



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-0385/1
ARG:ahe

2019 BILL

1 **AN ACT** *to amend* 551.508 (1m) (a) and (c), 551.603 (4) (a) and (c) and 551.604
2 (4); and *to create* 551.102 (33) and 551.413 of the statutes; **relating to:**
3 financial exploitation of vulnerable adults with securities accounts, violations
4 of the Wisconsin Uniform Securities Law, granting rule-making authority, and
5 providing a penalty.

Analysis by the Legislative Reference Bureau

This bill allows securities industry professionals to provide to the Department of Financial Institutions, adult protective service agencies, and other persons notice of suspected financial exploitation of certain vulnerable adults and allows broker-dealers and investment advisers to temporarily delay transactions or disbursements from the accounts of vulnerable adults when financial exploitation of a vulnerable adult is suspected. The bill also increases penalties for securities violations committed against these vulnerable adults.

Under current law, upon receiving a report of alleged abuse, financial exploitation, neglect, or self-neglect of any person age 60 or older who has experienced, is experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation (an elder adult at risk), the elder-adult-at-risk agency in a county must respond by investigating or must refer the report to another agency for investigation. Similarly, if the adult-at-risk agency in a county has reason to believe that an 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

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experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation (an adult at risk) is the subject of abuse, financial exploitation, neglect, or self-neglect, the adult-at-risk agency may respond by investigating to determine whether the adult at risk is in need of protective services. “Financial exploitation” includes obtaining an individual’s money or property by deceiving or enticing the individual or by coercing the individual to give, sell at less than fair value, or convey money or property against his or her will without his or her informed consent, and also includes certain crimes such as theft and forgery.

Current law also requires, with exceptions, certain securities industry professionals to be registered with the Division of Securities in DFI, including an individual who represents a broker-dealer in securities transactions (securities agent) and an investment adviser representative.

This bill allows a securities agent, investment adviser representative, or other individual serving in a supervisory, compliance, or legal capacity for a broker-dealer or investment adviser (qualified individual) who reasonably suspects that financial exploitation of an adult at risk or an individual who is 60 years of age or older (together, vulnerable adult) has occurred or is being attempted to notify the division, an adult-at-risk agency or elder-adult-at-risk agency (together, APS agency), a law enforcement agency, or any combination of these, as well as certain other persons, including a legal guardian, a person identified on a contact list provided by the vulnerable adult, and a spouse, parent, adult child, or other individual reasonably associated with the vulnerable adult. The bill also allows a broker-dealer or investment adviser to delay a transaction on, or disbursement from, an account of a vulnerable adult or an account on which a vulnerable adult is a beneficiary if all of the following apply: 1) the broker-dealer, investment adviser, or qualified individual reasonably suspects that the requested transaction or disbursement may result in financial exploitation of a vulnerable adult; and 2) the broker-dealer or investment adviser promptly notifies the division, an APS agency, or a law enforcement agency and provides written notice of the delay and the reason for the delay to all parties authorized to transact business on the account. The division may, by rule, establish additional guidelines for the delay of a transaction or disbursement. Any delay of a transaction or disbursement expires on the earlier of the following: a determination by the broker-dealer or investment adviser that the transaction or disbursement is not reasonably likely to result in financial exploitation of the vulnerable adult; or, subject to exceptions, 15 business days after the date on which the broker-dealer or investment adviser first delayed the transaction or disbursement of the funds. The bill provides for immunity from liability for a broker-dealer, investment adviser, or qualified individual that, in good faith and exercising reasonable care, acts in accordance with these provisions.

Current law includes numerous provisions prohibiting specified conduct in connection with securities transactions or the offering or sale of securities. Under current law, a person who violates the state’s securities laws may be subject to criminal liability or civil liability or both. A person who willfully violates the state’s securities laws, with certain exceptions, is guilty of a Class H felony, punishable by a maximum fine of \$10,000 or a maximum term of imprisonment of six years or both.

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A person may also be subject to a civil enforcement proceeding for violating the state's securities laws. In a civil enforcement proceeding, the court in a circuit court proceeding or the division in an administrative proceeding may impose a civil penalty of not more than \$5,000 for a single violation or not more than \$250,000 for more than one violation. Current law also includes a penalty enhancer for securities law violations committed against a person who is at least 65 years of age. For criminal offenses, the maximum fine may be increased by not more than \$5,000 and the maximum term of imprisonment may be increased by not more than five years, and for civil offenses the civil penalty may be increased by not more than \$5,000 for a single violation or not more than \$250,000 for more than one violation.

