

## CHAPTER 946.

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## TREASON AND DISLOYAL ACTS.

946.01 **Treason.** (1) Any person owing allegiance to this state who does any of the following shall be sentenced to life imprisonment:

- (a) Levies war against this state; or
- (b) Adheres to the enemies of this state, giving them aid and comfort.

(2) No person may be convicted of treason except on the testimony of 2 witnesses to the same overt act, or on his confession in open court.

946.02 **Sabotage.** (1) Whoever does any of the following may be fined not more than \$10,000 or imprisoned not more than 10 years or both:

(a) Intentionally damages, interferes with, or tampers with any property with reasonable grounds to believe that his act will hinder, delay, or interfere with the prosecution of war or other military action or the preparation for defense, war, or other military action by the United States or its allies; or

(b) Intentionally makes a defective article or on inspection omits to note any defect in an article with reasonable grounds to believe that such article is intended to be used in the prosecution of war or other military action or the preparation for defense, war, or other military action by the United States or its allies.

(2) Nothing in this section shall be construed to impair, curtail, or destroy the rights of employes and their representatives to self-organization, to form, join or assist labor organization, to strike, to bargain collectively through representatives of their own choosing, or to engage in lawful concerted activities for the purpose of collective bargaining or other mutual aid or protection under any state or federal statutes regulating labor relations.

946.03 **Sedition.** (1) Whoever does any of the following may be fined not more than \$5,000 or imprisoned not more than 10 years or both:

(a) Attempts the overthrow of the government of the United States or this state by the use or threat of physical violence; or

(b) Is a party to a conspiracy with or a solicitation of another to overthrow the government of the United States or this state by the use or threat of physical violence; or

(c) Advocates or teaches the duty, necessity, desirability or propriety of overthrowing the government of the United States or this state by the use or threat of physical violence with intent that such government be overthrown; or

(d) Organizes or assists in the organization of an assembly with knowledge that the purpose of the assembly is to advocate or teach the duty, necessity, desirability or pro-

priety of overthrowing the government of the United States or this state by the use or threat of physical violence with intent that such government be overthrown.

(2) Whoever permits any premises under his care, control or supervision to be used by an assembly with knowledge that the purpose of the assembly is to advocate or teach the duty, necessity, desirability or propriety of overthrowing the government of the United States or this state by the use or threat of physical violence with intent that such government be overthrown or, after learning that the premises are being so used, permits such use to be continued may be fined not more than \$1,000 or imprisoned not more than one year in county jail or both.

**946.04 Display of seditious flag or emblem.** Whoever at a public or private meeting or gathering of people or in a parade intentionally displays the red flag or any other flag, banner, or emblem which symbolizes a purpose to overthrow the government of the United States or of this state by the use or threat of physical violence may be fined not more than \$100 or imprisoned not more than 6 months or both.

**946.05 Flag desecration.** (1) Whoever intentionally and publicly mutilates, defiles, or casts contempt upon the flag may be fined not more than \$100 or imprisoned not more than 3 months or both.

(2) In this section "flag" means anything which is or purports to be the Stars and Stripes, the United States shield, the United States coat of arms, the Wisconsin state flag, or a copy, picture, or representation of any of them.

**946.06 Improper use of the flag.** (1) Whoever intentionally does any of the following may be fined not more than \$100 or imprisoned not more than 3 months or both:

(a) Places on or attaches to the flag any word, mark, design, or advertisement not properly a part of such flag; or

(b) Exposes to public view a flag upon which has been placed or attached a word, mark, design, or advertisement not properly a part of such flag; or

(c) Manufactures or exposes to public view an article of merchandise or a wrapper or receptacle for merchandise upon which the flag is depicted; or

(d) Uses the flag for commercial advertising purposes.

(2) This section does not apply to flags depicted on written or printed documents or periodicals or on stationery, ornaments, pictures, or jewelry, provided there are no unauthorized words or designs on such flag and provided the flag is not connected with any advertisement.

(3) In this section "flag" has the meaning designated in s. 946.05.

