



2007 ASSEMBLY BILL 544

October 16, 2007 - Introduced by Representatives JESKEWITZ, KESSLER, ALBERS, BERCEAU, BIES, BLACK, GUNDERSON, HINTZ, KERKMAN, KESTELL, KLEEFISCH, MOLEPSKE, MUSSER, NELSON, A. OTT, OWENS, PETROWSKI, POCAN, SCHNEIDER, SEIDEL, SHERIDAN, SINICKI, SOLETSKI, TAUCHEN, TOWNSEND, TURNER, VAN ROY, VOS, A. WILLIAMS, M. WILLIAMS, WOOD and ZEPNICK, cosponsored by Senators COGGS, GROTHMAN, DARLING, S. FITZGERALD, HARSDDORF, KAPANKE, LASSA, LAZICH, LEHMAN, MILLER, OLSEN, RISSER, ROBSON, ROESSLER and SCHULTZ. Referred to Committee on Criminal Justice.

1 **AN ACT** *to renumber* 179.72; *to renumber and amend* 48.355 (2d) (a) 2., 48.415
2 (9m) (b) 2. and 48.685 (1) (c); *to amend* 48.371 (3) (d), 48.417 (1) (d), 50.065 (1)
3 (e) 2., 51.20 (13) (ct) 2m., 301.048 (2) (bm) 1. a., 301.45 (1d) (b), 302.045 (2) (c),
4 302.05 (3) (a) 1., 440.982 (2), 901.04 (3) (c), 938.34 (15m) (bm), 939.615 (1) (b)
5 1., 939.62 (2m) (a) 1m. a., 939.632 (1) (e) 1., 946.82 (4), 948.13 (1) (a), 949.03 (1)
6 (b), 969.08 (10) (b), 970.03 (4) (a), 971.17 (1m) (b) 2m., 971.31 (11), 972.11 (2) (b)
7 (intro.), 973.01 (3g), 973.01 (3m), 973.0135 (1) (b) 2., 973.017 (6) (b), 973.048
8 (2m), 973.176 (3) and 973.20 (4m); and *to create* 16.964 (1) (gm), 48.355 (2d)
9 (a) 2. b., 48.685 (1) (c) 3., 178.27 (3), 178.45 (1m), 179.72 (2), 179.86 (3), 180.1420
10 (6), 180.1530 (1) (g), 181.1420 (7), 181.1530 (1) (g), 250.04 (14), 343.12 (7) (c)
11 11m., 343.12 (7) (c) 15m., 939.46 (1m), 939.74 (2) (d), 940.302, 948.051 and

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1 973.20 (4o) of the statutes; **relating to:** human trafficking and providing a
2 penalty.

Analysis by the Legislative Reference Bureau

Under this bill human trafficking and trafficking of a child are specific offenses. For the human trafficking offense, "trafficking" is defined as recruiting, enticing, harboring, transporting, providing, or obtaining an individual without the consent of the individual. Trafficking, or knowingly benefiting from trafficking, is a felony if an individual is trafficked for labor, services, or a commercial sex act and done by specified actions, including harming any individual, removing any identification document of any individual, extortion, and debt bondage. A person who is convicted is subject to a fine of up to \$100,000, imprisonment for up to 25 years, or both.

For the offense of trafficking of a child, any person who knowingly recruits, entices, provides, obtains, or harbors a child for commercial sex acts or sexually explicit performance, or who knowingly benefits from such activity, is guilty of a felony. A person who is convicted is subject to a fine of up to \$100,000, imprisonment for up to 40 years, or both.

If a business entity violates either offense created in this bill (trafficking offense), the attorney general or district attorney may request that a court order the dissolution of the entity or the revocation of the entity's authorization to conduct business in this state.

This bill also provides an affirmative defense for any offense committed by the victim of the trafficking offense as a direct result of the trafficking offense, permits a court to order as restitution in a trafficking offense case the costs of necessary transportation, housing, and childcare, the gross income gained due to the victim's services or the value of the services, whichever is greater, and relocation expenses if the district attorney determines that relocation is necessary for the victim's personal safety. Subject to the availability of funds, the Department of Health and Family Services may provide emergency services or assistance to victims of trafficking offenses.

The bill requires the Office of Justice Assistance in the Department of Administration to collect data relating to the number and nature of violations of the trafficking offenses.

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:

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1 **SECTION 1.** 16.964 (1) (gm) of the statutes is created to read:

2 16.964 (1) (gm) Collect data relating to the number and nature of violations of
3 ss. 940.302 (2) and 948.051 and publish statistics relating to the violations. The data
4 shall include all of the following:

5 1. Numbers of investigations, arrests, prosecutions, and convictions of persons.