Under this bill, this penalty enhancer applies to violations committed against a vulnerable adult.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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

1 **SECTION 1.** 551.102 (33) of the statutes is created to read:

2 551.102 (33) "Vulnerable adult" means an adult at risk, as defined in s. 55.01
3 (1e), or an individual who is at least 60 years of age.

4 **SECTION 2.** 551.413 of the statutes is created to read:

5 **551.413 Financial exploitation of vulnerable adults. (1) DEFINITIONS.** In
6 this section:

7 (a) "Adult-at-risk agency" has the meaning given in s. 55.01 (1f).

8 (b) "Elder-adult-at-risk agency" has the meaning given in s. 46.90 (1) (bt).

9 (c) "Financial exploitation" has the meaning given in s. 46.90 (1) (ed).

10 (d) "Law enforcement agency" has the meaning given in s. 165.77 (1) (b).

11 (e) "Qualified individual" means any agent representing a broker-dealer, any
12 investment adviser representative, or any individual who serves in a supervisory,
13 compliance, or legal capacity for a broker-dealer or investment adviser.

BILL**SECTION 2**

1 **(2) NOTICE OF SUSPECTED FINANCIAL EXPLOITATION.** (a) If a qualified individual
2 reasonably suspects that financial exploitation of a vulnerable adult may have
3 occurred, may have been attempted, or is being attempted, the qualified individual,
4 in cooperation with the qualified individual's broker-dealer or investment adviser,
5 may notify the division, an adult-at-risk agency, an elder-adult-at-risk agency, or
6 a law enforcement agency, or any combination of these.

7 (b) After notifying the division or agency under par. (a), a qualified individual
8 may, to the extent permitted under federal law, notify any of the following concerning
9 the qualified individual's suspicion that financial exploitation may have occurred,
10 may have been attempted, or is being attempted:

- 11 1. Any person identified in a list provided by the vulnerable adult under sub.
12 (4).
- 13 2. The vulnerable adult's spouse, parent, or adult child, or any other individual
14 reasonably associated with the vulnerable adult.
- 15 3. Any legal guardian of the vulnerable adult.
- 16 4. Any trustee, cotrustee, or successor trustee of the account of the vulnerable
17 adult.
- 18 5. Any agent under a power of attorney of the vulnerable adult.
- 19 6. Any other person permitted under applicable law or rule of the division.

20 **(3) DELAY OF TRANSACTION OR DISBURSEMENT.** (a) A broker-dealer or investment
21 adviser may delay a transaction on, or disbursement from, an account of a vulnerable
22 adult or an account on which a vulnerable adult is a beneficiary if all of the following
23 apply:

- 24 1. The broker-dealer, investment adviser, or qualified individual reasonably
25 suspects, after initiating an internal review of the requested transaction or

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1 disbursement and the suspected financial exploitation, that the requested
2 transaction or disbursement may result in financial exploitation of a vulnerable
3 adult.

4 2. The broker-dealer or investment adviser does all of the following:

5 a. As soon as possible, but not more than 2 business days after it first delays
6 the requested transaction or disbursement, provides written notification of the delay
7 and the reason for the delay to all parties authorized to transact business on the
8 account, except to any party reasonably suspected to have engaged in or attempted
9 financial exploitation of the vulnerable adult.

10 b. As soon as possible, but not more than 2 business days after it first delays
11 the requested transaction or disbursement, notifies the division, an adult-at-risk
12 agency, an elder-adult-at-risk agency, or a law enforcement agency, or any
13 combination of these.

14 (b) The division may, by rule, establish additional guidelines for the delay of
15 a transaction or disbursement under par. (a).

16 (c) Upon request by the division or agency to which a broker-dealer or
17 investment adviser provided notice under par. (a) 2. b., the broker-dealer or
18 investment adviser shall provide to the division or agency the results of any
19 continued internal review of the suspected financial exploitation conducted after the
20 notice under par. (a) 2. b. was provided.

21 (d) Any delay of a transaction or disbursement under this subsection expires
22 on the earlier of the following:

23 1. A determination by the broker-dealer or investment adviser that the
24 transaction or disbursement is not reasonably likely to result in financial
25 exploitation of the vulnerable adult.

BILL**SECTION 2**

1 2. Fifteen business days after the date on which the broker-dealer or
2 investment adviser first delayed the transaction or disbursement of the funds, unless
3 the division or agency to which notice was provided under par. (a) 2. b. requests that
4 the broker-dealer or investment adviser extends the delay, in which case the delay
5 shall expire no more than 25 business days after the date on which the broker-dealer
6 or investment adviser first delayed the transaction or disbursement of the funds
7 unless it is otherwise terminated or extended by the division or court order.