#### BRIBERY AND OFFICIAL MISCONDUCT.

**946.10 Bribery of public officers and employes.** Either of the following may be fined not more than \$1,000 or imprisoned not more than 5 years or both:

(1) Whoever, with intent to influence the conduct of any public officer or public employe in relation to any matter which by law is pending or might come before him in his capacity as such officer or employe or with intent to induce him to do or omit to do any act in violation of his lawful duty transfers or promises to him or on his behalf any property or any personal advantage which he is not authorized to receive; or

(2) Any public officer or public employe who directly or indirectly accepts or offers to accept any property or any personal advantage, which he is not authorized to receive, pursuant to an understanding that he will act in a certain manner in relation to any matter which by law is pending or might come before him in his capacity as such officer or employe or that he will do or omit to do any act in violation of his lawful duty.

**946.11 Special privileges from public utilities.** (1) The following may be fined not more than \$1,000 or imprisoned not more than 5 years or both:

(a) Whoever offers or gives for any purpose to any public officer or to any person at the request or for the advantage of such officer any free pass or frank, or any privilege withheld from any person, for the traveling accommodation or transportation of any person or property or for the transmission of any message or communication; or

(b) Any public officer who asks for or accepts from any person or uses in any manner or for any purpose any free pass or frank, or any privilege withheld from any person for the traveling accommodation or transportation of any person or property or for the transmission of any message or communication; or

(c) Any public utility or agent or officer thereof who offers or gives for any purpose to any public officer or to any person at the request or for the advantage of such officer, any frank or any privilege withheld from any person for any product or service produced, transmitted, delivered, furnished or rendered or to be produced, transmitted,

delivered, furnished or rendered by any public utility, or any free product or service whatsoever; or

(d) Any public officer who asks for or accepts or uses in any manner or for any purpose any frank or privilege withheld from any person for any product or service produced, transmitted, delivered, furnished or rendered by any public utility.

(2) In this section:

(a) "Free pass" means any form of ticket or mileage entitling the holder to travel over any part of a railroad or other public transportation system and issued to the holder as a gift or in consideration or partial consideration of any service performed or to be performed by such holder, except that it does not include such ticket or mileage when issued to an employe of the railroad or public transportation system pursuant to a contract of employment and not in excess of the transportation rights of other employes of the same class and seniority, nor does it include free transportation to policemen or firemen when on duty;

(b) "Public utility" has the meaning designated in s. 196.01.

(3) This section does not apply to notaries public and regular employes of a railroad or other public utility who hold public offices for which the annual compensation is not more than \$300 to whom no passes or privileges are extended beyond those which are extended to other regular employes of such corporation.

**946.12 Misconduct in public office.** Any public officer or public employe who does any of the following may be fined not more than \$500 or imprisoned not more than one year or both:

(1) Intentionally fails or refuses to perform a known mandatory, nondiscretionary, ministerial duty of his office or employment within the time or in the manner required by law; or

(2) In his capacity as such officer or employe, does an act which he knows is in excess of his lawful authority or which he knows he is forbidden by law to do in his official capacity; or

(3) Whether by act of commission or omission, in his capacity as such officer or employe exercises a discretionary power in a manner inconsistent with the duties of his office or employment or the rights of others and with intent to obtain a dishonest advantage for himself or another; or

(4) In his capacity as such officer or employe, makes an entry in an account or record book or return, certificate, report or statement which in a material respect he intentionally falsifies; or

(5) Under color of his office or employment, intentionally solicits or accepts for the performance of any service or duty anything of value which he knows is greater or less than is fixed by law.

**946.13 Private interest in public contract prohibited.** (1) Any public officer or public employe who does any of the following may be fined not more than \$500 or imprisoned not more than one year or both:

(a) In his private capacity, negotiates or bids for or enters into a contract in which he has a private pecuniary interest, direct or indirect, if at the same time he is authorized or required by law to participate in his capacity as such officer or employe in the making of that contract or to perform in regard to that contract some official function requiring the exercise of discretion on his part; or

(b) In his capacity as such officer or employe, participates in the making of a contract in which he has a private pecuniary interest, direct or indirect, or performs in regard to that contract some function requiring the exercise of discretion on his part.