6 2. Demographics of victims, including nationality, age, method of recruitment,
7 and country, state, or city of origin.

8 **SECTION 2.** 48.355 (2d) (a) 2. of the statutes is renumbered 48.355 (2d) (a) 2.
9 (intro.) and amended to read:

10 48.355 (2d) (a) 2. (intro.) "Sexual abuse" means ~~a~~ any of the following:

11 a. A violation of s. 940.225, 944.30, 948.02, 948.025, 948.05, 948.051, 948.055,
12 948.06, 948.085, 948.09 or 948.10 or a

13 c. A violation of the law of any other state or federal law if that violation would
14 be a violation of s. 940.225, 944.30, 948.02, 948.025, 948.05, 948.055, 948.06,
15 948.085, 948.09 or 948.10 listed under subd. 2. a. or b. if committed in this state.

16 **SECTION 3.** 48.355 (2d) (a) 2. b. of the statutes is created to read:

17 48.355 (2d) (a) 2. b. A violation of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies.

18 **SECTION 4.** 48.371 (3) (d) of the statutes is amended to read:

19 48.371 (3) (d) Any involvement of the child, whether as victim or perpetrator,
20 in sexual intercourse or sexual contact in violation of s. 940.225, 948.02, 948.025, or
21 948.085, prostitution in violation of s. 944.30, trafficking in violation of s. 940.302 (2)
22 if s. 940.302 (2) (a). 1. b. applies, sexual exploitation of a child in violation of s. 948.05,
23 trafficking of a child in violation of s. 948.051, or causing a child to view or listen to
24 sexual activity in violation of s. 948.055, if the information is necessary for the care

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1 of the child or for the protection of any person living in the foster home, treatment
2 foster home, group home, or residential care center for children and youth.

3 **SECTION 5.** 48.415 (9m) (b) 2. of the statutes is renumbered 48.415 (9m) (b) 2.
4 a. and amended to read:

5 48.415 **(9m)** (b) 2. a. The commission of a violation of s. 940.19 (3), 1999 stats.,
6 a violation of s. 940.19 (2), (4) or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025,
7 948.03 (2) (a) or (3) (a), 948.05, 948.051, 948.06 or 948.08, or a violation of s. 940.302
8 (2) if s. 940.302 (2) (a) 1. b. applies.

9 b. A violation of the law of any other state or federal law, if that violation would
10 be a violation of s. 940.19 (2), (4) or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025,
11 948.03 (2) (a) or (3) (a), 948.05, 948.06 or 948.08 listed under subd. 2. a. if committed
12 in this state.

13 **SECTION 6.** 48.417 (1) (d) of the statutes is amended to read:

14 48.417 **(1)** (d) A court of competent jurisdiction has found that the parent has
15 committed a violation of s. 940.19 (3), 1999 stats., a violation of s. 940.19 (2), (4), or
16 (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (3) (a), 948.051, or
17 948.085, a violation of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies, or a violation
18 of the law of any other state or federal law, if that violation would be a violation of
19 s. 940.19 (2), (4), or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or
20 (3) (a), or 948.085 listed under this paragraph if committed in this state, and that the
21 violation resulted in great bodily harm, as defined in s. 939.22 (14), or in substantial
22 bodily harm, as defined in s. 939.22 (38), to the child or another child of the parent.
23 If the circumstances specified in this paragraph apply, the petition shall be filed or
24 joined in within 60 days after the date on which the court assigned to exercise
25 jurisdiction under this chapter determines, based on a finding that a circumstance

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1 specified in this paragraph applies, that reasonable efforts to make it possible for the
2 child to return safely to his or her home are not required.

3 **SECTION 7.** 48.685 (1) (c) of the statutes is renumbered 48.685 (1) (c) (intro.) and
4 amended to read:

5 48.685 (1) (c) (intro.) “Serious crime” means ~~a~~ any of the following:

6 1. A violation of s. 940.19 (3), 1999 stats., ~~a~~

7 2. A violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19 (2), (4), (5) or
8 (6), 940.22 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2), 940.29, 940.295, 948.02 (1)
9 or (2), 948.025, 948.03 (2), 948.05, 948.051, 948.055, 948.06, 948.07, 948.08, 948.085,
10 948.11 (2) (a) or (am), 948.12, 948.13, 948.21 (1), 948.30, or 948.53 ~~or a~~.

