



2003 ASSEMBLY BILL 863

February 19, 2004 - Introduced by Representatives SHILLING, HUEBSCH, VRUWINK, AINSWORTH, MOLEPSKE, HINES, MUSSER, GRONEMUS, PETTIS, McCORMICK, TAYLOR, KRAWCZYK, BIES, BERCEAU, SERATTI, LOEFFELHOLZ, PETROWSKI, STONE, VAN ROY, OLSEN and GUNDERSON, cosponsored by Senators M. MEYER, PANZER, LASSA, ROESSLER, KEDZIE and KANAVAS. Referred to Committee on Children and Families.

1 **AN ACT** *to amend* 940.225 (4) (intro.); and *to create* 940.225 (2) (j) and 940.225
2 (2) (k) of the statutes; **relating to:** sexual abuse of children placed in substitute
3 care and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits having sexual contact or sexual intercourse with a child who is under the age of 16. A person who violates that prohibition is guilty of a Class C felony, which is punishable by a fine of not more than \$100,000 or a term of imprisonment of up to 40 years or both. Current law separately prohibits having sexual contact or sexual intercourse with a child who is under the age of 13. A person who violates that prohibition is guilty of a Class B felony, which is punishable by a term of imprisonment of up to 60 years. Current law contains other prohibitions relating to having sexual contact or sexual intercourse with a child that apply only to certain persons. First, current law prohibits incest (which covers a person marrying or having sexual contact or sexual intercourse with a child who is more closely related to the person than a second cousin) and makes it a Class C felony. Second, a school staff member may not have sexual contact or sexual intercourse with a 16-year-old or 17-year-old student who is enrolled in the school district in which the staff member works. A violation of that prohibition is a Class H felony, which is punishable by a fine of not more than \$10,000 or a term of imprisonment of up to six years or both.

Current law also prohibits an employee of an adult family home, a community-based residential facility, an inpatient health care facility, or a state

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treatment facility, or an employee of or a volunteer at a jail or a juvenile or adult correctional or detention facility, from having sexual contact or sexual intercourse with a child or an adult who is a patient, resident, or inmate at that facility. A person who violates that prohibition is guilty of a Class C felony.

This bill prohibits a person from having sexual contact or sexual intercourse with a child for whom the person is a foster parent or treatment foster parent. It also prohibits a person from having sexual contact or sexual intercourse with a child who is placed at a shelter, a group home, or a residential care center for children and youth if the person works or volunteers at that facility or is directly or indirectly responsible for managing it. A person who violates one of these prohibitions is guilty of a Class C felony.

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 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.** 940.225 (2) (j) of the statutes is created to read:

2 940.225 (2) (j) Has sexual contact or sexual intercourse with an individual who
3 is under the age of 18 and for whom the actor is a foster parent or treatment foster
4 parent.

5 **SECTION 2.** 940.225 (2) (k) of the statutes is created to read:

6 940.225 (2) (k) Has sexual contact or sexual intercourse with a person who is
7 under the age of 18 and who is placed in any of the following facilities if the actor
8 works or volunteers at the facility or is directly or indirectly responsible for
9 managing it:

- 10 1. A shelter care facility licensed under s. 48.66 (1) (a).
- 11 2. A group home licensed under s. 48.625 or 48.66 (1).
- 12 3. A facility described in s. 940.295 (2) (m).