(2) Subsection (1) does not apply to the following:

(a) Contracts in which any single public officer or employe is privately interested which do not involve receipts and disbursements by the state or its political subdivision aggregating more than \$1,000 in any year; or

(b) Contracts involving the deposit of public funds in public depositories; or

(c) Contracts involving loans made pursuant to s. 67.12; or

(d) Contracts for the publication of legal notices required to be published, provided such notices are published at a rate not higher than that prescribed by law; or

(e) Contracts for the issuance to a public officer or employe of tax titles, tax sale certificates, or instruments representing an interest in, or secured by, any fund consisting in whole or in part of taxes in the process of collection, provided such titles, certificates, or instruments are issued in payment of salary or other obligations due such officer or employe; or

(f) Contracts for the sale of bonds or securities issued by a political subdivision of

the state; provided such bonds or securities are sold at a bona fide public sale to the highest bidder and the public officer or employe acquiring the private interest has no duty to vote upon the issuance of the bonds or securities.

(3) A contract entered into in violation of this section is void and the state or the political subdivision in whose behalf the contract was made incurs no liability thereon.

(4) In this section "contract" includes a conveyance.

(5) Subsection (1) (b) shall not apply to a public officer or public employe by reason of his holding not more than 2 per cent of the outstanding capital stock of a corporate body involved in such contract.

**History:** 1961 c. 644.

This section does not prohibit a school board from hiring members of a town board as school bus drivers even where their salaries as such bus drivers exceed \$1,000 per year. 52 Atty. Gen. 66.

**946.14 Purchasing claims at less than full value.** Any public officer or public employe who in his private capacity directly or indirectly intentionally purchases for less than full value or discounts any claim held by another against the state or a political subdivision thereof or against any public fund may be fined not more than \$500 or imprisoned not more than one year or both.

**946.15 Purchasing claims for collection.** The following persons may be fined not more than \$200 or imprisoned not more than 6 months, and the judgment of conviction operates as a forfeiture of the person's office:

(1) A justice of the peace, municipal justice of the peace or constable who directly or indirectly acquires a financial interest in any note, bond, demand or cause of action for the purpose of commencing an action thereon before a justice of the peace or municipal justice; or

(2) A justice of the peace, municipal justice of the peace, or constable who lends or advances, agrees to lend or advance, or procures to be lent or advanced anything of value to another as an inducement to such other person to place a cause of action in his hands for prosecution or collection or as a reward or consideration for such other person having done so; or

(3) A justice of the peace who directly or indirectly purchases any interest in any judgment rendered by him or any witness or jury fees allowed in any case tried before him.

**History:** 1961 c. 614.

**946.16 Judicial officer collecting claims.** Any judicial officer who causes to be brought in a court over which he presides any action or proceeding upon a claim placed in his hands as agent or attorney for collection may be fined not more than \$500.

**946.18 Misconduct sections apply to de facto officers.** Sections 946.10 to 946.16 apply to de facto as well as de jure public officers.

#### PERJURY AND FALSE SWEARING.

**946.31 Perjury.** (1) Whoever under oath or affirmation orally makes a false material statement which he does not believe to be true, in any matter, cause, action or proceeding, before any of the following, whether de jure or de facto, may be fined not more than \$5,000 or imprisoned not more than 5 years or both:

- (a) A court;
- (b) A magistrate;
- (c) A judge, referee or court commissioner;
- (d) An administrative agency or arbitrator authorized by statute to determine issues of fact;
- (e) A notary public while taking testimony for use in an action or proceeding pending in court;
- (f) An officer authorized to conduct inquests of the dead;
- (g) A grand jury;
- (h) A legislative body or committee.

(2) It is not a defense to a prosecution under this section that the perjured testimony was corrected or retracted.

**946.32 False swearing.** (1) Whoever does either of the following may be fined not more than \$1,000 or imprisoned not more than 3 years or both:

(a) Under oath or affirmation makes or subscribes a false statement which he does not believe is true, when such oath or affirmation is authorized or required by law or is required by any public officer or governmental agency as a prerequisite to such officer or agency taking some official action.

(b) Makes or subscribes 2 inconsistent statements under oath or affirmation in regard to any matter respecting which an oath or affirmation is, in each case, authorized or required by law or required by any public officer or governmental agency as a prerequisite to such officer or agency taking some official action, under circumstances which demonstrate that the witness or subscriber knew at least one of the statements to be false when made. The period of limitations within which prosecution may be commenced runs from the time of the first statement.

