

State of Misconsin 2005 - 2006 LEGISLATURE

LRB-3247/2 MGD:wlj:rs

2005 SENATE BILL 349

September 28, 2005 – Introduced by Senators Lazich, A. Lasee, Darling, Leibham and Brown, cosponsored by Representatives Gundrum, Gunderson, Gard, Petrowski, McCormick, Suder, Owens, Musser, Krawczyk, LeMahieu, Honadel, Hines, Wasserman and Kleefisch. Referred to Committee on Judiciary, Corrections and Privacy.

AN ACT to amend 948.095 (title); and to create 948.095 (3) of the statutes; relating to: sexual contact or sexual intercourse involving a 16- or 17-year-old and a person who works or interacts with him or her through the person's occupation or a volunteer position and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law contains two prohibitions relating to engaging in sexual activity with a 16- or 17-year-old. First, if a school or school board employee or any other person who provides services to a school or a school board has sexual contact or sexual intercourse with a 16- or 17-year-old who is enrolled in that school or school district, the person is guilty of a Class H felony and may be fined up to \$10,000 or sentenced to a term of imprisonment of up to six years (which, if the sentence is for more than one year, consists of a term of confinement followed by a term of extended supervision) or both. Second, any person who has sexual intercourse with a 16- or 17-year-old is guilty of a Class A misdemeanor and may be fined up to \$10,000 or sentenced to a term of imprisonment of up to nine months or both.

This bill prohibits a person who engages in an occupation or participates in a volunteer position that requires him or her to work or interact directly with children (other than through a school) from having sexual contact or sexual intercourse with a 16- or 17-year-old with whom the person works or interacts through that occupation or volunteer position.

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

SENATE BILL 349

report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 948.095 (title) of the statutes is amended to read: $\mathbf{2}$ 948.095 (title) Sexual assault of a student child by a school 3 instructional staff person or a person who works or volunteers with children. 4 5 **SECTION 2.** 948.095 (3) of the statutes is created to read: 6 948.095 (3) (a) A person who engages in an occupation or participates in a 7 volunteer position that requires him or her to work or interact directly with children 8 may not have sexual contact or sexual intercourse with a child who has attained the age of 16 years, who is not the person's spouse, and with whom the person works or 9 10 interacts through that occupation or volunteer position. 11 (b) Whoever violates par. (a) is guilty of a Class H felony. 12(c) Paragraph (a) does not apply to an offense to which sub. (2) applies. 13Evidence that a person engages in an occupation or participates in a (d) 14 volunteer position relating to any of the following is prima facie evidence that the 15occupation or position requires him or her to work or interact directly with children: 16teaching children, child care, youth counseling, youth organization, coaching children, parks or playground recreation, or school bus driving. 1718 (END)