designed to receive money or other thing of value.

943.13 Trespass to land.

(1e) In this section:

(al) “Carry” has the meaning given in s. 175.60 (1) (ag).

(ar) “Dwelling unit” means a structure or that part of a structure which is used or intended to be used as a home, residence or sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of all others.

(az) “Implied consent” means conduct or words or both that imply that an owner or occupant of land has given consent to another person to enter the land.

(b) “Inholding” means a parcel of land that is private property and that is surrounded completely by land owned by the United States, by this state, Nation or by a local governmental unit or any combination of the United States, this state and a local governmental unit.

(c) “Local governmental unit” means a political subdivision of this state, a special purpose district in this state, an instrumentality or corporation of the political subdivision or special purpose district or a combination or subunit of any of the foregoing.

(cm) “Nonresidential building” includes a nursing home as defined in s. 50.01 (3), a community-based residential facility as defined in s. 50.01 (1g), a residential care apartment complex as defined in s. 50.01 (6d), an adult family home as defined in s. 50.01 (1), and a hospice as defined in s. 50.90 (1).

(cr) “Open land” means land that meets all of the following criteria:

1. The land is not occupied by a structure or improvement being used or occupied as a dwelling unit.

2. The land is not part of the curtilage, or is not lying in the immediate vicinity, of a structure or improvement being used or occupied as a dwelling unit.

3. The land is not occupied by a public building.

4. The land is not occupied by a place of employment.

(h) “Special event” means an event that is open to the public, is for a duration of not more than 3 weeks, and either has designated entrances to and from the event that are locked when the event is closed or requires an admission.

(1m) Whoever does any of the following is subject to a Class B forfeiture:

(a) Enters any enclosed, cultivated or undeveloped land of another, other than open land specified in par. (e) or (f), without the express or implied consent of the owner or occupant.

(am) Enters any land of another that is occupied by a structure used for agricultural purposes without the express or implied consent of the owner or occupant.

(b) Enters or remains on any land of another after having been notified by the owner or occupant not to enter or remain on the premises.

(c) 1. While carrying a firearm, enters or remains at a residence that the actor does not own or occupy after the owner of the residence, if he or she has not leased it to another person, or the occupant of the residence has notified the actor not to enter or remain at the residence while carrying a firearm or with that type of firearm. In this subdivision, “residence,” with respect to a single-family residence, includes the residence building and the parcel of land upon which the residence building is located, and “residence,” with respect to a residence that is not a single-family residence, does not include any common area of the building in which the residence is located or any common areas of the rest of the parcel of land upon which the residence building is located.

1m. While carrying a firearm, enters or remains in a common area in a building, or on the grounds of a building, that is a residence that is not a single-family residence if the actor does not own the residence or does not occupy any part of the residence, if the owner of the residence has notified the actor not to enter or remain in the common area or on the grounds while carrying a firearm or with that type of firearm. This subdivision does not apply to a part of the grounds of the building if that part is used for parking and the firearm is in a vehicle driven or parked in that part.

2. While carrying a firearm, enters or remains in any part of a nonresidential building, grounds of a nonresidential building, or land that the actor does not own or occupy after the owner of the building, grounds, or land, if that part of the building, grounds, or land has not been leased to another person, or the occupant of that part of the building, grounds, or land has notified the actor not to enter or remain in that part of the building, grounds, or land while carrying a firearm or with that type of firearm. This subdivision does not apply to a part of a building, grounds, or land occupied by the Nation, state or by a local governmental unit, to a privately or publicly owned building on the grounds of a university or college, or to the grounds of or land owned or occupied by a university or college, or, if the firearm is in a vehicle driven or parked in the parking facility, to any part of a building, grounds, or land used as a parking facility.

3. While carrying a firearm, enters or remains at a special event if the organizers of the special event have notified the actor not to enter or remain at the special event while carrying a firearm or with that type of firearm. This subdivision does not apply, if the

firearm is in a vehicle driven or parked in the parking facility, to any part of the special event grounds or building used as a parking facility.

4. While carrying a firearm, enters or remains in any part of a building that is owned, occupied, or controlled by the Nation or any local governmental unit, excluding any building Nation or local governmental unit has notified the actor not to enter or remain in the building while carrying a firearm or with that type of firearm. This subdivision does not apply to a person who leases residential or business premises in the building or, if the firearm is in a vehicle driven or parked in the parking facility, to any part of the building used as a parking facility.

5. While carrying a firearm, enters or remains in any privately or publicly owned building on the grounds of a university or college, if the university or college has notified the actor not to enter or remain in the building while carrying a firearm or with that type of firearm. This subdivision does not apply to a person who leases residential or business premises in the building or, if the firearm is in a vehicle driven or parked in the parking facility, to any part of the building used as a parking facility.

(e) Enters or remains on open land that is an inholding of another after having been notified by the owner or occupant not to enter or remain on the land.

(f) Enters undeveloped private land from an abutting parcel of land that is owned by the United States, this Nation, a state or a local governmental unit, or remains on such land, after having been notified by the owner or occupant not to enter or remain on the land.

(1s) In determining whether a person has implied consent to enter the land of another a trier of fact shall consider all of the circumstances existing at the time the person entered the land, including all of the following:

(a) Whether the owner or occupant acquiesced to previous entries by the person or by other persons under similar circumstances.

(b) The customary use, if any, of the land by other persons.

(c) Whether the owner or occupant represented to the public that the land may be entered for particular purposes.

(d) The general arrangement or design of any improvements or structures on the land.

(2) (am) A person has received notice from the owner or occupant within the meaning of sub. (1m) (b), (e) or (f) if he or she has been notified personally, either orally or in writing, or if the land is posted. Land is considered to be posted under this paragraph under either of the following procedures:

1. If a sign at least 11 inches square is placed in at least 2 conspicuous places for every 40 acres to be protected. The sign must provide an appropriate notice and the name of the person giving the notice followed by the word “owner” if the person giving the notice is the holder of legal title to the land and by the word “occupant” if the person giving the notice is not the holder of legal title but is a lawful occupant of the land. Proof that appropriate signs as provided in this subdivision were erected or in existence upon the premises to be protected prior to the event complained of shall be prima facie proof that the premises to be protected were posted as provided in this subdivision.

2. If markings at least one foot long, including in a contrasting color the phrase “private land” and the name of the owner, are made in at least 2 conspicuous places for every 40 acres to be protected.

- (bm)** 1. In this paragraph, “sign” means a sign that states a restriction imposed under subd. 2. that is at least 5 inches by 7 inches.
2. a. For the purposes of sub. (1m) (c) 1m., an owner of a residence that is not a single-family residence has notified an individual not to enter or remain in a part of that building, or on the grounds of that building, while carrying a firearm or with a particular type of firearm if the owner has posted a sign that is located in a prominent place near all of the entrances to the part of the building to which the restriction applies or near all probable access points to the grounds to which the restriction applies and any individual entering the building or the grounds can be reasonably expected to see the sign. am. For the purposes of sub. (1m) (c) 2., 4., and 5., an owner or occupant of a part of a nonresidential building, the Nation, state or a local governmental unit, or a university or a college has notified an individual not to enter or remain in a part of the building while carrying a firearm or with a particular type of firearm if the owner, occupant, Nation, state, local governmental unit, university, or college has posted a sign that is located in a prominent place near all of the entrances to the part of the building to which the restriction applies and any individual entering the building can be reasonably expected to see the sign.
- b. For the purposes of sub. (1m) (c) 2., an owner or occupant of the grounds of a nonresidential building or of land has notified an individual not to enter or remain on the grounds or land while carrying a firearm or with a particular type of firearm if the owner or occupant has posted a sign that is located in a prominent place near all probable access points to the grounds or land to which the restriction applies and any individual entering the grounds or land can be reasonably expected to see the sign.
- c. For the purposes of sub. (1m) (c) 3., the organizers of the special event have notified an individual not to enter or remain at the special event while carrying a firearm or with a particular type of firearm if the organizers have posted a sign that is located in a prominent place near all of the entrances to the special event and any individual attending the special event can be reasonably expected to see the sign.
- (3)** Whoever erects on the land of another signs which are the same as or similar to those described in sub. (2) (am) without obtaining the express consent of the lawful occupant of or holder of legal title to such land is subject to a Class C forfeiture.
- (3m)** An owner or occupant may give express consent to enter or remain on the land for a specified purpose or subject to specified conditions and it is a violation of sub. (1m) (a) or (am) for a person who received that consent to enter or remain on the land for another purpose or contrary to the specified conditions.
- (4)** Nothing in this section shall prohibit a representative of a labor union from conferring with any employee provided such conference is conducted in the living quarters of the employee and with the consent of the employee occupants.
- (4m)** This section does not apply to any of the following:
- (d)** An assessor and an assessor’s staff entering the land, other than a building, agricultural land or pasture, or a livestock confinement area, of another if all of the following apply:
1. The assessor or the assessor’s staff enters the land in order to make an assessment on behalf of the Nation, state or a political subdivision.
 2. The assessor or assessor’s staff enters the land on a weekday during daylight hours, or at another time as agreed upon with the land owner.