(2) Whoever under oath or affirmation makes or subscribes a false statement which he does not believe is true may be fined not more than \$200 or imprisoned not more than 6 months or both.

INTERFERENCE WITH LAW ENFORCEMENT.

**946.40 Refusing to aid officer.** (1) Whoever, without reasonable excuse, refuses or fails, upon command, to aid any person known to him to be a peace officer may be fined not more than \$100.

(2) This section does not apply if under the circumstances the officer was not authorized to command such assistance.

See note to 59.24, citing *Kagel v. Brugger*, 19 W (2d) 1, 119 NW (2d) 394.

**946.41 Resisting or obstructing officer.** (1) Whoever knowingly resists or obstructs an officer while such officer is doing any act in his official capacity and with lawful authority, may be fined not more than \$500 or imprisoned not more than one year in county jail or both.

(2) In this section:

(a) "Officer" means a peace officer or other public officer or public employe having the authority by virtue of his office or employment to take another into custody.

(b) "Obstructs" includes without limitation knowingly giving false information to the officer with intent to mislead him in the performance of his duty including the service of any summons or civil process.

(3) Whoever by violating this section hinders, delays or prevents an officer from properly serving or executing any summons or civil process, is civilly liable to the person injured for any actual loss caused thereby and to the officer or his superior for any damages adjudged against either of them by reason thereof.

**946.42 Escape.** (1) Any person in custody under any of the following circumstances who intentionally escapes from custody may be fined not more than \$200 or imprisoned not more than 6 months or both:

(a) Pursuant to a legal arrest for a misdemeanor or violation of a municipal ordinance; or

(b) Lawfully charged with or convicted of a misdemeanor or the violation of a municipal ordinance; or

(c) Pursuant to a civil arrest or body execution.

(2) Any person in custody under any of the following circumstances who intentionally escapes from custody may be fined not more than \$500 or imprisoned not more than one year or both:

(a) Pursuant to a legal arrest for a felony; or

(b) Pursuant to a legal arrest as a fugitive from justice in another state; or

(c) Lawfully charged with or convicted of, but not sentenced for, a felony; or

(d) Sentenced to a county jail or to less than one year in a county reforestation camp or house of correction for a felony.

(3) Any person in custody under any of the following circumstances who intentionally escapes from custody may be imprisoned not more than 5 years:

(a) Sentenced to a state prison; or

(b) Sentenced for one year or more in a county reforestation camp or house of correction for a felony; or

(c) Committed to the state department of public welfare as a juvenile but placed by it in a state prison pursuant to s. 48.52 (2).

(d) Committed to the state department of public welfare pursuant to s. 959.15.

(4) Sentences imposed under this section shall be in addition to any sentence previously imposed or which may be imposed for any crime or offense for which the person was in custody when he escaped.

(5) In this section:

(a) "Escape" means to leave in any manner without lawful permission or authority;

(b) "Custody" includes without limitation actual custody of an institution or of a peace officer or institution guard and constructive custody of prisoners temporarily outside the institution whether for the purpose of work or medical care or otherwise. Under

s. 56.08 (6) it means, without limitation, that of the sheriff of the county to which the prisoner was transferred after conviction. It does not include the custody of a probationer or parolee by the state department of public welfare or a probation or parole officer unless the prisoner is in actual custody after revocation of his probation or parole or to enforce discipline or to prevent him from absconding;

(c) "Legal arrest" includes without limitation an arrest pursuant to process fair on its face notwithstanding insubstantial irregularities.

**946.43 Assaults by prisoners.** Any prisoner in a state prison who intentionally does any of the following may be imprisoned not more than 10 years;

(1) Places an officer or employe of that prison or a visitor therein in apprehension of an immediate battery likely to cause death or great bodily harm; or

(2) Causes bodily harm to an officer or employe of that prison or a visitor therein without his consent; or

(3) Confines or restrains an officer or employe of that prison or a visitor therein without his consent.