11 4. A violation of the law of any other state or United States jurisdiction that
12 would be a violation of ~~s. 940.19 (3), 1999 stats., or a violation of s. 940.01, 940.02,~~
13 ~~940.03, 940.05, 940.12, 940.19 (2), (4), (5) or (6), 940.22 (2) or (3), 940.225 (1), (2) or~~
14 ~~(3), 940.285 (2), 940.29, 940.295, 948.02 (1) or (2), 948.025, 948.03 (2), 948.05,~~
15 ~~948.055, 948.06, 948.07, 948.08, 948.085, 948.11 (2) (a) or (am), 948.12, 948.13,~~
16 ~~948.21 (1), 948.30, or 948.53~~ listed in subd. 1., 2., or 3. if committed in this state.

17 **SECTION 8.** 48.685 (1) (c) 3. of the statutes is created to read:

18 48.685 (1) (c) 3. A violation of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies.

19 **SECTION 9.** 50.065 (1) (e) 2. of the statutes is amended to read:

20 50.065 (1) (e) 2. For the purposes of an entity that serves persons under the age
21 of 18, “serious crime” includes a violation of s. 948.02 (2), 948.03 (2) (b) or (c), 948.05,
22 948.051, 948.055, 948.06, 948.07, 948.08, 948.085, 948.11 (2) (a) or (am), 948.12,
23 948.13, 948.21 (1), 948.30, or 948.53 or a violation of the law of any other state or
24 United States jurisdiction that would be a violation of s. 948.02 (2), 948.03 (2) (b) or

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1 (c), 948.05, 948.051, 948.055, 948.06, 948.07, 948.08, 948.085, 948.11 (2) (a) or (am),
2 948.12, 948.13, 948.21 (1), 948.30, or 948.53 if committed in this state.

3 **SECTION 10.** 51.20 (13) (ct) 2m. of the statutes is amended to read:

4 51.20 (13) (ct) 2m. If the subject individual is before the court on a petition filed
5 under a court order under s. 938.30 (5) (c) 1. and is found to have committed a
6 violation, or to have solicited, conspired, or attempted to commit a violation, of s.
7 940.22 (2), 940.225 (1), (2), or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.051,
8 948.055, 948.06, 948.07, 948.075, 948.08, 948.085, 948.095, 948.11 (2) (a) or (am),
9 948.12, 948.13, or 948.30, of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies, or of s.
10 940.30 or 940.31 if the victim was a minor and the subject individual was not the
11 victim's parent, the court shall require the individual to comply with the reporting
12 requirements under s. 301.45 unless the court determines, after a hearing on a
13 motion made by the individual, that the individual is not required to comply under
14 s. 301.45 (1m).

15 **SECTION 11.** 178.27 (3) of the statutes is created to read:

16 178.27 (3) Upon application by a district attorney or the attorney general, the
17 court shall decree a dissolution if the partnership has violated s. 940.302 (2) or
18 948.051 (2).

19 **SECTION 12.** 178.45 (1m) of the statutes is created to read:

20 178.45 (1m) Upon application by a district attorney or the attorney general,
21 a court shall revoke a foreign registered limited liability partnership's certificate of
22 authority if the foreign registered limited liability partnership has violated s.
23 940.302 (2) or 948.051 (2).

24 **SECTION 13.** 179.72 of the statutes is renumbered 179.72 (1).

25 **SECTION 14.** 179.72 (2) of the statutes is created to read:

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1 179.72 (2) On application by a district attorney or the attorney general, the
2 circuit court shall order dissolution of a limited partnership, if the limited
3 partnership has violated s. 940.302 (2) or 948.051 (2).

4 **SECTION 15.** 179.86 (3) of the statutes is created to read:

5 179.86 (3) Upon application by a district attorney or the attorney general, a
6 court shall cancel the registration of a foreign limited partnership if the foreign
7 limited partnership has violated s. 940.302 (2) or 948.051 (2).

8 **SECTION 16.** 180.1420 (6) of the statutes is created to read:

9 180.1420 (6) The corporation violates s. 940.302 (2) or 948.051 (2).

10 **SECTION 17.** 180.1530 (1) (g) of the statutes is created to read:

11 180.1530 (1) (g) The foreign corporation violates s. 940.302 (2) or 948.051 (2).

12 **SECTION 18.** 181.1420 (7) of the statutes is created to read:

13 181.1420 (7) HUMAN TRAFFICKING. The corporation violates s. 940.302 (2) or
14 948.051 (2).

15 **SECTION 19.** 181.1530 (1) (g) of the statutes is created to read:

16 181.1530 (1) (g) The foreign corporation violates s. 940.302 (2) or 948.051 (2).

17 **SECTION 20.** 250.04 (14) of the statutes is created to read:

18 250.04 (14) (a) Subject to the availability of funds and to par. (b), the
19 department may provide or fund emergency services or assistance to victims of s.
20 940.302 (2) or 948.051.