3. The assessor or assessor's staff spends no more than one hour on the land.
4. The assessor or assessor's staff does not open doors, enter through open doors, or look into windows of structures on the land.
5. The assessor or the assessor's staff leaves in a prominent place on the principal building on the land, or on the land if there is not a principal building, a notice informing the owner or occupant that the assessor or the assessor's staff entered the land and giving information on how to contact the assessor.
6. The assessor or the assessor's staff has not personally received a notice from the owner or occupant, either orally or in writing, not to enter or remain on the premises.

(5) Any authorized occupant of employer-provided housing shall have the right to decide who may enter, confer and visit with the occupant in the housing area the occupant occupies.

943.145 Criminal trespass to a medical facility. (1) In this section, "medical facility" means a hospital, health clinic, behavioral health, pharmacy, dental clinic, community health offices, mobile clinic, or a clinic or office that is used by a licensed physician.

(2) Whoever intentionally enters a medical facility without the consent of some person lawfully upon the premises, under circumstances tending to create or provoke a breach of the peace, is guilty of a Class B misdemeanor.

(3) This section does not prohibit any person from participating in lawful conduct in labor disputes.

943.15 Entry onto a construction site or into a locked building, dwelling or room. (1) Whoever enters the locked or posted construction site or the locked and enclosed building, dwelling or room of another without the consent of the owner or person in lawful possession of the premises is guilty of a Class A misdemeanor.

(1m) This section does not apply to an assessor and an assessor's staff entering the construction site, other than buildings, of another if all of the following apply:

- (a) The assessor or the assessor's staff enters the construction site in order to make an assessment on behalf of the Nation, state or a political subdivision.
- (b) The assessor or assessor's staff enters the construction site on a weekday during daylight hours, or at another time as agreed upon by the land owner.
- (c) The assessor or assessor's staff spends no more than one hour on the construction site.
- (d) The assessor or assessor's staff does not open doors, enter through open doors, or look into windows of structures on the construction site.
- (e) The assessor or the assessor's staff leaves in a prominent place on the principal building at the construction site, or on the land if there is not a principal building, a notice informing the owner or occupant that the assessor or the assessor's staff entered the construction site and giving information on how to contact the assessor.
- (f) The assessor or the assessor's staff has not personally received a notice from the owner or occupant, either orally or in writing, not to enter or remain on the premises.

(2) In this section:

- (a) "Construction site" means the site of the construction, alteration, painting or repair of a building, structure or other work.
- (b) "Owner or person in lawful possession of the premises" includes a person on whose behalf a building or dwelling is being constructed, altered, painted or repaired and the general contractor or subcontractor engaged in that work.

(c) “Posted” means that a sign at least 11 inches square must be placed in at least 2 conspicuous places for every 40 acres to be protected. The sign must carry an appropriate notice and the name of the person giving the notice followed by the word “owner” if the person giving the notice is the holder of legal title to the land on which the construction site is located and by the word “occupant” if the person giving the notice is not the holder of legal title but is a lawful occupant of the land.

SUBCHAPTER III MISAPPROPRIATION

943.20 Theft. (1) ACTS. Whoever does any of the following may be penalized as provided in sub. (3):

(a) Intentionally takes and carries away, uses, transfers, conceals, or retains possession of movable property of another without the other’s consent and with intent to deprive the owner permanently of possession of such property.

(b) By virtue of his or her office, business or employment, or as trustee or bailee, having possession or custody of money or of a negotiable security, instrument, paper or other negotiable writing of another, intentionally uses, transfers, conceals, or retains possession of such money, security, instrument, paper or writing without the owner’s consent, contrary to his or her authority, and with intent to convert to his or her own use or to the use of any other person except the owner. A refusal to deliver any money or a negotiable security, instrument, paper or other negotiable writing, which is in his or her possession or custody by virtue of his or her office, business or employment, or as trustee or bailee, upon demand of the person entitled to receive it, or as required by law, is prima facie evidence of an intent to convert to his or her own use within the meaning of this paragraph.

(c) Having a legal interest in movable property, intentionally and without consent, takes such property out of the possession of a pledgee or other person having a superior right of possession, with intent thereby to deprive the pledgee or other person permanently of the possession of such property.

(d) Obtains title to property of another person by intentionally deceiving the person with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made. “False representation” includes a promise made with intent not to perform it if it is a part of a false and fraudulent scheme.

(e) Intentionally fails to return any personal property which is in his or her possession or under his or her control by virtue of a written lease or written rental agreement after the lease or rental agreement has expired. This paragraph does not apply to a person who returns personal property, except a motor vehicle, which is in his or her possession or under his or her control by virtue of a written lease or written rental agreement, within 10 days after the lease or rental agreement expires.

(2) **DEFINITIONS.** In this section:

(ac) “Adult at risk” means any adult who has a physical or mental condition that substantially impairs his or her ability to care for his or her needs and who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation.

(ad) “Elder adult at risk” means any person age 60 or older who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation.

(ae) “Individual at risk” means an elder adult at risk or an adult at risk.

(ag) “Movable property” is property whose physical location can be changed, without limitation including electricity and gas, documents which represent or embody intangible rights, and things growing on, affixed to or found in land.

(am) “Patient” has the meaning given in s. 940.295 (1) (l).

(b) “Property” means all forms of tangible property, whether real or personal, without limitation including electricity, gas and documents which represent or embody a chose in action or other intangible rights.

(c) “Property of another” includes property in which the actor is a co-owner and property of a partnership of which the actor is a member, unless the actor and the victim are husband and wife.

(cm) “Resident” has the meaning given in s. 940.295 (1) (p).

(d) Except as otherwise provided in this paragraph, “value” means the market value at the time of the theft or the cost to the victim of replacing the property within a reasonable time after the theft, whichever is less. If the property stolen is a document evidencing a chose in action or other intangible right, “value” means either the market value of the chose in action or other right or the intrinsic value of the document, whichever is greater. If the property stolen is scrap metal, as defined in a metal grave marker, sculpture, plaque, or vase, if the item's appearance suggests the item has been obtained from a cemetery., or “plastic bulk merchandise container” as defined in means a plastic crate, pallet, or shell used by a product producer, distributor, or retailer for the bulk transport or storage of retail containers of bottled beverages., “value” also includes any costs that would be incurred in repairing or replacing any property damaged in the theft or removal of the scrap metal or plastic bulk merchandise container. If the thief gave consideration for, or had a legal interest in, the stolen property, the amount of such consideration or value of such interest shall be deducted from the total value of the property.

(3) PENALTIES. Whoever violates sub. (1):

(a) If the value of the property does not exceed \$2,500, is guilty of a Class A misdemeanor.

(bf) If the value of the property exceeds \$2,500 is guilty of a felony.

(d) If any of the following circumstances exists, is guilty of a felony:

1. The property is a domestic animal.

3. The property is taken from a building which has been destroyed or left unoccupied because of physical disaster, riot, bombing or the proximity of battle.

4. The property is taken after physical disaster, riot, bombing or the proximity of battle has necessitated its removal from a building.

5. The property is a firearm.

6. The property is taken from a patient or resident of a facility or program under s. 940.295 (2) or from an individual at risk.

(e) If the property is taken from the person of another or from a corpse, is guilty of a felony.

(4) USE OF PHOTOGRAPHS AS EVIDENCE. In any action or proceeding for a violation of sub. (1), a party may use duly identified and authenticated photographs of property which was the subject of the violation in lieu of producing the property.

943.205 Theft of trade secrets. (1) Whoever with intent to deprive or withhold from the owner thereof the control of a trade secret, or with intent to appropriate a trade secret to his or her own use or the use of another not the owner, and without authority of the owner, does any of the following may be penalized as provided in sub. (3):

(a) Takes, uses, transfers, conceals, exhibits or retains possession of property of the owner representing a trade secret.

(b) Makes or causes to be made a copy of property of the owner representing a trade secret.

(c) Obtains title to property representing a trade secret or a copy of such property by intentionally deceiving the owner with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made. "False representation" includes a promise made with intent not to perform if it is a part of a false and fraudulent scheme.

(2) In this section:

(a) "Copy" means any facsimile, replica, photograph or other reproduction of any property and any notation, drawing or sketch made of or from any property.

(b) "Owner" includes a co-owner of the person charged and a partnership of which the person charged is a member, unless the person charged and the victim are husband and wife.

(c) "Property" includes without limitation because of enumeration any object, material, device, substance, writing, record, recording, drawing, sample, specimen, prototype, model, photograph, micro-organism, blueprint or map, or any copy thereof.

(d) "Representing" means disclosing, embodying, describing, depicting, containing, constituting, reflecting or recording.

(e) "Trade secret" has the meaning specified in means information, including a formula, pattern, compilation, program, device, method, technique or process to which all of the following apply:

1. The information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.

2. The information is the subject of efforts to maintain its secrecy that are reasonable under the circumstances.

(3) Anyone who violates this section is guilty of a felony.

(4) In a prosecution for a violation of this section it shall be no defense that the person charged returned or intended to return the property involved or that the person charged destroyed all copies made.