**946.44 Assisting or permitting escape.** (1) The following may be fined not more than \$500 or imprisoned not more than 5 years or both:

(a) Any officer or employe of an institution where prisoners are detained who intentionally permits a prisoner in his custody to escape; or

(b) Whoever with intent to aid any prisoner to escape from custody introduces into the institution where he is detained or transfers to such prisoner anything adapted or useful in making an escape; or

(c) Whoever intentionally introduces into an institution where prisoners are detained or transfers to a prisoner any firearm, whether loaded or unloaded.

(2) In this section "custody" and "escape" have the meaning designated in s. 946.42.

**946.45 Negligently allowing escape.** (1) Any officer or employe of an institution where prisoners are detained who, through his neglect of duty, allows a prisoner in his custody to escape may be fined not more than \$200 or imprisoned not more than 6 months or both.

(2) In this section "custody" and "escape" have the meaning designated in s. 946.42.

**946.46 Encouraging violation of probation or parole.** Whoever intentionally aids or encourages a parolee or probationer or any person committed to the state department of public welfare by reason of crime or delinquency to abscond or violate a term or condition of his parole or probation may be fined not more than \$500 or imprisoned not more than one year in county jail or both.

**946.47 Harboring or aiding felons.** (1) Whoever does either of the following may be fined not more than \$500 or imprisoned not more than one year or both:

(a) With intent to prevent the apprehension of a felon, harbors or aids him; or

(b) With intent to prevent the apprehension, prosecution or conviction of a felon, destroys, alters, hides, or disguises physical evidence or places false evidence.

(2) As used in this section "felon" means either of the following:

(a) A person who commits an act within the jurisdiction of this state which constitutes a felony under the law of this state; or

(b) A person who commits an act within the jurisdiction of another state which is punishable by imprisonment for one year or more in a state prison or penitentiary under the law of that state and would, if committed in this state, constitute a felony under the law of this state.

(3) This section does not apply to the felon or his spouse, parent, grandparent, child, grandchild, brother or sister by consanguinity or affinity of such felon.

**946.48 Kidnaped or missing persons; false information.** (1) Whoever sends, delivers, or causes to be transmitted to another any written or oral communication with intent to induce a false belief that the sender has knowledge of the whereabouts, physical condition, or terms imposed upon the return of a kidnaped or missing person may be fined not more than \$2,000 or imprisoned not more than 5 years or both.

(2) Violation of this section may be prosecuted in either the county where the communication was sent or the county in which it was received.

#### OTHER CRIMES AFFECTING THE ADMINISTRATION OF GOVERNMENT.

**946.61 Bribery of witnesses.** (1) Whoever does any of the following may be fined not more than \$500 or imprisoned not more than one year or both:

(a) With intent to induce another to refrain from giving evidence or testifying in any

civil or criminal matter before any court, judge, grand jury, magistrate, court commissioner, referee or administrative agency authorized by statute to determine issues of fact, transfers to him or on his behalf, any property or any pecuniary advantage; or

(b) Accepts any property or any pecuniary advantage, knowing that such property or pecuniary advantage was transferred to him or on his behalf with intent to induce him to refrain from giving evidence or testifying in any civil or criminal matter before any court, judge, grand jury, magistrate, court commissioner, referee, or administrative agency authorized by state to determine issues of fact.

(2) This section does not apply to a person who is charged with a crime, or any person acting in his behalf, who transfers property to which he believes the other is legally entitled.

**946.62 Concealing identity.** Whoever commits a crime while his usual appearance has been concealed, disguised or altered, with intent to make it less likely that he will be identified with the crime, may in addition to the maximum punishment fixed for such crime; in case of conviction for a misdemeanor be imprisoned not to exceed one year in county jail, and in case of conviction for a felony be imprisoned not to exceed 5 years.

**946.63 Concealing death of child.** Any woman who conceals the corpse of any issue of her body with intent to prevent a determination of whether it was born dead or alive may be imprisoned not more than one year or fined not more than \$500 or both.

**946.64 Communicating with jurors.** Whoever, with intent to influence any person, summoned or serving as a juror, in relation to any matter which is before him or which may be brought before him, communicates with him otherwise than in the regular course of proceedings in the trial or hearing of that matter may be fined not more than \$200 or imprisoned not more than 6 months or both.