21 (b) The department may provide or fund emergency services or assistance to
22 a victim only for the following time periods:

23 1. If the victim is cooperating with the appropriate law enforcement agencies,
24 from the time the victim is identified until 60 days after the disposition of the trial.

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1 2. If the victim is not cooperating with the appropriate law enforcement
2 agencies, a total of 60 days.

3 **SECTION 21.** 301.048 (2) (bm) 1. a. of the statutes is amended to read:

4 301.048 (2) (bm) 1. a. A crime specified in s. 940.19 (3), 1999 stats., s. 940.195
5 (3), 1999 stats., s. 943.23 (1m), 1999 stats., or s. 943.23 (1r), 1999 stats., or s. 940.01,
6 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (4) or (5), 940.195 (4)
7 or (5), 940.20, 940.201, 940.203, 940.21, 940.225 (1) to (3), 940.23, 940.285 (2) (a) 1.
8 or 2., 940.29, 940.295 (3) (b) 1g., 1m., 1r., 2., or 3., 940.31, 940.43 (1) to (3), 940.45 (1)
9 to (3), 941.20 (2) or (3), 941.26, 941.30, 941.327, 943.01 (2) (c), 943.011, 943.013,
10 943.02, 943.04, 943.06, 943.10 (2), 943.23 (1g), 943.30, 943.32, 946.43, 947.015,
11 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.051, 948.06, 948.07, 948.08,
12 948.085, or 948.30.

13 **SECTION 22.** 301.45 (1d) (b) of the statutes is amended to read:

14 301.45 (1d) (b) “Sex offense” means a violation, or the solicitation, conspiracy,
15 or attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02
16 (1) or (2), 948.025, 948.05, 948.051, 948.055, 948.06, 948.07, 948.075, 948.08,
17 948.085, 948.095, 948.11 (2) (a) or (am), 948.12, 948.13, or 948.30, of s. 940.302 (2)
18 if s. 940.302 (2) (a) 1. b. applies, or of s. 940.30 or 940.31 if the victim was a minor and
19 the person who committed the violation was not the victim’s parent.

20 **SECTION 23.** 302.045 (2) (c) of the statutes is amended to read:

21 302.045 (2) (c) The inmate is incarcerated regarding a violation other than a
22 crime specified in ch. 940 or s. 948.02, 948.025, 948.03, 948.05, 948.051, 948.055,
23 948.06, 948.07, 948.075, 948.08, 948.085, or 948.095.

24 **SECTION 24.** 302.05 (3) (a) 1. of the statutes is amended to read:

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1 302.05 (3) (a) 1. The inmate is incarcerated regarding a violation other than
2 a crime specified in ch. 940 or s. 948.02, 948.025, 948.03, 948.05, 948.051, 948.055,
3 948.06, 948.07, 948.075, 948.08, 948.085, or 948.095.

4 **SECTION 25.** 343.12 (7) (c) 11m. of the statutes is created to read:

5 343.12 (7) (c) 11m. Trafficking under s. 940.302 (2) if s. 940.302 (2) (a) 1. b.
6 applies.

7 **SECTION 26.** 343.12 (7) (c) 15m. of the statutes is created to read:

8 343.12 (7) (c) 15m. Trafficking a minor under s. 948.051.

9 **SECTION 27.** 440.982 (2) of the statutes is amended to read:

10 440.982 (2) The department may not grant a license under this subchapter to
11 any person who has been convicted of an offense under s. 940.22, 940.225, 944.06,
12 944.15, 944.17, 944.30, 944.31, 944.32, 944.33, 944.34, 948.02, 948.025, 948.051,
13 948.06, 948.07, 948.075, 948.08, 948.09, 948.095, 948.10, 948.11, or 948.12 or under
14 s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies.

15 **SECTION 28.** 901.04 (3) (c) of the statutes is amended to read:

16 901.04 (3) (c) In actions under s. 940.225, 948.02, 948.025, 948.051, 948.085,
17 or 948.095, or under s. 940.302 (2), if the court determines that the offense was
18 sexually motivated, as defined in s. 980.01 (5), admissibility of the prior sexual
19 conduct or reputation of a complaining witness.

20 **SECTION 29.** 938.34 (15m) (bm) of the statutes is amended to read:

21 938.34 (15m) (bm) If the juvenile is adjudicated delinquent on the basis of a
22 violation, or the solicitation, conspiracy, or attempt to commit a violation, of s. 940.22
23 (2), 940.225 (1), (2), or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.051, 948.055,
24 948.06, 948.07, 948.075, 948.08, or 948.085 (2), 948.095, 948.11 (2) (a) or (am),
25 948.12, 948.13, or 948.30, of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies, or of s.