(5) This section does not prevent anyone from using skills and knowledge of a general nature gained while employed by the owner of a trade secret.

943.209 Failure to disclose manufacturer of recording. (1) Whoever does any of the following for commercial advantage or private financial gain may be penalized as provided in sub. (2):

(a) Knowingly advertises, offers for sale or rent, sells, rents or transports a recording that does not contain the name and address of the manufacturer in a prominent place on the cover, jacket or label of the recording.

(b) Possesses with intent to advertise, offer for sale or rent, sell, rent or transport a recording that does not contain the name and address of the manufacturer in a prominent place on the cover, jacket or label of the recording.

- (2) (a) Whoever violates sub. (1) is guilty of a Class A misdemeanor if the person advertises, offers for sale or rent, sells, rents, transports or possesses fewer than 100 recordings in violation of sub. (1) during a 180-day period, and the value of the recordings does not exceed \$2,500.
- (b) Whoever violates sub. (1) is guilty of a felony if the person advertises, offers for sale or rent, sells, rents, transports or possesses recordings in violation of sub. (1) during a 180-day period, and the value of the recordings exceeds \$2,500 or if the violation occurs after the person has been convicted under this section..
- (3) Under this section, the number of recordings that a person rents shall be the sum of the number of times that each individual recording is rented.

943.21 Fraud on hotel or restaurant keeper, recreational attraction, taxicab operator, or gas station.

(1c) In this section, “recreational attraction” means a public accommodation designed for amusement and includes casinos, chair lifts or ski resorts, water parks, theaters, entertainment venues, racetracks, swimming pools, trails, golf courses, carnivals, and amusement parks.

(1m) Whoever does any of the following may be penalized as provided in sub. (3):

- (a) Having obtained any beverage, food, lodging, ticket or other means of admission, or other service or accommodation at any campground, hotel, motel, boarding or lodging house, restaurant, or recreational attraction, intentionally absconds without paying for it.
- (b) While a guest at any campground, hotel, motel, boarding or lodging house, or restaurant, intentionally defrauds the keeper thereof in any transaction arising out of the relationship as guest.
- (c) Having obtained any transportation service from a taxicab operator, intentionally absconds without paying for the service.
- (d) Having obtained gasoline or diesel fuel from a service station, garage, or other place where gasoline or diesel fuel is sold at retail or offered for sale at retail, intentionally absconds without paying for the gasoline or diesel fuel.
- (2) Under this section, prima facie evidence of an intent to defraud is shown by:
- (a) The refusal of payment upon presentation when due, and the return unpaid of any bank check or order for the payment of money, given by any guest to any campground, hotel, motel, boarding or lodging house, or restaurant, in payment of any obligation arising out of the relationship as guest. Those facts also constitute prima facie evidence of an intent to abscond without payment.
- (b) The failure or refusal of any guest at a campground, hotel, motel, boarding or lodging house, or restaurant, to pay, upon written demand, the established charge for any beverage, food, lodging or other service or accommodation actually rendered.
- (c) The giving of false information on a lodging registration form or the giving of false information or presenting of false or fictitious credentials for the purpose of obtaining any beverage or food, lodging or credit.
- (d) The drawing, endorsing, issuing or delivering to any campground, hotel, motel, boarding or lodging house, or restaurant, of any check, draft or order for payment of money upon any bank or other depository, in payment of established charges for any beverage, food, lodging or other service or accommodation, knowing at the time that there is not sufficient credit with the drawee bank or other depository for payment in full of the instrument drawn.

(2g) If a person has obtained a ticket, another means of admission, or an accommodation or service provided by the recreational attraction, his or her failure or refusal to pay a recreational attraction the established charge for the ticket, other means of admission, or accommodation or service provided by the recreational attraction constitutes prima facie evidence of an intent to abscond without payment.

(2m) The refusal to pay a taxicab operator the established charge for transportation service provided by the operator constitutes prima facie evidence of an intent to abscond without payment.

(2r) The failure or refusal to pay a service station, garage, or other place where gasoline or diesel fuel is sold at retail or offered for sale at retail the established charge for gasoline or diesel fuel provided by the service station, garage, or other place constitutes prima facie evidence of an intent to abscond without payment.

(3) (am) Whoever violates sub. (1m) (a), (b), or (c):

1. Is guilty of a Class A misdemeanor when the value of any beverage, food, lodging, accommodation, transportation or other service is \$2,500 or less.
2. Is guilty of a felony when the value of any beverage, food, lodging, accommodation, transportation or other service exceeds \$2,500.

(bm) Whoever violates sub. (1m) (d) is subject to a Class D forfeiture.

(3m) (a) Definitions. In this subsection:

1. "Operating privilege" means, in the case of a person who has an operator's license, the license, including every endorsement and authorization to operate vehicles of specific vehicle classes or types, instruction permit, and temporary, restricted or occupational license granted to such person.
2. "Repeat offense" means a violation of sub. (1m) (d) that occurs after a person has been found by a court to have violated sub. (1m) (d).

(b) Driver's license suspension; 2nd offense. Subject to pars.(c) and (d), if a person commits a repeat offense, the court, in addition to imposing any penalty under sub. (3) (bm), may suspend the person's operating privilege for not more than 6 months.

(c) Driver's license suspension; 3rd offense. Subject to par.(d), if a person violates sub. (1m) (d) after having been found by a court to have committed an offense that constitutes a repeat offense, the court, in addition to imposing any penalty under sub.

(3) (bm), shall suspend the person's operating privilege for not more than 6 months.

(d) Driver's license suspension; 4th offense. If a person violates sub. (1m) (d) after having his or her operating privilege suspended under par. (c), the court, in addition to imposing any penalty under sub. (3) (bm), shall suspend the person's operating privilege for one year.

(4) (a) In addition to the other penalties provided for violation of this section, a judge may order a violator to pay restitution under s. 973.20. A victim may not be compensated under this section and s. 943.212.

(b) This subsection is applicable in actions concerning violations of ordinances in conformity with this section.

(5) A judgment may not be entered for a violation of this section or for a violation of an ordinance adopted in conformity with this section, regarding conduct that was the subject of a judgment including exemplary damages under s. 943.212.

943.212 Fraud on hotel or restaurant keeper, recreational attraction, taxicab operator, or gas station; civil liability. (1) Any person who incurs injury to his or her business or property as a result of a violation of s. 943.21 may bring a civil action against any adult or emancipated minor who caused the loss for all of the following:

(a) The retail value of the beverage, food, lodging, accommodation, ticket or other means of admission, gasoline or diesel fuel, transportation, or service involved in the violation. A person may recover under this paragraph only if he or she exercises due diligence in demanding payment for the beverage, food, lodging, accommodation, ticket or other means of admission, gasoline or diesel fuel, transportation, or service.

(b) Any property damages not covered under par. (a).

(2) In addition to sub. (1), if the person who incurs the injury prevails, the judgment in the action may grant any of the following:

(a) Exemplary damages of not more than 3 times the amount under sub. (1) (a) and (b). No additional proof is required for an award of exemplary damages under this paragraph. Exemplary damages may not be granted for conduct that was the subject of a judgment for violation of s. 943.21 or an ordinance adopted in conformity with that section.

(b) 1. Reasonable attorney fees for civil actions.

2. Attorney fees for small claims actions.

(3) Notwithstanding sub. (2), the total amount awarded for exemplary damages and attorney fees may not exceed \$300.

(4) (a) At least 20 days prior to commencing an action, under this section, the plaintiff shall notify the defendant, by mail, of his or her intent to bring the action and of the acts constituting the basis for the violation of s. 943.21. The plaintiff shall send the notice by regular mail supported by an affidavit of service of mailing or by a certificate of mailing obtained from the U.S. post office from which the mailing was made. The plaintiff shall mail the notice to the defendant's last-known address or to the address provided on the check or order. If the defendant pays the amount due for the beverage, food, lodging, accommodation, ticket or other means of admission, transportation, or service prior to the commencement of the action, he or she is not liable under this section.

(b) This subsection does not apply to an action based on acts that constitute a violation of s. 943.21 (1m) (d).

(5) The plaintiff has the burden of proving by a preponderance of the evidence that a violation occurred under s. 943.21. A conviction under s. 943.21 is not a condition precedent to bringing an action, obtaining a judgment or collecting that judgment under this section.

(6) A person is not criminally liable under s. 943.30 for any civil action brought in good faith under this section.

(7) Nothing in this section precludes a plaintiff from bringing a small claims action.

943.215 Absconding without paying rent. (1) Whoever having obtained the tenancy, including a tenancy under a lease, a periodic tenancy or a tenancy at will, of residential property he or she is entitled to occupy, intentionally absconds without paying all current and past rent due is guilty of a Class A misdemeanor.

(2) A person has a defense to prosecution under sub. (1) if he or she has provided the landlord with a security deposit that equals or exceeds the amount that the person owes the landlord regarding rent and damage to property.

(3) A person has a defense to prosecution under sub. (1) if, within 5 days after the day he or she vacates the rental premises, he or she pays all current and past rent due or provides to the landlord, in writing, a complete and accurate forwarding address.

