

# State of Wisconsin



2017 Assembly Bill 414

Date of enactment: **March 28, 2018**

Date of publication\*: **March 29, 2018**

## 2017 WISCONSIN ACT 174

AN ACT to *renumber* 301.45 (1m) (a) 1., 1g., 2. and 3.; to *renumber and amend* 940.225 (3); to *amend* 301.45 (1m) (a) (intro.), 301.45 (1m) (e) (intro.), 948.02 (2) and 948.09; and to *create* 301.45 (1m) (a) 1m. (intro.), 301.45 (1m) (a) 2m. and 948.093 of the statutes; **relating to:** underage sexual activity and providing a criminal penalty.

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

**SECTION 1.** 301.45 (1m) (a) (intro.) of the statutes is amended to read:

301.45 (1m) (a) (intro.) A person is not required to comply with the reporting requirements under this section if all any of the following apply applies:

**SECTION 2.** 301.45 (1m) (a) 1., 1g., 2. and 3. of the statutes are renumbered 301.45 (1m) (a) 1m. a., b., c. and d.

**SECTION 3.** 301.45 (1m) (a) 1m. (intro.) of the statutes is created to read:

301.45 (1m) (a) 1m. (intro.) All of the following apply:

**SECTION 4.** 301.45 (1m) (a) 2m. of the statutes is created to read:

301.45 (1m) (a) 2m. All of the following apply:

a. The person meets the criteria under sub. (1g) (a) based on a violation, or on the solicitation, conspiracy or attempt to commit a violation, of s. 940.225 (3) (a).

b. At the time of the violation, or of the solicitation, conspiracy or attempt to commit the violation, of s. 940.225 (3) (a), the person had not attained the age of 19 years and the victim had attained the age of 15 years.

c. It is not necessary, in the interest of public protection, to require the person to comply with the reporting requirements under this section.

**SECTION 5.** 301.45 (1m) (e) (intro.) of the statutes is amended to read:

301.45 (1m) (e) (intro.) At the hearing held under par. (bm), the person who filed the motion under par. (b) or s. 51.20 (13) (ct) 2m., 938.34 (15m) (bm), 971.17 (1m) (b) 2m. or 973.048 (2m) has the burden of proving by clear and convincing evidence that he or she satisfies the criteria specified in par. (a). In deciding whether the person has satisfied the criterion specified in par. (a) ~~3.~~ 1m. d. or 2m. c., the court may consider any of the following:

**SECTION 6.** 940.225 (3) of the statutes is renumbered 940.225 (3) (a) and amended to read:

940.225 (3) (a) Whoever has sexual intercourse with a person without the consent of that person is guilty of a Class G felony.

(b) Whoever has sexual contact in the manner described in sub. (5) (b) 2. or 3. with a person without the consent of that person is guilty of a Class G felony.

**SECTION 7.** 948.02 (2) of the statutes is amended to read:

\* Section 991.11, WISCONSIN STATUTES: 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."

948.02 (2) SECOND DEGREE SEXUAL ASSAULT. Whoever has sexual contact or sexual intercourse with a person who has not attained the age of 16 years is guilty of a Class C felony. This subsection does not apply if s. 948.093 applies.

SECTION 8. 948.09 of the statutes is amended to read:

**948.09 Sexual intercourse with a child age 16 or older.** Whoever has sexual intercourse with a child who is not the defendant's spouse and who has attained the age of 16 years is guilty of a Class A misdemeanor if the defendant has attained the age of 19 years when the violation occurs.

SECTION 9. 948.093 of the statutes is created to read:

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**948.093 Underage sexual activity.** Whoever has sexual contact with a child who has attained the age of 15 years but has not attained the age of 16 years, or whoever has sexual intercourse with a child who has attained the age of 15 years, is guilty of a Class A misdemeanor if the actor has not attained the age of 19 years when the violation occurs. This section does not apply if the actor is the child's spouse.

SECTION 10. **Initial applicability.**

(1) The treatment of sections 301.45 (1m) (a) (intro.), 1., 1g., 1m. (intro.), 2., 2m., and 3. and (e) (intro.) and 940.225 (3) of the statutes first applies to motions filed on the effective date of this subsection.