8 (e) A court may enter an order extending the delay of the transaction or
9 disbursement of funds or an order granting other protective relief based on the
10 petition of the division, an agency to which notice was provided under par. (a) 2. b.,
11 the broker-dealer or investment adviser that initiated the delay under this
12 subsection, or any other interested party.

13 **(4) LIST OF AUTHORIZED CONTACTS.** A broker-dealer or investment adviser may
14 offer to a vulnerable adult the opportunity to submit and periodically update a list
15 of persons that the vulnerable adult authorizes to be contacted if a qualified
16 individual reasonably suspects that financial exploitation of the vulnerable adult
17 may have occurred, may have been attempted, or is being attempted.

18 **(5) IMMUNITY FROM LIABILITY.** A broker-dealer, investment adviser, or qualified
19 individual that, in good faith and exercising reasonable care, complies with subs. (2)
20 and (3) is immune from liability for such conduct.

21 **(6) LAW ENFORCEMENT ACCESS TO RECORDS; STATUS REPORTS OF INVESTIGATION.** (a)
22 If a broker-dealer or investment adviser has reasonable cause to suspect that
23 financial exploitation of a vulnerable adult may have occurred, may have been
24 attempted, or is being attempted, any investigating law enforcement agency has the
25 same privilege to obtain, from the broker-dealer or investment adviser, financial

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1 records and other information related to the suspected financial exploitation that an
2 elder-adult-at-risk agency has under s. 46.90 (5) (b) 6.

3 (b) After a broker-dealer or investment adviser has provided notice to the
4 division or an agency under sub. (3) (a) 2. b., the division or agency receiving the
5 notice may, notwithstanding any other provision of law, disclose to the broker-dealer
6 or investment adviser information relating to the status or results of any
7 investigation arising from the notice.

8 **SECTION 3.** 551.508 (1m) (a) and (c) of the statutes are amended to read:

9 551.508 (1m) (a) If a person is convicted of a crime under sub. (1) and the crime
10 is committed against another person who is at least 65 years of age a vulnerable adult
11 when the crime is committed, for each such offense the maximum fine prescribed
12 under sub. (1) may be increased by not more than \$5,000 and the maximum term of
13 imprisonment prescribed under sub. (1) may be increased by not more than 5 years.

14 (c) It is no defense to the enhancement of penalties under this subsection that
15 the person convicted did not know ~~the age of~~ that the victim was a vulnerable adult
16 or reasonably believed that the victim was not at least 65 years of age a vulnerable
17 adult.

18 **SECTION 4.** 551.603 (4) (a) and (c) of the statutes are amended to read:

19 551.603 (4) (a) In any action under this section, if the court imposes a civil
20 penalty under sub. (2) (b) 3. for any violation against another person who is at least
21 65 years of age a vulnerable adult when the violation occurs, for each such violation
22 the civil penalty prescribed under sub. (2) (b) 3. for a single violation may be
23 increased by not more than \$5,000 and the maximum civil penalty for more than one
24 violation may be increased by not more than \$250,000.

BILL**SECTION 4**

1 (c) It is no defense to the enhancement of civil penalties under this subsection
2 that the defendant did not know ~~the age of~~ that the victim was a vulnerable adult or
3 reasonably believed that the victim was not ~~at least 65 years of age~~ a vulnerable
4 adult.

5 **SECTION 5.** 551.604 (4) of the statutes is amended to read:

6 551.604 (4) CIVIL PENALTY. In a final order under sub. (3), the administrator
7 may impose a civil penalty in the form of an administrative assessment up to \$5,000
8 for a single violation or up to \$250,000 for more than one violation except that, if the
9 violation is committed against another person who is ~~at least 65 years of age~~ a
10 vulnerable adult when the violation occurs, for each such violation the civil penalty
11 may be up to \$10,000 for a single violation or up to \$500,000 for more than one
12 violation. It is no defense to the enhancement of civil penalties under this subsection
13 that the defendant did not know ~~the age of~~ that the victim was a vulnerable adult or
14 reasonably believed that the victim was not ~~at least 65 years of age~~ a vulnerable
15 adult.

16 **SECTION 6. Initial applicability.**

17 (1) PENALTY ENHANCEMENT. The treatment of ss. 551.508 (1m) (a) and (c),
18 551.603 (4) (a) and (c), and 551.604 (4) first applies to violations committed on the
19 effective date of this subsection.

20 (END)



2019 BILL

1 **AN ACT** *to create* 224.46 of the statutes; **relating to:** financial exploitation of
2 vulnerable adults.

Analysis by the Legislative Reference Bureau

This bill allows financial service providers to refuse or delay financial transactions when financial exploitation of a vulnerable adult is suspected. The bill authorizes financial service providers to take certain other actions to prevent or detect financial exploitation of vulnerable adults.