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1 940.30 or 940.31 if the victim was a minor and the juvenile was not the victim's
2 parent, the court shall require the juvenile to comply with the reporting
3 requirements under s. 301.45 unless the court determines, after a hearing on a
4 motion made by the juvenile, that the juvenile is not required to comply under s.
5 301.45 (1m).

6 **SECTION 30.** 939.46 (1m) of the statutes is created to read:

7 939.46 (1m) A victim of a violation of s. 940.302 (2) or 948.051 has an
8 affirmative defense for any offense committed as a direct result of the violation of s.
9 940.302 (2) or 948.051 without regard to whether anyone was prosecuted or convicted
10 for the violation of s. 940.302 (2) or 948.051.

11 **SECTION 31.** 939.615 (1) (b) 1. of the statutes is amended to read:

12 939.615 (1) (b) 1. A violation, or the solicitation, conspiracy, or attempt to
13 commit a violation, of s. 940.22 (2), 940.225 (1), (2), or (3), 948.02 (1) or (2), 948.025
14 (1), 948.05 (1) or (1m), 948.051, 948.055 (1), 948.06, 948.07, 948.075, 948.08, 948.085,
15 948.11 (2) (a), 948.12, or 948.13 or of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies.

16 **SECTION 32.** 939.62 (2m) (a) 1m. a. of the statutes is amended to read:

17 939.62 (2m) (a) 1m. a. A violation of s. 948.02, 948.025, 948.05, 948.051,
18 948.055, 948.06, 948.07, 948.08, 948.085, or 948.095 or 948.30 or, if the victim was
19 a minor and the convicted person was not the victim's parent, a violation of s. 940.31.

20 **SECTION 33.** 939.632 (1) (e) 1. of the statutes is amended to read:

21 939.632 (1) (e) 1. Any felony under s. 940.01, 940.02, 940.03, 940.05, 940.09
22 (1c), 940.19 (2), (4) or (5), 940.21, 940.225 (1), (2) or (3), 940.305, 940.31, 941.20,
23 941.21, 943.02, 943.06, 943.10 (2), 943.23 (1g), 943.32 (2), 948.02 (1) or (2), 948.025,
24 948.03 (2) (a) or (c), 948.05, 948.051, 948.055, 948.07, 948.08, 948.085, or 948.30 (2)
25 or under s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies.

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1 **SECTION 34.** 939.74 (2) (d) of the statutes is created to read:

2 939.74 (2) (d) A prosecution for a violation of s. 948.051 shall be commenced
3 before the victim reaches the age of 24 or be barred.

4 **SECTION 35.** 940.302 of the statutes is created to read:

5 **940.302 Human trafficking. (1)** In this section:

6 (a) “Commercial sex act” means sexual contact for which anything of value is
7 given to, promised, or received, directly or indirectly, by any person.

8 (b) “Debt bondage” means the condition of a debtor arising from the debtor’s
9 pledge of services as a security for debt if the reasonable value of those services is not
10 applied toward repaying the debt or if the length and nature of the services are not
11 defined.

12 (c) “Services” means activities performed by one individual at the request,
13 under the supervision, or for the benefit of another person.

14 (d) “Trafficking” means recruiting, enticing, harboring, transporting,
15 providing, or obtaining, or attempting to recruit, entice, harbor, transport, provide,
16 or obtain, an individual without consent of the individual.

17 **(2)** (a) Except as provided in s. 948.051, whoever knowingly engages in
18 trafficking is guilty of a Class D felony if all of the following apply:

19 1. One of the following applies:

20 a. The trafficking is for the purposes of labor or services.

21 b. The trafficking is for the purposes of a commercial sex act.

22 2. The trafficking is done by any of the following:

23 a. Causing or threatening to cause bodily harm to any individual.

24 b. Causing or threatening to cause financial harm to any individual.

25 c. Restraining or threatening to restrain any individual.

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1 d. Violating or threatening to violate a law.

2 e. Destroying, concealing, removing, confiscating, or possessing, or threatening
3 to destroy, conceal, remove, confiscate, or possess, any actual or purported passport
4 or any other actual or purported official identification document of any individual.

5 f. Extortion.

6 g. Fraud or deception.

7 h. Debt bondage.

8 i. Controlling any individual's access to an addictive controlled substance.

9 j. Using any scheme or pattern to cause an individual to believe that any
10 individual would suffer bodily harm, financial harm, restraint, or other harm.

11 (b) Whoever benefits in any manner from a violation of par. (a) is guilty of a
12 Class D felony if the person knows that the benefits come from an act described in
13 par. (a).