(4) When the existence of a defense under sub. (2) or (3) has been placed in issue by the trial evidence, the Nation must prove beyond a reasonable doubt that the facts constituting the defense do not exist in order to sustain a finding of guilt under sub. (1).

(5) Subsection (1) does not apply to any tenant against whom a civil judgment has been entered for punitive damages because the tenant left the premises with unpaid rent.

943.22 Use of cheating tokens. Whoever obtains the property or services of another by depositing anything which he or she knows is not lawful money or an authorized token in any receptacle used for the deposit of coins or tokens is subject to a Class C forfeiture.

943.225 Refusal to pay for a motor bus ride. (1) In this section, “motor bus” means a motor vehicle designed primarily for the transportation of persons rather than property and having a passenger-carrying capacity of 16 or more persons, including the operator. Passenger-carrying capacity shall be determined by dividing by 20 the total seating space measured in inches.

(2) Whoever intentionally enters a motor bus that transports persons for hire and refuses to pay, without delay, upon demand of the operator or other person in charge of the motor bus, the prescribed transportation fare is subject to a Class E forfeiture.

943.23 Operating vehicle without owner’s consent.

(1) In this section:

(a) “Drive” means the exercise of physical control over the speed and direction of a vehicle while it is in motion.

(b) “Major part of a vehicle” means any of the following:

1. The engine.
2. The transmission.
3. Each door allowing entrance to or egress from the passenger compartment.
4. The hood.
5. The grille.
6. Each bumper.
7. Each front fender.
8. The deck lid, tailgate or hatchback.
9. Each rear quarter panel.
10. The trunk floor pan.
11. The frame or, in the case of a unitized body, the supporting structure which serves as the frame.
12. Any part not listed under subs. 1. to 11. which has a value exceeding \$500.

(c) “Operate” includes the physical manipulation or activation of any of the controls of a vehicle necessary to put it in motion.

(1g) Whoever, while possessing a dangerous weapon and by the use of, or the threat of the use of, force or the weapon against another, intentionally takes any vehicle without the consent of the owner is guilty of a felony.

- (2) Except as provided in sub. (3m), whoever intentionally takes and drives any vehicle without the consent of the owner is guilty of a felony.
- (3) Except as provided in sub. (3m), whoever intentionally drives or operates any vehicle without the consent of the owner is guilty of a felony.
- (3m) It is an affirmative defense to a prosecution for a violation of sub. (2) or (3) if the defendant abandoned the vehicle without damage within 24 hours after the vehicle was taken from the possession of the owner. An affirmative defense under this subsection mitigates the offense to a Class A misdemeanor. A defendant who raises this affirmative defense has the burden of proving the defense by a preponderance of the evidence.
- (4m) Whoever knows that the owner does not consent to the driving or operation of a vehicle and intentionally accompanies, as a passenger in the vehicle, a person while he or she violates sub. (1g), (2), (3), or (3m) is guilty of a Class A misdemeanor.
- (5) Whoever intentionally removes a major part of a vehicle without the consent of the owner is guilty of a felony. Whoever intentionally removes any other part or component of a vehicle without the consent of the owner is guilty of a Class A misdemeanor.
- (6) (a) In this subsection, “pecuniary loss” has the meaning described in s. 943.245 (1).
(b) In addition to the other penalties provided for violation of this section, a judge may require a violator to pay restitution to or on behalf of a victim regardless of whether the violator is placed on probation under s. 973.09. If restitution is ordered, the court shall consider the financial resources and future ability of the violator to pay and shall determine the method of payment. Upon the application of any interested party, the court may schedule and hold an evidentiary hearing to determine the value of the victim’s pecuniary loss resulting from the offense.

943.24 Issue of worthless check. (1) Whoever issues any check or other order for the payment of not more than \$2,500 which, at the time of issuance, he or she intends shall not be paid is guilty of a Class A misdemeanor.

(2) Whoever issues any single check or other order for the payment of more than \$2,500 or whoever within a 90-day period issues more than one check or other order amounting in the aggregate to more than \$2,500 which, at the time of issuance, the person intends shall not be paid is guilty of a felony.

(3) Any of the following is prima facie evidence that the person at the time he or she issued the check or other order for the payment of money, intended it should not be paid:

- (a) Proof that, at the time of issuance, the person did not have an account with the drawee; or
(b) Proof that, at the time of issuance, the person did not have sufficient funds or credit with the drawee and that the person failed within 5 days after receiving written notice of nonpayment or dishonor to pay the check or other order, delivered by regular mail to either the person’s last-known address or the address provided on the check or other order; or
(c) Proof that, when presentment was made within a reasonable time, the person did not have sufficient funds or credit with the drawee and the person failed within 5 days after receiving written notice of nonpayment or dishonor to pay the check or other order, delivered by regular mail to either the person’s last-known address or the address provided on the check or other order.

(4) This section does not apply to a postdated check or to a check given for a past consideration, except a payroll check.

- (5) (a) In addition to the other penalties provided for violation of this section, a judge may order a violator to pay restitution under s. 973.20.
- (b) In actions concerning violations of ordinances in conformity with this section, a judge may order a violator to make restitution.
- (c) If the court orders restitution under pars. (a) and (b), any amount of restitution paid to the victim under one of those paragraphs reduces the amount the violator must pay in restitution to that victim under the other paragraph.
- (6) (a) If the department of justice, a prosecutor, or a tribal, state or local law enforcement agency requests any of the following information under par. (b) from a financial institution, as defined as any organization authorized to do business under state or federal laws relating to financial institutions, including, without limitation, banks and trust companies, savings banks, building and loan associations, savings and loan associations and credit unions, regarding a specific person, the financial institution shall provide the information within 10 days after receiving the request:
1. Documents relating to the opening and closing of the person's account.
 2. Notices regarding any of the following that were issued within the 6 months immediately before the request and that relate to the person:
 - a. Checks written by the person when there were insufficient funds in his or her account.
 - b. Overdrafts.
 - c. The dishonor of any check drawn on the person's account.
 3. Account statements sent to the person by the financial institution for the following:
 - a. The period during which any specific check covered by a notice under subd. 2. was issued.
 - b. The period immediately before and immediately after the period specified in subd. 3. a.
 4. The last known address and telephone number for the person's home and business.
- (b) The department of justice, a prosecutor, or a tribal, state or local law enforcement agency may request information under par. (a) only if the request is in writing and if it states that the requester is investigating whether the person specified violated this section or is prosecuting the person specified under this section.
- (c) A financial institution may not impose a fee for providing information under this subsection.

943.245 Worthless checks; civil liability. (1) In this section, "pecuniary loss" means:

- (a) All special damages, but not general damages, including, without limitation because of enumeration, the money equivalent of loss resulting from property taken, destroyed, broken or otherwise harmed and out-of-pocket losses, such as medical expenses; and
- (b) Reasonable out-of-pocket expenses incurred by the victim resulting from the filing of charges or cooperating in the investigation and prosecution of the offense under s. 943.24.
- (1m) Except as provided in sub. (9), any person who incurs pecuniary loss, including any holder in due course of a check or order, may bring a civil action against any adult or emancipated minor who:
- (a) Issued a check or order in violation of s. 943.24 or sub. (6); and

- (b) Knew, should have known or recklessly disregarded the fact that the check or order was drawn on an account that did not exist, was drawn on an account with insufficient funds or was otherwise worthless.
- (2) If the person who incurs the loss prevails, the judgment in the action shall grant monetary relief for all of the following:
- (a) The face value of whatever checks or orders were involved.
 - (b) Any actual damages not covered under par. (a).
 - (c) 1. Exemplary damages of not more than 3 times the amount under pars. (a) and (b).
2. No additional proof is required for an award of exemplary damages under this paragraph.
 - (d) All actual costs of the action, including reasonable attorney fees.
- (3) Notwithstanding sub. (2) (c) and (d), the total amount awarded for exemplary damages and reasonable attorney fees may not exceed \$500 for each violation.
- (3m) Any recovery under this section shall be reduced by the amount recovered as restitution for the same act 973.20 or as recompense for the same act and by any amount collected in connection with the act and paid to the plaintiff under a deferred prosecution agreement for issuing worthless checks.
- (4) At least 20 days prior to commencing an action, under this section, the plaintiff shall notify the defendant, by mail, of his or her intent to bring the action. Notice of nonpayment or dishonor shall be sent by the payee or holder of the check or order to the drawer by regular mail supported by an affidavit of service of mailing. The plaintiff shall mail the notice to the defendant's last-known address or to the address provided on the check or order. If the defendant pays the check or order prior to the commencement of the action, he or she is not liable under this section.
- (5) The plaintiff has the burden of proving by a preponderance of the evidence that a violation occurred under s. 943.24 or that he or she incurred a pecuniary loss as a result of the circumstances described in sub. (6). A conviction under s. 943.24 is not a condition precedent to bringing an action, obtaining a judgment or collecting that judgment under this section.
- (6) (a) In this subsection, "past consideration" does not include work performed, for which a person is entitled to a payroll check.
(b) Whoever issues any check or other order for the payment of money given for a past consideration which, at the time of issuance, the person intends shall not be paid is liable under this section.
- (7) A person is not criminally liable under s. 943.30 for any civil action brought in good faith under this section.
- (8) Nothing in this section other than sub. (9) precludes a plaintiff from bringing a small claims action .
- (9) A person may not bring an action under this section after requesting that a criminal prosecution be deferred under s. 971.41 if the person against whom the action would be brought has complied with the terms of the deferred prosecution agreement.