Under current law, upon receiving a report of alleged abuse, financial exploitation, neglect, or self-neglect of any person age 60 or older who has experienced, is experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation (an elder adult at risk), the elder-adult-at-risk agency in a county must respond by investigating or must refer the report to another agency for investigation. Similarly, if the adult-at-risk agency in a county has reason to believe that an 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 experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation (an adult at risk) is the subject of abuse, financial exploitation, neglect, or self-neglect, the adult-at-risk agency may respond by investigating to determine whether the adult at risk is in need of protective services. "Financial exploitation" includes obtaining an individual's money or property by deceiving or enticing the individual or by coercing the individual to give, sell at less than fair value, or convey money or property against his or her will without his or her informed consent, and also includes certain crimes such as theft and forgery.

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Under this bill, if a financial service provider reasonably suspects that financial exploitation of an adult at risk or an individual who is 60 years of age or older (together, vulnerable adult) has occurred or been attempted, the financial service provider may, but is not required to, refuse or delay a financial transaction on an account of the vulnerable adult or on which the vulnerable adult is a beneficiary or on an account of a person suspected of perpetrating financial exploitation. The definition of “financial service provider” under the bill includes financial institutions, mortgage bankers and brokers, other types of lenders, and check cashing services. In addition, a financial service provider may, but is not required to, refuse or delay a financial transaction if an elder-adult-at-risk agency, adult-at-risk agency, or law enforcement agency provides information to the financial service provider that financial exploitation of a vulnerable adult may have occurred or been attempted. The bill requires certain notice if a financial service provider refuses or delays a financial transaction under these circumstances and establishes certain time limits applicable to the refusal or delay of the financial transaction. In addition, the bill allows a financial service provider to refuse to accept a power of attorney of a vulnerable adult if the financial service provider reasonably suspects that the vulnerable adult may be the victim of financial exploitation.

The bill also provides a process for a financial service provider to create a list of persons that a vulnerable adult authorizes to be contacted if the financial service provider reasonably suspects that the vulnerable adult is a victim of financial exploitation and authorizes the financial service provider to convey its suspicions of financial exploitation to certain persons, including persons on this list.

Under the bill, a financial service provider is immune from criminal, civil, and administrative liability for all of the following: 1) refusing or not refusing, or delaying or not delaying, a financial transaction; 2) refusing to accept or accepting a power of attorney; 3) contacting a person or not contacting a person to convey a suspicion of financial exploitation; and 4) any action based on a reasonable determination related to the preceding items 1 to 3.

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

1 **SECTION 1.** 224.46 of the statutes is created to read:

2 **224.46 Financial exploitation of vulnerable adults. (1) DEFINITIONS.** In
3 this section:

4 (a) “Account” means funds or assets held by a financial service provider,
5 including a deposit account, savings account, share account, certificate of deposit,

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1 trust account, guardianship or conservatorship account, or retirement account, and
2 also including an account associated with a loan or other extension of credit.

3 (b) “Adult at risk” has the meaning given in s. 55.01 (1e).

4 (c) “Adult-at-risk agency” has the meaning given in s. 55.01 (1f).

5 (d) “Elder-adult-at-risk agency” has the meaning given in s. 46.90 (1) (bt).

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

7 (f) “Financial institution” has the meaning given in s. 214.01 (1) (jn).

8 (g) “Financial service provider” means any of the following engaged in or
9 transacting business in this state:

10 1. A financial institution.

11 2. A mortgage banker, mortgage broker, or mortgage loan originator, as defined
12 in s. 224.71 (3), (4), or (6).

13 3. A seller of checks, as defined in s. 217.02 (9).

14 4. A community currency exchange, as defined in s. 218.05 (1) (b).

15 5. A payday loan licensee under s. 138.14.

16 6. A title loan licensee under s. 138.16.

17 7. A lender licensed under s. 138.09.

18 8. An insurance premium finance company, as defined in s. 138.12 (1) (b).

19 9. A sales finance company, as defined in s. 218.0101 (34).

20 (h) “Financial transaction” means any of the following as applicable to the
21 business of, or services provided by, a financial service provider:

22 1. A transfer or disbursement of, or request to transfer or disburse, funds or
23 assets in an account.

24 2. A request to initiate a wire transfer, initiate an automated clearinghouse
25 transfer, or issue a money order, cashier’s check, or teller’s check.

