

# State of Wisconsin



1995 Assembly Bill 989

Date of enactment: **May 31, 1996**  
Date of publication\*: **June 14, 1996**

## 1995 WISCONSIN ACT 382

AN ACT to create 100.264 and 134.95 of the statutes; relating to: certain fraudulent or unfair trade practices against elderly and disabled persons and providing a penalty.

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

**SECTION 1.** 100.264 of the statutes is created to read:  
**100.264 Violations against elderly or disabled persons.** (1) DEFINITIONS. In this section:

(a) "Disabled person" means a person who has an impairment of a physical, mental or emotional nature that substantially limits at least one major life activity.

(b) "Elderly person" means a person who is at least 62 years of age.

(c) "Major life activity" means self-care, walking, seeing, hearing, speaking, breathing, learning, performing manual tasks or being able to be gainfully employed.

(2) SUPPLEMENTAL FORFEITURE. If a fine or a forfeiture is imposed on a person for a violation under s. 100.16, 100.17, 100.18, 100.182, 100.183, 100.20, 100.205, 100.207, 100.21, 100.30 (3), 100.35, 100.44 or 100.46 or a rule promulgated under one of those sections, the person shall be subject to a supplemental forfeiture not to exceed \$10,000 for that violation if the conduct by the defendant, for which the violation was imposed, was perpetrated against an elderly person or disabled person and if the court finds that any of the following factors is present:

(a) The defendant knew or should have known that the defendant's conduct was perpetrated against an elderly person or disabled person.

(b) The defendant's conduct caused an elderly person or disabled person to suffer any of the following:

1. Loss or encumbrance of his or her primary residence.
2. Loss of principal employment or principal source of income.
3. Loss of more than 25% of the property that the elderly person or disabled person has set aside for retirement or for personal or family care or maintenance.
4. Loss of more than 25% of the total of payments to be received under a pension or retirement plan.
5. Loss of assets essential to the health or welfare of the elderly person or disabled person.

(c) The defendant's conduct caused physical or emotional damage or economic loss, other than the losses specified in par. (b) 1. to 5., and elderly persons or disabled persons are more likely to suffer the loss than other persons due to their age, poor health, impaired understanding or restricted mobility.

(3) PRIORITY FOR RESTITUTION. If the court orders restitution under s. 100.18 (11) (d), 100.182 (5) (a), 100.20 (6), 100.205 (7), 100.207 (6) (b) 1. or 100.44 (5) for a pecuniary or monetary loss suffered by a person, the court shall require that the restitution be paid by the defendant before the defendant pays any forfeiture imposed under this section.

**SECTION 2.** 134.95 of the statutes is created to read:

\* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

**134.95 Violations against elderly or disabled persons.** (1) DEFINITIONS. In this section:

(a) “Disabled person” means a person who has an impairment of a physical, mental or emotional nature that substantially limits at least one major life activity.

(b) “Elderly person” means a person who is at least 62 years of age.

(c) “Major life activity” means self-care, walking, seeing, hearing, speaking, breathing, learning, performing manual tasks or being able to be gainfully employed.

(2) SUPPLEMENTAL FORFEITURE. If a fine or a forfeiture is imposed on a person for a violation under s. 134.22, 134.68, 134.70, 134.71, 134.72, 134.74, 134.83 or 134.87 or ch. 136 or a rule promulgated under these sections or that chapter, the person shall be subject to a supplemental forfeiture not to exceed \$10,000 for that violation if the conduct by the defendant, for which the fine or forfeiture was imposed, was perpetrated against

an elderly person or disabled person and if any of the factors under s. 100.264 (2) (a), (b) or (c) is present.

(3) PRIORITY FOR RESTITUTION. If the court orders restitution under s. 134.22 (4) (a), 134.68 (7), 134.70 (15), 134.74 (8), 134.83 (7) or 134.87 (6) for a pecuniary or monetary loss suffered by a person, the court shall require that the restitution be paid by the defendant before the defendant pays any forfeiture imposed under this section.

**SECTION 3. Initial applicability**

(1) This act first applies to forfeitures or fines imposed for violations under section 100.16, 100.17, 100.18, 100.182, 100.183, 100.20, 100.205, 100.207, 100.21, 100.30 (3), 100.35, 100.44, 100.46, 134.22, 134.68, 134.70, 134.71, 134.72, 134.74, 134.83 or 134.87 or chapter 136 of the statutes, or under rules promulgated under these sections or that chapter, that occur on the effective date of this subsection.