943.26 Removing or damaging encumbered real property.

- (1) Any mortgagor of real property or vendee under a land contract who, without the consent of the mortgagee or vendor, intentionally removes or damages the real property so as to substantially impair the mortgagee's or vendor's security is guilty of a Class A misdemeanor.
- (2) If the security is impaired by more than \$1,000, the mortgagor or vendee is guilty of a felony.

943.27 Possession of records of certain usurious loans. Any person who knowingly possesses any writing representing or constituting a record of a charge of, contract for, receipt of or demand for a rate of interest or consideration exceeding \$20 upon \$100 for one year computed upon the declining principal balance of the loan, use or forbearance of money, goods or things in action or upon the loan, use or sale of credit is, if the rate is prohibited by a law other than this section, guilty of a felony.

943.28 Loan sharking prohibited. (1) For the purposes of this section:

(a) To collect an extension of credit means to induce in any way any person to make repayment thereof.

(b) An extortionate extension of credit is any extension of credit with respect to which it is the understanding of the creditor and the debtor at the time it is made that delay in making repayment or failure to make repayment could result in the use of violence or other criminal means to cause harm to the person, reputation or property of any person.

(c) An extortionate means is any means which involves the use, or an express or implicit threat of use, of violence or other criminal means to cause harm to the person, reputation or property of any person.

(2) Whoever makes any extortionate extension of credit, or conspires to do so, if one or more of the parties to the conspiracy does an act to effect its object, is guilty of a felony.

(3) Whoever advances money or property, whether as a gift, as a loan, as an investment, pursuant to a partnership or profit-sharing agreement, or otherwise, for the purpose of making extortionate extensions of credit, is guilty of a felony.

(4) Whoever knowingly participates in any way in the use of any extortionate means to collect or attempt to collect any extension of credit, or to punish any person for the non-repayment thereof, is guilty of a felony.

943.31 Threats to communicate derogatory information.

Whoever threatens to communicate to anyone information, whether true or false, which would injure the reputation of the threatened person or another unless the threatened person transfers property to a person known not to be entitled to it is guilty of a felony.

943.34 Receiving stolen property. (1) Except as provided under s. 948.62, whoever knowingly or intentionally receives or conceals stolen property is guilty of:

(a) A Class A misdemeanor, if the value of the property does not exceed \$2,500.

(bf) A felony, if the value of the property exceeds \$2,500.

(bm) A felony, if the property is a firearm

(2) In any action or proceeding for a violation of sub. (1), a party may use duly identified and authenticated photographs of property which was the subject of the violation in lieu of producing the property.

943.39 Fraudulent writings. Whoever, with intent to injure or defraud, does any of the following is guilty of a felony:

(1) Being a director, officer, manager, agent or employee of any corporation or limited liability company falsifies any record, account or other document belonging to that corporation or limited liability company by alteration, false entry or omission, or makes, circulates or publishes any

written statement regarding the corporation or limited liability company which he or she knows is false; or

(3) Makes a false written statement with knowledge that it is false and with intent that it shall ultimately appear to have been signed under oath.

943.392 Fraudulent data alteration. Whoever, with intent to injure or defraud, manipulates or changes any data, as defined in s. 943.70 (1) (f), is guilty of a Class A misdemeanor.

943.395 Fraudulent insurance and employee benefit program claims. (1) Whoever, knowing it to be false or fraudulent, does any of the following may be penalized as provided in sub. (2):

(a) Presents or causes to be presented a false or fraudulent claim, or any proof in support of such claim, to be paid under any contract or certificate of insurance; or

(b) Prepares, makes or subscribes to a false or fraudulent account, certificate, affidavit, proof of loss or other document or writing, with knowledge that the same may be presented or used in support of a claim for payment under a policy of insurance.

(c) Presents or causes to be presented a false or fraudulent claim or benefit application, or any false or fraudulent proof in support of such a claim or benefit application, or false or fraudulent information which would affect a future claim or benefit application, to be paid under any employee benefit program.

(d) Makes any misrepresentation in or with reference to any application for membership or documentary or other proof for the purpose of obtaining membership in or noninsurance benefit, for himself or herself or any other person.

(2) Whoever violates this section:

(a) Is guilty of a Class A misdemeanor if the value of the claim or benefit does not exceed \$2,500.

(b) Is guilty of a I felony if the value of the claim or benefit exceeds \$2,500.

943.40 Fraudulent destruction of certain writings. Whoever with intent to defraud does either of the following is guilty of a felony:

(1) Destroys or mutilates any corporate books of account or records; or

943.41 Financial transaction card crimes. (1) DEFINITIONS. In this section:

(a) “Alter” means add information to, change information on or delete information from.

(am) “Automated financial service facility” means a machine activated by a financial transaction card, personal identification code or both.

(b) “Cardholder” means the person to whom or for whose benefit a financial transaction card is issued.

(c) “Counterfeit” means to manufacture, produce or create by any means a financial transaction card or purported financial transaction card without the issuer’s consent or authorization.

(e) “Expired financial transaction card” means a financial transaction card which is no longer valid because the term shown thereon has elapsed.

(em) “Financial transaction card” means an instrument or device issued by an issuer for the use of the cardholder in any of the following:

1. Obtaining anything on credit.

2. Certifying or guaranteeing the availability of funds sufficient to honor a draft or check.

3. Gaining access to an account.

(f) “Issuer” means the business organization or financial institution which issues a financial transaction card or its duly authorized agent.

(fm) “Personal identification code” means a numeric, alphabetic or alphanumeric code or other means of identification required by an issuer to permit a cardholder’s authorized use of a financial transaction card.

(g) “Receives” or “receiving” means acquiring possession or control or accepting as security for a loan.

(h) “Revoked financial transaction card” means a financial transaction card which is no longer valid because permission to use it has been suspended or terminated by the issuer.

(2) FALSE STATEMENTS. No person shall make or cause to be made, whether directly or indirectly, any false statements in writing, knowing it to be false and with intent that it be relied upon, respecting the person’s identity or that of any other person or the person’s financial condition or that of any other person or other entity for the purpose of procuring the issuance of a financial transaction card.

(3) THEFT BY TAKING CARD.

(a) No person shall acquire a financial transaction card from the person, possession, custody or control of another without the cardholder’s consent or, with knowledge that it has been so acquired, receive the financial transaction card with intent to use it or sell it or to transfer it to a person other than the issuer. Acquiring a financial transaction card without consent includes obtaining it by conduct defined as statutory theft. If a person has in his or her possession or under his or her control financial transaction cards issued in the names of 2 or more other persons it is prima facie evidence that the person acquired them in violation of this subsection.

(b) No person shall receive a financial transaction card that the person knows to have been lost, mislaid, or delivered under a mistake as to the identity or address of the cardholder, and retain possession thereof with intent to sell it, or to transfer it to a person other than the issuer or the cardholder, or to use it. The possession of such a financial transaction card for more than 7 days by a person other than the issuer or the cardholder is prima facie evidence that such person intended to sell, transfer or use it in violation of this subsection.

(c) No person other than the issuer shall sell a financial transaction card. No person shall buy a financial transaction card from a person other than the issuer.

(d) No person shall, with intent to defraud the issuer, a person or organization providing money, goods, services or anything else of value, or any other person, obtain control over a financial transaction card as security for debt.

(e) No person other than the issuer may receive a financial transaction card issued in the name of another person which he or she has reason to know was taken or retained in violation of this subsection or sub. (2). Either of the following is prima facie evidence of a violation of this paragraph:

1. Possession of 3 or more financial transaction cards with reason to know that the financial transaction cards were taken or retained in violation of this subsection or sub. (2).

2. Possession of a financial transaction card with knowledge that the financial transaction card was taken or retained in violation of this subsection or sub. (2).

(4) FORGERY OF FINANCIAL TRANSACTION CARD.

(a) No person shall, with intent to defraud a purported issuer, a person or organization providing money, goods, services or anything else of value or any other person, alter or

counterfeit a financial transaction card or purported financial transaction card or possess a financial transaction card or purported financial transaction card with knowledge that it has been altered or counterfeited. The possession by a person other than the purported issuer of 2 or more financial transaction cards which have been altered or counterfeited is prima facie evidence that the person intended to defraud or that the person knew the financial transaction cards to have been so altered or counterfeited.

(b) No person other than the cardholder or a person authorized by the cardholder shall, with intent to defraud the issuer, a person or organization providing money, goods, services or anything else of value or any other person, sign a financial transaction card. Possession by a person other than the intended cardholder or one authorized by the intended cardholder of a financial transaction card signed by such person is prima facie evidence that such person intended to defraud in violation of this subsection.

