



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2011 Assembly Bill 209

Senate Amendment 1

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Assembly Bill 209

2011 Assembly Bill 209 eliminates court discretion in applying mandatory minimum sentences to offenders convicted of certain child sex crimes.

Under *current* law, a mandatory minimum sentence of at least five years confinement applies to offenders convicted of sexual exploitation of a child, s. 948.05, Stats., or use of a computer to facilitate a child sex crime, s. 948.075, Stats., and a mandatory minimum sentence of at least three years confinement applies to offenders convicted of possession of child pornography, s. 948.12, Stats. A court may, however, impose probation or a sentence that is less than the mandatory minimum if the court finds that the best interests of the community will be served and the public will not be harmed and if the court places its reasons on the record.

Assembly Bill 209 eliminates general court discretion to impose probation or a sentence less than the mandatory minimum for the above crimes. The bill, however, allows a court to exercise this discretion if the offender is no more than two years older than the victim. Specifically, the bill provides that the court may impose a sentence of probation or a sentence that is less than the mandatory minimum if: (a) the person is convicted of sexual exploitation of a child, s. 948.05, Stats., and is no more than 24 months older than the child; or (b) the person is convicted of possession of child pornography, s. 948.12, Stats., and is no more than 24 months older than the child.

Senate Amendment 1

Senate Amendment 1 authorizes a court to impose probation or a sentence less than the mandatory minimum if the offender is no more than **48** months older than the child.

Legislative History

Senate Amendment 1 was offered by Senator Erpenbach on March 1, 2012. The Senate Committee on Judiciary, Utilities, Commerce and Government Operations unanimously recommended adoption of the amendment on March 1, 2012. The committee then recommended passage of the bill, as amended, on a vote of Ayes, 5; Noes, 1.

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