**946.67 Compounding crime.** (1) Whoever receives any property in return for a promise, express or implied, to refrain from prosecuting a crime or to refrain from giving information bearing on the probable success of a criminal prosecution may be fined not more than \$1,000 or imprisoned not more than 6 months or both.

(2) Subsection (1) does not apply if the act upon which the actual or supposed crime is based has caused a loss for which a civil action will lie and the person who has sustained such loss reasonably believes that he is legally entitled to the property received.

(3) No promise mentioned in this section shall justify the promisor in refusing to testify or to produce evidence against the alleged criminal when subpoenaed to do so.

**946.68 Simulating legal process.** (1) Whoever sends or delivers to another any document which simulates a summons, complaint, or court process with intent thereby to induce payment of a claim may be fined not more than \$200 or imprisoned not more than 6 months or both.

(2) Proof that the document was mailed or was delivered to any person with intent that it be forwarded to the intended recipient is sufficient proof of sending.

(3) This section applies even though the simulating document contains a statement to the effect that it is not legal process.

(4) Violation of this section may be prosecuted in either the county where the document was sent or the county in which it was delivered.

**946.69 Falsely assuming to act as public officer or employe.** Whoever does any of the following may be fined not more than \$500 or imprisoned not more than one year in county jail or both:

(1) Assumes to act in an official capacity or to perform an official function, knowing that he is not the public officer or public employe he assumes to be; or

(2) Exercises any function of a public office, knowing that he has not qualified so to act or that his right so to act has ceased.

**946.70 Personating peace officers.** Whoever personates a peace officer with intent to mislead others into believing that he is actually a peace officer may be fined not more than \$100 or imprisoned not more than 30 days or both.

**946.71 Interference with custody of child.** Whoever intentionally does either of the following may be fined not more than \$500 or imprisoned not more than one year or both:

(1) Interferes with the custody or training of any minor who has been committed or whose legal custody has been transferred to the state department of public welfare or to any person, child welfare agency, institution or place pursuant to ch. 48; or

(2) Entices away or takes away any child under the age of 18 from the parent or other person having legal custody under an order or judgment in a divorce, annulment or habeas corpus action with intent to take the child out of the state for the purpose of depriving the parent or other person of the custody of the child without the consent of such parent or other person, unless the court which awarded custody has consented that the child be taken out of the state by the person who so takes him.

**946.72 Tampering with public records and notices.** (1) Whoever with intent to injure or defraud damages, removes or conceals any public record may be fined not more than \$1,000 or imprisoned not more than 2 years or both.

(2) Whoever intentionally damages, alters, removes or conceals any public notice, posted as authorized by law, before the expiration of the time for which the notice was posted, may be fined not more than \$200 or imprisoned not more than 6 months or both.

**946.73 Penalty for violating laws governing state or county institutions.** Whoever violates any state law or any lawful rule made pursuant to state law governing the state fairgrounds or any state or county charitable, curative, reformatory, or penal institution while within the same or the grounds thereof may be fined not more than \$50 or imprisoned not more than 60 days.

**946.74 Aiding escape from mental institutions.** (1) Whoever intentionally does or attempts to do any of the following may be fined not more than \$200 or imprisoned not more than 6 months or both:

(a) Aids any person committed to an institution for the care of the mentally ill, infirm or deficient to escape therefrom.

(b) Introduces into any institution for the care of the mentally ill, infirm or deficient, or transfers to any person committed to such institution, anything adapted or useful in making an escape therefrom, with intent to aid any person to escape.

(c) Removes from any institution for the care of the mentally ill, infirm or deficient any person committed thereto.

(2) Whoever violates sub. (1) with intent to commit a crime against sexual morality with or upon the inmate of the institution may be fined not more than \$1,000 or imprisoned not more than 5 years or both.

**946.75 Denial of right of counsel.** Whoever shall, while holding another person in custody and if that person requests a named attorney, deny that other person his right to consult and be advised by an attorney at law at his own expense, whether or not such person is charged with a crime, may be fined not less than \$100 nor more than \$1,000 or imprisoned for not less than 10 days nor more than 6 months, or both.

**History:** 1961 c. 107.