14 (3) Any person who incurs an injury or death as a result of a violation of sub.
15 (2) may bring a civil action against the person who committed the violation. In
16 addition to actual damages, the court may award punitive damages to the injured
17 party, not to exceed treble the amount of actual damages incurred, and reasonable
18 attorney fees.

19 **SECTION 36.** 946.82 (4) of the statutes is amended to read:

20 946.82 (4) "Racketeering activity" means any activity specified in 18 USC 1961
21 (1) in effect as of April 27, 1982, or the attempt, conspiracy to commit, or commission
22 of any of the felonies specified in: chs. 945 and 961 and ss. 49.49, 134.05, 139.44 (1),
23 180.0129, 181.0129, 185.825, 201.09 (2), 215.12, 221.0625, 221.0636, 221.0637,
24 221.1004, 551.41, 551.42, 551.43, 551.44, 553.41 (3) and (4), 553.52 (2), 940.01,
25 940.19 (4) to (6), 940.20, 940.201, 940.203, 940.21, 940.30, 940.302 (2), 940.305,

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1 940.31, 941.20 (2) and (3), 941.26, 941.28, 941.298, 941.31, 941.32, 942.09, 943.01 (2),
2 (2d), or (2g), 943.011, 943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06,
3 943.10, 943.20 (3) (bf) to (e), 943.201, 943.203, 943.23 (1g), (2) and (3), 943.24 (2),
4 943.27, 943.28, 943.30, 943.32, 943.34 (1) (bf), (bm), and (c), 943.38, 943.39, 943.40,
5 943.41 (8) (b) and (c), 943.50 (4) (bf), (bm), and (c), 943.60, 943.70, 943.76, 943.81,
6 943.82, 943.83, 943.84, 943.85, 943.86, 943.87, 943.88, 943.89, 943.90, 944.21 (5) (c)
7 and (e), 944.32, 944.33 (2), 944.34, 945.03 (1m), 945.04 (1m), 945.05 (1), 945.08,
8 946.10, 946.11, 946.12, 946.13, 946.31, 946.32 (1), 946.48, 946.49, 946.61, 946.64,
9 946.65, 946.72, 946.76, 946.79, 947.015, 948.05, 948.051, 948.08, 948.12, and 948.30.

10 **SECTION 37.** 948.051 of the statutes is created to read:

11 **948.051 Trafficking of a child. (1)** Whoever knowingly recruits, entices,
12 provides, obtains, or harbors, or knowingly attempts to recruit, entice, provide,
13 obtain, or harbor, any child for the purpose of commercial sex acts, as defined in s.
14 940.302 (1) (a), or sexually explicit performance is guilty of a Class C felony.

15 **(2)** Whoever benefits in any manner from a violation of sub. (1) is guilty of a
16 Class C felony if the person knows that the benefits come from an act described in
17 sub. (1).

18 **(3)** Any person who incurs an injury or death as a result of a violation of sub.
19 (1) or (2) may bring a civil action against the person who committed the violation.
20 In addition to actual damages, the court may award punitive damages to the injured
21 party, not to exceed treble the amount of actual damages incurred, and reasonable
22 attorney fees.

23 **SECTION 38.** 948.13 (1) (a) of the statutes is amended to read:

24 948.13 **(1)** (a) A crime under s. 940.22 (2) or 940.225 (2) (c) or (cm), if the victim
25 is under 18 years of age at the time of the offense, a crime under s. 940.302 (2) if s.

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1 940.302 (2) (a) 1. b. applies, or a crime under s. 948.02 (1) or (2), 948.025 (1), 948.05
2 (1) or (1m), 948.051, 948.06, 948.07 (1), (2), (3), or (4), 948.075, or 948.085.

3 **SECTION 39.** 949.03 (1) (b) of the statutes is amended to read:

4 949.03 (1) (b) The commission or the attempt to commit any crime specified in
5 s. 346.62 (4), 346.63 (2) or (6), 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08,
6 940.09, 940.10, 940.19, 940.20, 940.201, 940.21, 940.22 (2), 940.225, 940.23, 940.24,
7 940.25, 940.285, 940.29, 940.30, 940.302 (2), 940.305, 940.31, 940.32, 941.327,
8 943.02, 943.03, 943.04, 943.10, 943.20, 943.23 (1g), 943.32, 943.81, 943.86, 943.87,
9 948.02, 948.025, 948.03, 948.04, 948.051, 948.07, 948.085, 948.095, 948.20, 948.30
10 or 948.51.