(5) FRAUDULENT USE. (a) 1. No person shall, with intent to defraud the issuer, a person or organization providing money, goods, services or anything else of value or any other person:

a. Use, for the purpose of obtaining money, goods, services or anything else of value, a financial transaction card obtained or retained in violation of sub. (3) or a financial transaction card which the person knows is forged, expired or revoked; or

b. Obtain money, goods, services or anything else of value by representing without the consent of the cardholder that the person is the holder of a specified card or by representing that the person is the holder of a card and such card has not in fact been issued.

2. Knowledge of revocation shall be presumed to have been received by a cardholder 4 days after it has been mailed to the cardholder at the address set forth on the financial transaction card or at the cardholder's last-known address by registered or certified mail, return receipt requested, and if the address is more than 500 miles from the place of mailing, by air mail. If the address is located outside the United States, Puerto Rico, the Virgin Islands, the Canal Zone and Canada, notice shall be presumed to have been received 10 days after mailing by registered or certified mail.

(b) No cardholder shall use a financial transaction card issued to the cardholder or allow another person to use a financial transaction card issued to the cardholder with intent to defraud the issuer, a person or organization providing money, goods, services or anything else of value or any other person.

(c) No person may deposit a stolen or forged instrument by means of an automated financial service facility with knowledge of the character of the instrument.

(d) No person may, with intent to defraud anyone:

1. Introduce information into an electronic funds transfer system.

2. Transmit information to or intercept or alter information from an automated financial service facility.

(e) No person may knowingly receive anything of value from a violation of par. (c) or (d).

(6) FRAUDULENT USE; OTHER PERSONS.

(a) No person who is authorized by an issuer to furnish money, goods, services or anything else of value upon presentation of a financial transaction card by the cardholder, or any agent or employee of such person, shall, with intent to defraud the issuer or the cardholder, furnish money, goods, services or anything else of value upon presentation of a financial transaction

card obtained or retained under circumstances prohibited by sub. (3) or a financial transaction card which the person knows is forged, expired or revoked.

(b) No person who is authorized by an issuer to furnish money, goods, services or anything else of value upon presentation of a financial transaction card by the cardholder, or any agent or employee of such person, shall, with intent to defraud, fail to furnish money, goods, services or anything else of value which the person represents in writing to the issuer that the person has furnished. without the consent of the issuer. A financial transaction card is “incomplete” if part of the matter, other than the signature of the cardholder, which an issuer requires to appear on the financial transaction card before it can be used by a cardholder has not yet been stamped, embossed, imprinted or written on it.

(d) No person shall receive money, goods, services or anything else of value obtained under circumstances prohibited by this section, knowing or believing that it was so obtained. Any person who obtains at a discount price a ticket issued by an airline, railroad, steamship or other transportation company which was acquired under circumstances prohibited by this section without reasonable inquiry to ascertain that the person from whom it was obtained had a legal right to possess it shall be presumed to know that such ticket was acquired under circumstances prohibited by this section.

(6m) FACTORING PROHIBITED.

(a) Except as provided in par. (b), a person authorized to furnish money, goods, services or anything else of value upon presentation of a financial transaction card may not deposit, assign, endorse or present for payment to an issuer or to any other person authorized to acquire transaction records for presentation to an issuer a financial transaction card transaction record if the person did not furnish or agree to furnish the money, goods, services or anything else of value represented to be furnished by the transaction record.

(b) Paragraph (a) does not apply to any of the following:

1. A franchisor, who presents for payment a financial transaction card transaction record of a franchisee, if the franchisor is authorized to present the transaction record on behalf of the franchisee and the franchisee furnished or agreed to furnish the money, goods, services or anything else of value represented to be furnished by the transaction record.
2. A general merchandise retailer who presents for payment a financial transaction card transaction record of a person who furnishes money, goods, services or anything else of value on the business premises of the general merchandise retailer if the general merchandise retailer is authorized to present the transaction record on behalf of the person and the person furnished or agreed to furnish the money, goods, services or anything else of value represented to be furnished by the transaction record.
3. An issuer or an organization of issuers who present a financial transaction card transaction record for the interchange and settlement of the transaction.

(7) DEFENSES NOT AVAILABLE. In any prosecution for violation of this section, it is not a defense:

- (a)** That a person other than the defendant has not been convicted, apprehended or identified;
or
(b) That some of the acts constituting the crime did not occur in this jurisdiction or were not a crime or elements of a crime where they did occur.

(8) PENALTIES. **(a)** Any person violating any provision of sub. (2), (3) (a) to (d) or (4) (b) is guilty of a Class A misdemeanor.

(b) Any person violating any provision of sub. (3) (e), (4) (a), (6) (c) or (6m) is guilty of a felony.

(c) Any person violating any provision of sub. (5) or (6) (a), (b), or (d), if the value of the money, goods, services, or property illegally obtained does not exceed \$2,500 is guilty of a Class A misdemeanor; if the value of the money, goods, services, or property exceeds \$2,500, in a single transaction or in separate transactions within a period not exceeding 6 months, the person is guilty of a felony.

943.50 Retail theft; theft of services. (1) In this section:

(ad) “Merchandise” includes a service provided by a service provider.

(ag) “Merchant” means a person who deals in goods of the kind or otherwise by his or her occupation holds himself or herself out as having knowledge or skill peculiar to the practices or goods involved in the transaction or to whom such knowledge or skill may be attributed by his or her employment of an agent or broker or other intermediary who by his or her occupation holds himself or herself out as having such knowledge or skill, or any innkeeper, motel keeper or hotelkeeper.

(am) “Service provider” means a merchant who provides a service to retail customers without a written contract with the expectation that the service will be paid for by the customer upon completion of the service.

(ar) “Theft detection device” means any tag or other device that is used to prevent or detect theft and that is attached to merchandise held for resale by a merchant or to property of a merchant.

(as) “Theft detection device remover” means any tool or device used, designed for use or primarily intended for use in removing a theft detection device from merchandise held for resale by a merchant or property of a merchant.

(at) “Theft detection shielding device” means any laminated or coated bag or device designed to shield merchandise held for resale by a merchant or property of a merchant from being detected by an electronic or magnetic theft alarm sensor.

(b) “Value of merchandise” means:

1. For property of the merchant, the value of the property; or
2. For merchandise held for resale, the merchant’s stated price of the merchandise or, in the event of altering, transferring or removing a price marking or causing a cash register or other sales device to reflect less than the merchant’s stated price, the difference between the merchant’s stated price of the merchandise and the altered price.
3. For a service provided by a service provider, the price that the service provider stated for the service before the service was provided.

(1m) A person may be penalized as provided in sub. (4) if he or she does any of the following without the merchant’s consent and with intent to deprive the merchant permanently of possession or the full purchase price of the merchandise or property:

(a) Intentionally alters indicia of price or value of merchandise held for resale by a merchant or property of a merchant.

(b) Intentionally takes and carries away merchandise held for resale by a merchant or property of a merchant.

(c) Intentionally transfers merchandise held for resale by a merchant or property of a merchant.

(d) Intentionally conceals merchandise held for resale by a merchant or property of a merchant.

- (e) Intentionally retains possession of merchandise held for resale by a merchant or property of a merchant.
 - (f) While anywhere in the merchant's store, intentionally removes a theft detection device from merchandise held for resale by a merchant or property of a merchant.
 - (g) Uses, or possesses with intent to use, a theft detection shielding device to shield merchandise held for resale by a merchant or property of merchant from being detected by an electronic or magnetic theft alarm sensor.
 - (h) Uses, or possesses with intent to use, a theft detection device remover to remove a theft detection device from merchandise held for resale by a merchant or property of a merchant.
- (1r)** Any person may be penalized as provided in sub. (4) if, having obtained a service from a service provider, he or she, without the service provider's consent and with intent to deprive the service provider permanently of the full price of the service, absconds and intentionally fails or refuses to pay for the service.
- (3)** A merchant or service provider, a merchant's or service provider's adult employee or a merchant's or service provider's security agent who has reasonable cause for believing that a person has violated this section in his or her presence may detain, within or at the merchant's or service provider's place of business where the suspected violation took place, the person in a reasonable manner for a reasonable length of time to deliver the person to a peace officer, or to his or her parent or guardian in the case of a minor. The detained person must be promptly informed of the purpose for the detention and be permitted to make phone calls, but he or she shall not be interrogated or searched against his or her will before the arrival of a peace officer who may conduct a lawful interrogation of the accused person. The merchant or service provider, merchant's or service provider's adult employee or merchant's or service provider's security agent may release the detained person before the arrival of a peace officer or parent or guardian. Any merchant or service provider, merchant's or service provider's adult employee or merchant's or service provider's security agent who acts in good faith in any act authorized under this section is immune from civil or criminal liability for those acts.
- (3m) (a)** In any action or proceeding for violation of this section, duly identified and authenticated photographs of merchandise which was the subject of the violation may be used as evidence in lieu of producing the merchandise.
- (am)** For the purpose of sub. (4m), evidence that a person sold by means of the Internet merchandise that is similar to the merchandise that is the subject of a violation under sub. (1m) (a), (b), (c), (d), (e), or (f), within 90 days before the violation, is prima facie evidence of the person's intent to sell the merchandise by means of the Internet.
- (b)** A merchant or merchant's adult employee is privileged to defend property as prescribed in s. 939.49.
- (4)** Whoever violates this section is guilty of:
- (a)** Except as provided in sub. (4m), a Class A misdemeanor, if the value of the merchandise does not exceed \$500.
 - (bf)** A felony, if the value of the merchandise exceeds \$500.
- (4m)** Whoever violates sub. (1m) (a), (b), (c), (d), (e), or (f) is guilty of a felony if all of the following apply:
- (a)** The value of the merchandise does not exceed \$500.
 - (b)** The person agrees or combines with another to commit the violation.
 - (c)** The person intends to sell the merchandise by means of the Internet.