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- 1 3. A request to negotiate a check or other negotiable instrument.
- 2 4. A request to change the ownership of an account.
- 3 5. A request for a loan or other extension of credit or to draw on a line of credit.
- 4 6. A request to modify a loan or other extension of credit or add an authorized
- 5 signer on a line of credit.
- 6 7. A request to issue a debit card or initiate a debit card transaction.
- 7 8. A request to transfer the title to any real property, manufactured home, or
- 8 motor vehicle, or to encumber any real property, manufactured home, or motor
- 9 vehicle.
- 10 (i) "Law enforcement agency" has the meaning given in s. 165.77 (1) (b).
- 11 (j) "Vulnerable adult" means an adult at risk or an individual who is at least
- 12 60 years of age.
- 13 **(2) FINANCIAL SERVICE PROVIDERS MAY REFUSE OR DELAY TRANSACTIONS.** (a)
- 14 Notwithstanding any provision of ch. 403, 404, or 410, if a financial service provider
- 15 has reasonable cause to suspect that financial exploitation of a vulnerable adult may
- 16 have occurred, may have been attempted, or is being attempted, the financial service
- 17 provider may, but is not required to, refuse or delay any of the following:
- 18 1. A financial transaction on an account of the vulnerable adult.
- 19 2. A financial transaction on an account on which the vulnerable adult is a
- 20 beneficiary, including a trust, guardianship, or conservatorship account.
- 21 3. A financial transaction on an account of a person suspected of perpetrating
- 22 financial exploitation.
- 23 (b) 1. Notwithstanding any provision of ch. 403, 404, or 410, a financial service
- 24 provider may also refuse or delay a financial transaction under this subsection if an
- 25 elder-adult-at-risk agency, adult-at-risk agency, or law enforcement agency

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1 provides information to the financial service provider demonstrating that it is
2 reasonable to suspect that financial exploitation of a vulnerable adult may have
3 occurred, may have been attempted, or is being attempted.

4 2. Except as ordered by a court, a financial service provider is not required to
5 refuse or delay a financial transaction when provided with information by an
6 elder-adult-at-risk agency, adult-at-risk agency, or law enforcement agency
7 alleging that financial exploitation of a vulnerable adult may have occurred, may
8 have been attempted, or is being attempted, but may use its discretion to determine
9 whether to refuse or delay a financial transaction based on the information available
10 to the financial service provider.

11 (c) A financial service provider that refuses or delays a financial transaction
12 based on reasonable cause to suspect that financial exploitation of a vulnerable adult
13 may have occurred, may have been attempted, or is being attempted shall do all of
14 the following:

15 1. Except with regard to an account administered by a financial institution in
16 a fiduciary capacity, make a reasonable effort to notify, orally or in writing, one or
17 more parties authorized to transact business on the account.

18 2. If the incident involves financial exploitation of a vulnerable adult, report
19 the incident to the applicable elder-adult-at-risk agency or adult-at-risk agency.

20 (d) No notice under this subsection is required to be provided to any party
21 authorized to conduct business on the account if the party is the suspected
22 perpetrator of financial exploitation.

23 (e) Except as provided in pars. (f) and (g), any refusal by a financial service
24 provider to conduct a financial transaction or delay a financial transaction as
25 authorized by this subsection based on the financial service provider's reasonable

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1 cause to suspect that financial exploitation of a vulnerable adult may have occurred,
2 may have been attempted, or is being attempted expires upon the earliest of any of
3 the following:

4 1. Five business days after the date on which the financial service provider first
5 refused or delayed the financial transaction, unless earlier terminated by a court
6 order.

7 2. The time when the financial service provider reasonably believes that the
8 financial transaction will not result in financial exploitation of a vulnerable adult.

9 3. The time when the customer requesting the transaction has been advised of
10 a potential risk in the transaction and the customer has requested the transaction
11 to continue as long as the customer is not the suspected perpetrator of financial
12 exploitation.

13 (f) A financial service provider may extend the time permitted in this
14 subsection to refuse or delay a financial transaction based on a reasonable suspicion
15 that additional time is needed to investigate the financial transaction or to prevent
16 financial exploitation of a vulnerable adult.

17 (g) A court may enter an order extending the time that a financial service
18 provider shall refuse or delay a financial transaction based on reasonable cause to
19 suspect that financial exploitation of a vulnerable adult may have occurred, may
20 have been attempted, or is being attempted.

21 (h) Notwithstanding any provision of ch. 403, 404, or 410, a financial service
22 provider, or an employee of a financial service provider, acting in good faith and
23 exercising reasonable care, is immune from all criminal, civil, and administrative
24 liability for any of the following:

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1 1. Refusing or not refusing, or delaying or not delaying, a financial transaction
2 under this subsection.

3 2. Actions taken in furtherance of the determination made under subd. 1. if the
4 determination was based on a reasonable suspicion.