11 **SECTION 40.** 969.08 (10) (b) of the statutes is amended to read:

12 969.08 (10) (b) “Serious crime” means any crime specified in s. 943.23 (1m),
13 1999 stats., or s. 943.23 (1r), 1999 stats., or s. 346.62 (4), 940.01, 940.02, 940.03,
14 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (5), 940.195 (5), 940.20, 940.201,
15 940.203, 940.21, 940.225 (1) to (3), 940.23, 940.24, 940.25, 940.29, 940.295 (3) (b) 1g.,
16 1m., 1r., 2. or 3., 940.302 (2), 940.31, 941.20 (2) or (3), 941.26, 941.30, 941.327, 943.01
17 (2) (c), 943.011, 943.013, 943.02, 943.03, 943.04, 943.06, 943.10, 943.23 (1g), 943.30,
18 943.32, 943.81, 943.82, 943.83, 943.85, 943.86, 943.87, 943.88, 943.89, 943.90,
19 946.01, 946.02, 946.43, 947.015, 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05,
20 948.051, 948.06, 948.07, 948.085, or 948.30 or, if the victim is a financial institution,
21 as defined in s. 943.80 (2), a crime under s. 943.84 (1) or (2).

22 **SECTION 41.** 970.03 (4) (a) of the statutes is amended to read:

23 970.03 (4) (a) If the defendant is accused of a crime under s. 940.225, 948.02,
24 948.025, 948.05, 948.051, 948.06, 948.085, or 948.095, or under s. 940.302 (2), if the
25 court finds that the crime was sexually motivated, as defined in s. 980.01 (5), the

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1 court may exclude from the hearing all persons who are not officers of the court,
2 members of the complainant's or defendant's families or others considered by the
3 court to be supportive of the complainant or defendant, the service representative,
4 as defined in s. 895.45 (1) (c), or other persons required to attend, if the court finds
5 that the state or the defendant has established a compelling interest that would
6 likely be prejudiced if the persons were not excluded. The court may consider as a
7 compelling interest, among others, the need to protect a complainant from undue
8 embarrassment and emotional trauma.

9 **SECTION 42.** 971.17 (1m) (b) 2m. of the statutes is amended to read:

10 971.17 **(1m)** (b) 2m. If the defendant under sub. (1) is found not guilty by reason
11 of mental disease or defect for a violation, or for the solicitation, conspiracy, or
12 attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2), or (3), 944.06, 948.02
13 (1) or (2), 948.025, 948.05, 948.051, 948.055, 948.06, 948.07, 948.075, 948.08,
14 948.085, 948.095, 948.11 (2) (a) or (am), 948.12, 948.13, or 948.30, of s. 940.302 (2)
15 if s. 940.302 (2) (a) 1. b. applies, or of s. 940.30 or 940.31 if the victim was a minor and
16 the defendant was not the victim's parent, the court shall require the defendant to
17 comply with the reporting requirements under s. 301.45 unless the court determines,
18 after a hearing on a motion made by the defendant, that the defendant is not required
19 to comply under s. 301.45 (1m).

20 **SECTION 43.** 971.31 (11) of the statutes is amended to read:

21 971.31 **(11)** In actions under s. 940.225, 948.02, 948.025, 948.051, 948.085, or
22 948.095, or under s. 940.302 (2), if the court finds that the crime was sexually
23 motivated, as defined in s. 980.01 (5), evidence which is admissible under s. 972.11
24 (2) must be determined by the court upon pretrial motion to be material to a fact at

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1 issue in the case and of sufficient probative value to outweigh its inflammatory and
2 prejudicial nature before it may be introduced at trial.

3 **SECTION 44.** 972.11 (2) (b) (intro.) of the statutes is amended to read:

4 972.11 (2) (b) (intro.) If the defendant is accused of a crime under s. 940.225,
5 948.02, 948.025, 948.05, 948.051, 948.06, 948.085, or 948.095, or under s. 940.302 (2),
6 if the court finds that the crime was sexually motivated, as defined in s. 980.01 (5),
7 any evidence concerning the complaining witness's prior sexual conduct or opinions
8 of the witness's prior sexual conduct and reputation as to prior sexual conduct shall
9 not be admitted into evidence during the course of the hearing or trial, nor shall any
10 reference to such conduct be made in the presence of the jury, except the following,
11 subject to s. 971.31 (11):

12 **SECTION 45.** 973.01 (3g) of the statutes is amended to read:

13 973.01 (3g) EARNED RELEASE PROGRAM ELIGIBILITY. When imposing a bifurcated
14 sentence under this section on a person convicted of a crime other than a crime
15 specified in ch. 940 or s. 948.02, 948.025, 948.03, 948.05, 948.051, 948.055, 948.06,
16 948.07, 948.075, 948.08, 948.085, or 948.095, the court shall, as part of the exercise
17 of its sentencing discretion, decide whether the person being sentenced is eligible or
18 ineligible to participate in the earned release program under s. 302.05 (3) during the
19 term of confinement in prison portion of the bifurcated sentence.