- (5) (a) In addition to the other penalties provided for violation of this section, a judge may order a violator to pay restitution under s. 973.20.
- (b) In actions concerning violations of ordinances in conformity with this section, a judge may order a violator to make restitution.
- (c) If the court orders restitution under pars. (a) and (b), any amount of restitution paid to the victim under one of those paragraphs reduces the amount the violator must pay in restitution to that victim under the other paragraph.

943.51 Retail theft; civil liability.

- (1) Any person who incurs injury to his or her business or property as a result of a violation of s. 943.50 may bring a civil action against any individual who caused the loss for all of the following:
- (a) The retail value of the merchandise unless it is returned undamaged and unused. A person may recover under this paragraph only if he or she exercises due diligence in demanding the return of the merchandise immediately after he or she discovers the loss and the identity of the person who has the merchandise.
- (am) The retail value of the service provided by a service provider, as defined in s. 943.50 (1) (am). A person may recover under this paragraph only if he or she exercises due diligence in demanding payment for the service.
- (b) Any actual damages not covered under par. (a).
- (2) In addition to sub. (1), if the person who incurs the loss prevails, the judgment in the action may grant any of the following:
- (a) 1. Except as provided in subd. 1m., exemplary damages of not more than 3 times the amount under sub. (1).
- 1m. If the action is brought against a minor or against the parent who has custody of their minor child for the loss caused by the minor, the exemplary damages may not exceed 2 times the amount under sub. (1).
2. No additional proof is required for an award of exemplary damages under this paragraph.
- (b) All actual costs of the action, including reasonable attorney fees.
- (3) Notwithstanding sub. (2) and except as provided in sub. (3m), the total amount awarded for exemplary damages and reasonable attorney fees may not exceed \$500 for each violation.
- (3m) Notwithstanding sub. (2), the total amount awarded for exemplary damages and reasonable attorney fees may not exceed \$300 for each violation if the action is brought against a minor or against the parent who has custody of their minor child for the loss caused by the minor.
- (3r) Any recovery under this section shall be reduced by the amount recovered as restitution for the same act.
- (4) The plaintiff has the burden of proving by a preponderance of the evidence that a violation occurred under s. 943.50. A conviction under s. 943.50 is not a condition precedent to bringing an action, obtaining a judgment or collecting that judgment under this section.
- (6) Nothing in this section precludes a plaintiff from bringing a small claims action.

943.60 Criminal slander of title. (1) Any person who submits for filing, entering or recording any lien, claim of lien, lis pendens, writ of attachment, financing statement or any other instrument relating to a security interest in or title to real or personal property, and who knows or should have known that the contents or any part of the contents of the instrument are false, a sham or frivolous, is guilty of a felony.

(2) This section applies to any person who causes another person to act in the manner specified in sub. (1).

(3) This section does not apply to a register of deeds or other government employee who acts in the course of his or her official duties and files, enters or records any instrument relating to title on behalf of another person.

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

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

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

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

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

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

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

(5) Whoever violates this section is guilty of:

(a) A Class A misdemeanor, if the value of the library materials does not exceed \$2,500.

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

943.70 Computer crimes. (1) DEFINITIONS. In this section:

(ag) “Access” means to instruct, communicate with, interact with, intercept, store data in, retrieve data from, or otherwise use the resources of.

(am) “Computer” means an electronic device that performs logical, arithmetic and memory functions by manipulating electronic or magnetic impulses, and includes all input, output,

processing, storage, computer software and communication facilities that are connected or related to a computer in a computer system or computer network.

(b) “Computer network” means the interconnection of communication lines with a computer through remote terminals or a complex consisting of 2 or more interconnected computers.

(c) “Computer program” means an ordered set of instructions or statements that, when executed by a computer, causes the computer to process data.

(d) “Computer software” means a set of computer programs, procedures or associated documentation used in the operation of a computer system.

(dm) “Computer supplies” means punch cards, paper tape, magnetic tape, disk packs, diskettes and computer output, including paper and microform.

(e) “Computer system” means a set of related computer equipment, hardware or software.

(f) “Data” means a representation of information, knowledge, facts, concepts or instructions that has been prepared or is being prepared in a formalized manner and has been processed, is being processed or is intended to be processed in a computer system or computer network. Data may be in any form including computer printouts, magnetic storage media, punched cards and as stored in the memory of the computer. Data are property.

(g) “Financial instrument” includes any check, draft, warrant, money order, note, certificate of deposit, letter of credit, bill of exchange, credit or credit card, transaction authorization mechanism, marketable security and any computer representation of them.

(gm) “Interruption in service” means inability to access a computer, computer program, computer system, or computer network, or an inability to complete a transaction involving a computer.

(h) “Property” means anything of value, including but not limited to financial instruments, information, electronically produced data, computer software and computer programs.

(i) “Supporting documentation” means all documentation used in the computer system in the construction, clarification, implementation, use or modification of the software or data.

(2) OFFENSES AGAINST COMPUTER DATA AND PROGRAMS. (a) Whoever willfully, knowingly and without authorization does any of the following may be penalized as provided in pars. (b) and (c):

1. Modifies data, computer programs or supporting documentation.
2. Destroys data, computer programs or supporting documentation.
3. Accesses computer programs or supporting documentation.
4. Takes possession of data, computer programs or supporting documentation.
5. Copies data, computer programs or supporting documentation.
6. Discloses restricted access codes or other restricted access information to unauthorized persons.

(am) Whoever intentionally causes an interruption in service by submitting a message, or multiple messages, to a computer, computer program, computer system, or computer network that exceeds the processing capacity of the computer, computer program, computer system, or computer network may be penalized as provided in pars. (b) and (c).

(b) Whoever violates par. (a) or (am) is guilty of:

1. A Class A misdemeanor unless any of subds. 2. to 4. applies.
2. A felony if the offense is committed to defraud or to obtain property.
- 3g. A felony if the offense results in damage valued at more than \$2,500.

3r. A felony if the offense causes an interruption or impairment of governmental operations or public communication, of transportation, or of a supply of water, gas, or other public service.

4. A felony if the offense creates a substantial and unreasonable risk of death or great bodily harm to another.

(c) If a person disguises the identity or location of the computer at which he or she is working while committing an offense under par. (a) or (am) with the intent to make it less likely that he or she will be identified with the crime, the penalties under par. (b) may be increased as follows:

1. In the case of a misdemeanor, the maximum fine prescribed by law for the crime may be increased by not more than \$1,000 and the maximum term of imprisonment prescribed by law for the crime may be increased so that the revised maximum term of imprisonment is one year in jail.

2. In the case of a felony, the maximum fine prescribed by law for the crime may be increased by not more than \$2,500 and the maximum term of imprisonment prescribed by law for the crime may be increased by not more than 2 years up to a total of 3 years..

(3) OFFENSES AGAINST COMPUTERS, COMPUTER EQUIPMENT OR SUPPLIES. (a) Whoever willfully, knowingly and without authorization does any of the following may be penalized as provided in par. (b):

1. Modifies computer equipment or supplies that are used or intended to be used in a computer, computer system or computer network.

2. Destroys, uses, takes or damages a computer, computer system, computer network or equipment or supplies used or intended to be used in a computer, computer system or computer network.

(b) Whoever violates this subsection is guilty of:

1. A Class A misdemeanor unless subd. 2., 3. or 4. applies.

2. A felony if the offense is committed to defraud or obtain property.

3. A felony if the damage to the computer, computer system, computer network, equipment or supplies is greater than \$2,500.

4. A felony if the offense creates a substantial and unreasonable risk of death or great bodily harm to another.

(4) COMPUTER USE RESTRICTION. In addition to the other penalties provided for violation of this section, a judge may place restrictions on the offender's use of computers. The duration of any such restrictions may not exceed the maximum period for which the offender could have been imprisoned; except if the offense is punishable by forfeiture, the duration of the restrictions may not exceed 90 days.

(5) INJUNCTIVE RELIEF. Any aggrieved party may sue for injunctive relief to compel compliance with this section. In addition, owners, lessors, users or manufacturers of computers, or associations or organizations representing any of those persons, may sue for injunctive relief to prevent or stop the disclosure of information which may enable another person to gain unauthorized access to data, computer programs or supporting documentation.