5 **(3) LIST OF AUTHORIZED CONTACTS.** (a) A financial service provider may offer to
6 a vulnerable adult the opportunity to submit and periodically update a list of persons
7 that the vulnerable adult authorizes the financial service provider to contact when
8 the financial service provider has reasonable cause to suspect that the vulnerable
9 adult is a victim or a target of financial exploitation.

10 (b) A financial service provider, or an officer or employee of the financial service
11 provider, that has reasonable cause to suspect that a vulnerable adult is the victim
12 or target of financial exploitation may convey the suspicion to any of the following
13 if the person is not the suspected perpetrator:

14 1. Any person on the list described in par. (a) if a list has been provided by the
15 vulnerable adult.

16 2. Any co-owner, additional authorized signatory, or beneficiary on the account
17 of the vulnerable adult.

18 3. Any person known by the financial service provider to be a family member,
19 including a parent, adult child, or sibling.

20 (c) When providing information under this subsection, the financial service
21 provider may limit the information and disclose only that the financial service
22 provider has reasonable cause to suspect that the vulnerable adult may be a victim
23 or target of financial exploitation without disclosing any other details or confidential
24 personal information regarding the financial affairs of the vulnerable adult.

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1 (d) The financial service provider may choose not to contact any person on the
2 list provided under par. (a) if the financial service provider suspects that the person
3 or persons are engaged in financial exploitation.

4 (e) The financial service provider may rely on information provided by the
5 customer in compiling a list of contact persons.

6 (f) A financial service provider, or an employee of a financial service provider,
7 acting in good faith and exercising reasonable care, is immune from all criminal,
8 civil, and administrative liability for contacting a person or electing not to contact
9 a person under this subsection and for actions taken in furtherance of that
10 determination if the determination was made based on reasonable suspicion.

11 **(4) FINANCIAL SERVICE PROVIDERS MAY REFUSE POWER OF ATTORNEY.** (a)
12 Notwithstanding s. 244.20, a financial service provider may refuse to accept an
13 acknowledged power of attorney if the principal is a vulnerable adult and the
14 financial service provider has reasonable cause to suspect that the principal is or may
15 be the victim or target of financial exploitation by the agent or person acting for or
16 with the agent.

17 (b) A financial service provider, or an employee of a financial service provider,
18 acting in good faith and exercising reasonable care, is immune from all criminal,
19 civil, and administrative liability for refusing to accept a power of attorney or for
20 accepting a power of attorney under this subsection and for actions taken in
21 furtherance of that determination if the determination was based on reasonable
22 suspicion.

23 **(END)**

Elder & Adult Individual at Risk Abuse/Neglect Supplemental Incident Report

Incident number: _____ **Date of report:** _____ **Name & Title of person completing report:** _____

INCIDENT

Date: _____ **Time:** _____ **Location:** _____

Suspect's Relationship to Victim: Spouse Former Spouse Cohabitant Former Cohabitant Child Caregiver
 Family Member Other: _____

Parties Present: Victim Suspect Witness(es) Child Other: _____

Includes elements of domestic violence? Yes No If yes, refer to DV Supplementary Incident Report and Lethality Assessment

Restraining Order on File? Yes No Permanent Injunction on File? Yes No

Suspect served? Yes No Case number: _____

Pending no contact as part of a criminal case? Yes No Case number: _____

Check any of the following that apply:

Physical: Assault Battery Constraint Sexual Restraint Chemical Medication (over or under dosing) Other

Neglect: General: Malnutrition/clothing/shelter Isolation Abandonment Medical Fiduciary Denied access to needed medical devices Other

Financial: Theft Misuse of funds or property Extortion Duress Fraud Other

Mental: Verbal assaults Threats Fear Unaddressed mental health challenges Unaddressed cognitive challenges/crisis
 Harm or threat of harm to pets

Property: Trespassing Criminal Damage to Property

Self-Neglect: General: Malnutrition/clothing/shelter Unmet medical needs Unpaid bills Unkempt Suicidal
 Unaddressed mental health challenges Unaddressed cognitive challenges/crisis

Other: _____

VICTIM

SUSPECT

Last, First, Middle: _____

DOB: _____ M F

Medical attention: None Refused First Aid at Scene

Transported to: _____

Nonverbal Hearing impaired Visually impaired

Cognitive impairment Physical impairment Other: _____

Arrested?: Yes No Medical release signed? Yes No

Suspect made statement to Police? Yes No

(as observed by officer)

Demeanor: angry crying fearful
 sobbing shaking threatening
 other

Intoxicated / Evidence of drugs? Yes No

Conditions / Injuries:

Report of pain Bruise(s) Abrasion(s)
 Head injury Laceration(s) Burn(s)
 Bed sores Poor hygiene
 Possible broken bones
 other

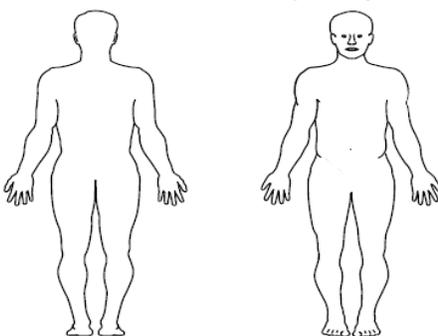
(as observed by officer)

Demeanor: angry crying fearful
 sobbing shaking threatening
 other

Intoxicated / Evidence of drugs? Yes No

Conditions / Injuries:

Report of pain Bruise(s) Abrasion(s)
 Head injury Laceration(s) Burn(s)
 Possible broken bones
 Other

WITNESSES (describe statement in narrative)			
Name	DOB	Address	Phone
Original Caller			
Witness			
Witness			
Threats made by suspect in connection with offense			
LANGUAGE			
Do any of the involved parties speak English as a second language? <input type="checkbox"/> Yes <input type="checkbox"/> No			
If yes, who:		Primary Language	
Translator name and phone:			
PRIOR HISTORY OF ABUSE/NEGLECT			
Prior history of abuse/neglect? <input type="checkbox"/> Yes <input type="checkbox"/> No		Threats/requests to not report to law enforcement? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Specific statements made:			
Evidence (letters, cards, voicemails, texts, emails) :			
Has victim called the police to report/abuse/neglect before? <input type="checkbox"/> Yes <input type="checkbox"/> No			
VICTIM SUPPORT			
Does victim have a legally appointed Guardian? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown			
If yes, name and phone:		Contacted? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Does victim have a Power of Attorney? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown		<input type="checkbox"/> Medical decisions <input type="checkbox"/> Financial decisions <input type="checkbox"/> Unknown/Other	
If yes, name and phone:		Contacted? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Does victim have a caregiver? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown		Contacted? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If yes, name and phone:			
Other supportive relative, friend or neighbor?		Contacted? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If yes, name and phone:			
Victim's physician		<input type="checkbox"/> Primary <input type="checkbox"/> Specialty	
EVIDENCE COLLECTED			
<input type="checkbox"/> None <input type="checkbox"/> Clothing <input type="checkbox"/> DNA <input type="checkbox"/> Surveillance video/photo <input type="checkbox"/> Financial documents <input type="checkbox"/> Legal documents <input type="checkbox"/> Weapons (please list) <input type="checkbox"/> Other:			
Photos:	Taken by	Agency	Date
	Location where photos were taken		Time
Photos depict:	<input type="checkbox"/> Victim Injuries <input type="checkbox"/> Suspect Injuries <input type="checkbox"/> Scene <input type="checkbox"/> Evidence <input type="checkbox"/> Weapons <input type="checkbox"/> Clothing <input type="checkbox"/> Living conditions <input type="checkbox"/> Other:		
	For ID purposes, locate a photo of suspect and victim together, if possible <input type="checkbox"/> Yes <input type="checkbox"/> No		
Forensic / recorded follow-up interview scheduled, if appropriate <input type="checkbox"/> Yes <input type="checkbox"/> No Date:			
<p>Officer to document observed and reported injuries below.</p>  <p>BACK FRONT</p> <p>Ensure photos of all injuries are taken and logged into evidence.</p>		Did victim give permission to anyone to strike, injure, or hurt him or her? <input type="checkbox"/> Yes <input type="checkbox"/> No Did victim state he or she struck/pushed suspect first? <input type="checkbox"/> Yes <input type="checkbox"/> No Has victim signed medical release form? <input type="checkbox"/> Yes <input type="checkbox"/> No Does victim receive Medicaid benefits? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, fax supplement to Medicaid Fraud Unit at 608-261-7991 Is the victim a patient in a care facility? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, call Dept. of Health Services Hotline (voicemail only) at 1-800-642-6552 Adult Protective Services contacted? <input type="checkbox"/> Yes <input type="checkbox"/> No	
VICTIM'S SIGNATURE			DATE



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-0356/1
MLJ:kjf

2019 BILL

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

BILL

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

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

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

PHYSICAL ABUSE OF AN ELDER PERSON

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

FREEZING OF ASSETS

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

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

INCREASED PENALTIES

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

RESTRAINING ORDERS FOR AN ELDER PERSON

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

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

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

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

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

1 **SECTION 1.** 48.57 (3p) (g) 2. of the statutes is amended to read:

2 48.57 **(3p)** (g) 2. The person has had imposed on him or her a penalty specified
3 in s. 939.64, 1999 stats., or s. 939.641, 1999 stats., or s. 939.6195, 939.62, 939.621,
4 939.623, 939.63 or 939.645 or has been convicted of a violation of the law of any other
5 state or federal law under circumstances under which the person would be subject
6 to a penalty specified in any of those sections if convicted in this state.