20 **SECTION 46.** 973.01 (3m) of the statutes is amended to read:

21 973.01 (3m) CHALLENGE INCARCERATION PROGRAM ELIGIBILITY. When imposing
22 a bifurcated sentence under this section on a person convicted of a crime other than
23 a crime specified in ch. 940 or s. 948.02, 948.025, 948.03, 948.05, 948.051, 948.055,
24 948.06, 948.07, 948.075, 948.08, 948.085, or 948.095, the court shall, as part of the
25 exercise of its sentencing discretion, decide whether the person being sentenced is

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1 eligible or ineligible for the challenge incarceration program under s. 302.045 during
2 the term of confinement in prison portion of the bifurcated sentence.

3 **SECTION 47.** 973.0135 (1) (b) 2. of the statutes is amended to read:

4 973.0135 (1) (b) 2. Any felony under s. 940.09 (1), 1999 stats., s. 943.23 (1m)
5 or (1r), 1999 stats., s. 948.35 (1) (b) or (c), 1999 stats., or s. 948.36, 1999 stats., s.
6 940.01, 940.02, 940.03, 940.05, 940.09 (1c), 940.16, 940.19 (5), 940.195 (5), 940.21,
7 940.225 (1) or (2), 940.305, 940.31, 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (1g),
8 943.32 (2), 946.43 (1m), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c), 948.05,
9 948.051, 948.06, 948.07, 948.075, 948.08, or 948.30 (2).

10 **SECTION 48.** 973.017 (6) (b) of the statutes is amended to read:

11 973.017 (6) (b) When making a sentencing decision concerning a person
12 convicted of a violation of s. 948.02 (1) or (2), 948.025 (1), ~~or~~ 948.03 (2) or (3), or
13 948.051, the court shall consider as an aggravating factor the fact that the person
14 was a person responsible for the welfare of the child who was the victim of the
15 violation.

16 **SECTION 49.** 973.048 (2m) of the statutes is amended to read:

17 973.048 (2m) If a court imposes a sentence or places a person on probation for
18 a violation, or for the solicitation, conspiracy or attempt to commit a violation, of s.
19 940.22 (2), 940.225 (1), (2), or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.051,
20 948.055, 948.06, 948.07, 948.075, 948.08, 948.085, 948.095, 948.11 (2) (a) or (am),
21 948.12, 948.13, or 948.30, of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies, or of s.
22 940.30 or 940.31 if the victim was a minor and the person was not the victim's parent,
23 the court shall require the person to comply with the reporting requirements under
24 s. 301.45 unless the court determines, after a hearing on a motion made by the
25 person, that the person is not required to comply under s. 301.45 (1m).

ASSEMBLY BILL 544**SECTION 50**

1 **SECTION 50.** 973.176 (3) of the statutes is amended to read:

2 973.176 (3) CHILD SEX OFFENDER WORKING WITH CHILDREN. Whenever a court
3 imposes a sentence or places a defendant on probation regarding a conviction under
4 s. 940.22 (2) or 940.225 (2) (c) or (cm), if the victim is under 18 years of age at the time
5 of the offense, a conviction under s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies, or
6 a conviction under s. 948.02 (1) or (2), 948.025 (1), 948.05 (1) or (1m), 948.051, 948.06,
7 948.07 (1), (2), (3), or (4), 948.075, or 948.085, the court shall inform the defendant
8 of the requirements and penalties under s. 948.13.

9 **SECTION 51.** 973.20 (4m) of the statutes is amended to read:

10 973.20 (4m) If the defendant violated s. 940.225, 948.02, 948.025, 948.05,
11 948.051, 948.06, 948.07, 948.08, or 948.085, or s. 940.302 (2), if the court finds that
12 the crime was sexually motivated, as defined in s. 980.01 (5), and sub. (3) (a) does not
13 apply, the restitution order may require that the defendant pay an amount, not to
14 exceed \$10,000, equal to the cost of necessary professional services relating to
15 psychiatric and psychological care and treatment. The \$10,000 limit under this
16 subsection does not apply to the amount of any restitution ordered under sub. (3) or
17 (5) for the cost of necessary professional services relating to psychiatric and
18 psychological care and treatment.

19 **SECTION 52.** 973.20 (4o) of the statutes is created to read:

20 973.20 (4o) If the defendant violated s. 940.302 (2) or 948.051, and sub. (2) or
21 (3) does not apply, the restitution order may require that the defendant pay an
22 amount equal to any of the following:

23 (a) The costs of necessary transportation, housing, and child care for the victim.

24 (b) The greater of the following:

25 1. The gross income gained by the defendant due to the services of the victim.