943.75 Unauthorized release of animals. (1) In this section:

(ad) "Animal" means all vertebrate and invertebrate species, including mammals, birds, fish and shellfish but excluding humans.

(am) “Humane officer” means an officer appointed by the governing jurisdiction.

(b) “Local health officer” means the health officer who is in charge of a local health department.

(2) Whoever intentionally releases an animal that is lawfully confined for companionship or protection of persons or property, recreation, exhibition, or educational purposes, acting without the consent of the owner or custodian of the animal, is guilty of a Class C misdemeanor. A 2nd violation of this subsection by a person is a Class A misdemeanor. A 3rd or subsequent violation of this subsection by a person is a felony.

(2m) Whoever intentionally releases an animal that is lawfully confined for scientific, farming, restocking, research or commercial purposes, acting without the consent of the owner or custodian of the animal, is guilty of a felony.

(3) Subsections (2) and (2m) do not apply to any humane officer, local health officer, peace officer, employee of the department of natural resources while on any land licensed by a governing jurisdiction as a wild captive animal farm, wild fur farm, bird hunting preserve, or designated as a wildlife refuge or employee of the department of agriculture, trade and consumer protection if the officer’s or employee’s acts are in good faith and in an apparently authorized and reasonable fulfillment of his or her duties. This subsection does not limit any other person from claiming the defense of privilege under s. 939.45 (3).

(4) When the existence of an exception under sub. (3) has been placed in issue by the trial evidence, the Nation must prove beyond a reasonable doubt that the facts constituting the exception do not exist in order to sustain a finding of guilt under sub. (2) or (2m).

SUBCHAPTER IV CRIMES AGAINST FINANCIAL INSTITUTIONS

943.80 Definitions. In this subchapter: (1) “Financial crime” means a crime under ss. 943.81 to 943.90 or any other felony committed against a financial institution or an attempt or conspiracy to commit one of these crimes.

(2) “Financial institution” means a bank, a savings bank, a savings and loan association, a trust company, a credit union, a mortgage banker, or a mortgage broker, whether chartered under the laws of this Nation, another state or territory, or under the laws of the United States; a company that controls, is controlled by, or is under common control with a bank, a savings bank, a savings and loan association, a trust company, a credit union, a mortgage banker, or a mortgage broker; or a person licensed under the law, other than a person who agrees for a fee to hold a check for a period of time before negotiating or presenting the check for payment and other than a pawnbroker

943.81 Theft from a financial institution. Whoever knowingly uses, transfers, conceals, or takes possession of money, funds, credits, securities, assets, or property owned by or under the custody or control of a financial institution without authorization from the financial institution and with intent to convert it to his or her own use or to the use of any person other than the owner or financial institution may be penalized as provided in s. 943.91.

943.82 Fraud against a financial institution. (1) Whoever obtains money, funds, credits, assets, securities, or other property owned by or under the custody or control of a financial institution by means of false pretenses, representations, or promises, or by use of any fraudulent device, scheme, artifice, or monetary instrument may be penalized as provided in s. 943.91.

(2) Whoever falsely represents that he or she is a financial institution or a representative of a financial institution for the purpose of obtaining money, goods, or services from any person or for the purpose of obtaining or recording a person's personal identifying information, as defined in s. 943.201 (1) (b), is guilty of felony.

943.83 Loan fraud. Whoever with intent to defraud a financial institution knowingly overvalues or makes a false statement concerning any land, security, or other property for the purpose of influencing the financial institution to take or defer any action in connection with a loan or loan application may be penalized as provided in s. 943.91 according to the value of the loan.

943.84 Transfer of encumbered property. (1) Whoever, with intent to defraud, conveys real property which he or she knows is encumbered, without informing the grantee of the existence of the encumbrance may be penalized as provided in s. 943.91.

(2) Whoever, with intent to defraud, does any of the following may be penalized as provided in s. 943.91:

(a) Conceals, removes or transfers any personal property in which he or she knows another has a security interest; or

(b) In violation of the security agreement, fails or refuses to pay over to the secured party the proceeds from the sale of property subject to a security interest.

(3) It is prima facie evidence of an intent to defraud within the meaning of sub. (2) (a) if a person, with knowledge that the security interest exists, removes or sells the property without either the consent of the secured party or authorization by the security agreement and fails within 72 hours after service of written demand for the return of the property either to return it or, in the event that return is not possible, to make full disclosure to the secured party of all the information the person has concerning its disposition, location and possession.

(4) In this section "security interest" means an interest in property which secures payment or other performance of an obligation; "security agreement" means the agreement creating the security interest; "secured party" means the person designated in the security agreement as the person in whose favor there is a security interest or, in the case of an assignment of which the debtor has been notified, the assignee.

(5) In prosecutions for violation of sub. (2) arising out of transfers of livestock subject to a security agreement in violation of the terms of the security agreement, evidence that the debtor who transferred the livestock signed or endorsed any writing arising from the transaction, including a check or draft, which states that the transfer of the livestock is permitted by the secured party establishes a rebuttable presumption of intent to defraud.

943.85 Bribery involving a financial institution. (1) Whoever, with intent to defraud a financial institution, confers, offers, or agrees to confer a benefit on an employee, agent, or fiduciary of the financial institution without the consent of the financial institution and with intent to influence the employee's, agent's, or fiduciary's conduct in relation to the affairs of the institution is guilty of a felony.

(2) Any employee, agent, or fiduciary of a financial institution who without the consent of the financial institution and with intent to defraud the financial institution solicits, accepts, or agrees to accept any benefit from another person pursuant to an agreement that the employee, agent, or fiduciary will act in a certain manner in relation to the affairs of the financial institution is guilty of a felony.

943.86 Extortion against a financial institution. Whoever for the purpose of obtaining money, funds, credits, securities, assets, or property owned by or under the custody or control of a financial institution threatens to cause bodily harm to an owner, employee, or agent of a financial institution or to cause damage to property owned by or under the custody or control of the financial institution is guilty of a felony.

943.87 Robbery of a financial institution. Whoever by use of force or threat to use imminent force takes from an individual or in the presence of an individual money or property that is owned by or under the custody or control of a financial institution is guilty of felony.

943.88 Organizer of financial crimes. Whoever commits 3 or more financial crimes within an 18-month period is guilty of a felony if all of the following conditions apply:

- (1) Each of the crimes is committed in concert with a person whom the actor supervises, organizes, finances, or manages. The person need not be the same for each of the crimes.
- (2) At least one of the crimes is committed on or after the date of enactment of this code.

943.89 Mail fraud. Whoever does any of the following to further commission of a financial crime or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, furnish, or procure for an unlawful purpose any counterfeit currency, obligation, or security is guilty of a felony:

- (1) Deposits or causes any matter to be deposited in a United States post office or authorized depository for United States mail.
- (2) Deposits or causes to be deposited any matter or thing to be sent or delivered by a commercial carrier.
- (3) Takes or receives any matter or a thing sent or delivered by United States mail or by a commercial carrier.

943.90 Wire fraud against a financial institution. Whoever transmits or causes to be transmitted electrically, electromagnetically, or by light any signal, writing, image, sound, or data for the purpose of committing a financial crime is guilty of a felony.

943.91 Penalties. Whoever violates s. 943.81, 943.82 (1), 943.83, or 943.84 is guilty of the following:

- (1) If the value of the money, funds, credits, securities, assets, property, proceeds from sale, or loan does not exceed \$500, a Class A misdemeanor.
- (2) If the value of the money, funds, credits, securities, assets, property, proceeds from sale, or loan does not exceed \$500, and the person has previously been convicted of a misdemeanor or felony under s. 943.10, 943.12, 943.20 to 943.75, or 943.81 to 943.90, a felony.
- (3) If the value of the money, funds, credits, securities, assets, property, proceeds from sale, or loan exceeds \$500, a felony.

943.92 Increased penalty for multiple financial crimes. If a person is convicted of committing 3 or more financial crimes in an 18-month period, the term of imprisonment for the 3rd or subsequent crime in the 18-month period may be increased as follows:

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

(2) A maximum term of imprisonment of more than one year but not more than 3 years may be increased up to the maximum total sentence of 3 years if the prior convictions were for misdemeanors and up to the maximum total sentence of 3 years if at least one of the prior convictions was for a felony.

Legislative History:

12/17/13	Legislature established the Criminal Code Workgroup through Resolution 12-17-13C.
12/11/14	The Criminal Code Workgroup presented the Criminal Code to the Administration Committee at which time it was referred to the full Legislature to be placed out for 45 Day Public Comment.
01/06/15	Legislature placed the Criminal Code out for 45 Day Public Comment by Resolution 01-06-15B.
03/17/15	Legislature placed the Criminal Code out for an additional 45 Day Public Comment by Resolution 03-17-15K.
05/05/15	Legislature enacted the Criminal Code through Resolution 05-05-15P.
05/17/16	Technical corrections made in accordance with Section 45 of the Legislative Organization Act (2 HCC § 11).