7 **SECTION 2.** 48.685 (1) (c) 2. of the statutes is amended to read:

8 48.685 **(1)** (c) 2. A violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19
9 (2), (4), (5) or (6), 940.198 (2), 940.22 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2),
10 940.29, 940.295, 942.09 (2), 948.02 (1) or (2), 948.025, 948.03 (2) or (5) (a) 1., 2., 3.,
11 or 4., 948.05, 948.051, 948.055, 948.06, 948.07, 948.08, 948.081, 948.085, 948.11 (2)
12 (a) or (am), 948.12, 948.13, 948.21 (2), 948.215, 948.30, or 948.53.

13 **SECTION 3.** 50.065 (1) (e) 1. of the statutes is amended to read:

14 50.065 **(1)** (e) 1. "Serious crime" means a violation of s. 940.19 (3), 1999 stats.,
15 a violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19 (2), (4), (5) or (6),
16 940.198 (2), 940.22 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2), 940.29, 940.295,
17 948.02 (1), 948.025 or 948.03 (2) (a) or (5) (a) 1., 2., or 3., or a violation of the law of

BILL**SECTION 3**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

BILL**SECTION 11**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

BILL**SECTION 23**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

BILL**SECTION 27**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (END)



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-0402/1
MLJ:emw

2019 BILL

1 **AN ACT** *to create* 971.108 and 971.109 of the statutes; **relating to:** expediting
2 criminal proceedings when a victim or witness is an elder person and
3 preserving the testimony of a crime victim or witness who is an elder person.

Analysis by the Legislative Reference Bureau

This bill creates a requirement that a court expedite proceedings in criminal and delinquency cases and juvenile dispositional hearings involving a victim or witness who is an elder person. Under the bill, the court must take appropriate action to ensure a speedy trial in order to minimize the length of time the elder person must endure the stress of involvement in the proceedings.

This bill also creates a requirement that a court preserve certain testimony in criminal matters involving a victim or witness who is an elder person. Under the bill, in criminal and delinquency cases and juvenile dispositional hearings involving a victim or witness who is an elder person, the prosecuting attorney may file a motion to preserve the testimony of the elder person. If the prosecuting attorney files such a motion, the court must then hold a hearing to record the testimony of the elder person within 60 days. The bill requires the defendant to be present at the hearing and the witness to be subject to cross-examination at the hearing. The recorded testimony of the elder person from the hearing is admissible at later court

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proceedings in the case. Under the bill, an elder person is any person who is 60 years of age or older.

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

1 **SECTION 1.** 971.108 of the statutes is created to read:

2 **971.108 Elder person victims and witnesses; duty to expedite**
3 **proceedings.** (1) In this section, “elder person” means any individual who is 60
4 years of age or older.

5 (2) In all criminal and delinquency cases and juvenile dispositional hearings
6 involving a victim or witness who is an elder person, the court and the district
7 attorney shall take appropriate action to ensure a speedy trial in order to minimize
8 the length of time the elder person must endure the stress of the elder person’s
9 involvement in the proceeding. In ruling on any motion or other request for a delay
10 or continuance of proceedings, the court shall consider and give weight to any
11 adverse impact the delay or continuance may have on the well-being of a victim or
12 witness who is an elder person.

13 **SECTION 2.** 971.109 of the statutes is created to read:

14 **971.109 Elder person victims and witnesses; duty to preserve**
15 **testimony.** (1) In this section, “elder person” means any individual who is 60 years
16 of age or older.

17 (2) In all criminal and delinquency cases and juvenile dispositional hearings
18 involving a crime victim or witness who is an elder person, the court shall, upon the
19 motion of a district attorney, conduct a hearing within 60 days of the date the motion
20 was filed to preserve the testimony of the crime victim or witness. The hearing shall
21 be before the court. The defendant shall be present at the hearing. The crime victim

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1 or witness shall be sworn as a witness and shall be subject to cross-examination and
2 rebuttal if not unduly repetitious. The witness may testify in person, or, upon a
3 showing by the proponent of good cause under s. 807.13 (2) (c), testimony may be
4 received into the record of the hearing by telephone or live audiovisual means. The
5 hearing shall be recorded, and the recorded testimony of the witness shall be
6 admissible in evidence against the defendant in any court proceeding in the case.

7

(END)