

State of Wisconsin



2007 Senate Bill 292

Date of enactment: **March 19, 2008**

Date of publication*: **April 2, 2008**

2007 WISCONSIN ACT 116

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

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

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

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

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

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

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

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

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

48.371 (3) (d) Any involvement of the child, whether as victim or perpetrator, in sexual intercourse or sexual contact in violation of s. 940.225, 948.02, 948.025, or 948.085, prostitution in violation of s. 944.30, trafficking in violation of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies, sexual exploitation of a child in violation of s. 948.05, trafficking of a child in violation of s. 948.051, or causing a child to view or listen to sexual activity in violation of s. 948.055, if the information is necessary for the care of the child or for the protection of any person living in the foster home, treatment foster home, group home, or residential care center for children and youth.

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

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

* Section 991.11, WISCONSIN STATUTES 2005-06 : 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 as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

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

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

48.417 (1) (d) A court of competent jurisdiction has found that the parent has committed a violation of s. 940.19 (3), 1999 stats., a violation of s. 940.19 (2), (4), or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (3) (a), 948.051, or 948.085, a violation of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies, or a violation of the law of any other state or federal law, if that violation would be a violation of s. 940.19 (2), (4), or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (3) (a), or 948.085 listed under this paragraph if committed in this state, and that the violation resulted in great bodily harm, as defined in s. 939.22 (14), or in substantial bodily harm, as defined in s. 939.22 (38), to the child or another child of the parent. If the circumstances specified in this paragraph apply, the petition shall be filed or joined in within 60 days after the date on which the court assigned to exercise jurisdiction under this chapter determines, based on a finding that a circumstance specified in this paragraph applies, that reasonable efforts to make it possible for the child to return safely to his or her home are not required.

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

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

1. A violation of s. 940.19 (3), 1999 stats., a
2. A violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19 (2), (4), (5) or (6), 940.22 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2), 940.29, 940.295, 948.02 (1) or (2), 948.025, 948.03 (2), 948.05, 948.051, 948.055, 948.06, 948.07, 948.08, 948.085, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21 (1), 948.30, or 948.53 or a
4. A violation of the law of any other state or United States jurisdiction that would be a violation of s. 940.19 (3), 1999 stats., or a violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19 (2), (4), (5) or (6), 940.22 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2), 940.29, 940.295, 948.02 (1) or (2), 948.025, 948.03 (2), 948.05, 948.055, 948.06, 948.07, 948.08, 948.085, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21 (1), 948.30, or 948.53 listed in subd. 1., 2., or 3. if committed in this state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

179.86 (3) Upon application by a district attorney or the attorney general, a court shall cancel the registration

of a foreign limited partnership if the foreign limited partnership has violated s. 940.302 (2) or 948.051 (2).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

301.45 (1d) (b) "Sex offense" means a violation, or the solicitation, conspiracy, or attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.051, 948.055, 948.06, 948.07, 948.075, 948.08, 948.085, 948.095, 948.11 (2) (a) or (am), 948.12, 948.13, or 948.30, of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies, or of s.

940.30 or 940.31 if the victim was a minor and the person who committed the violation was not the victim's parent.

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

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

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

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

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

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

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

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

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

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

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

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

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

938.34 (15m) (bm) If the juvenile is adjudicated delinquent on the basis of a violation, or the solicitation, conspiracy, or attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2), or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.051, 948.055, 948.06, 948.07, 948.075, 948.08, or 948.085 (2), 948.095, 948.11 (2) (a) or (am), 948.12, 948.13, or 948.30, of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies, or of s. 940.30 or 940.31 if the victim was a minor and the juvenile was not the victim's parent, the court shall require the juvenile to comply with the reporting requirements under s. 301.45 unless the court determines, after a hearing on a motion made by the juvenile, that the juvenile is not required to comply under s. 301.45 (1m).

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

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

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

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

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

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

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

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

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

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

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

940.302 Human trafficking. (1) In this section:

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

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

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

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

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

1. One of the following applies:

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

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

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

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

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

c. Restraining or threatening to restrain any individual.

d. Violating or threatening to violate a law.

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

f. Extortion.

g. Fraud or deception.

h. Debt bondage.

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

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

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

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

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

946.82 (4) "Racketeering activity" means any activity specified in 18 USC 1961 (1) in effect as of April 27, 1982, or the attempt, conspiracy to commit, or commission of any of the felonies specified in: chs. 945 and 961 and ss. 49.49, 134.05, 139.44 (1), 180.0129, 181.0129, 185.825, 201.09 (2), 215.12, 221.0625, 221.0636, 221.0637, 221.1004, 551.41, 551.42, 551.43, 551.44, 553.41 (3) and (4), 553.52 (2), 940.01, 940.19 (4) to (6), 940.20, 940.201, 940.203, 940.21, 940.30, 940.302 (2), 940.305, 940.31, 941.20 (2) and (3), 941.26, 941.28, 941.298, 941.31, 941.32, 942.09, 943.01 (2), (2d), or (2g), 943.011, 943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06, 943.10, 943.20 (3) (bf) to (e), 943.201, 943.203, 943.23 (1g), (2) and (3), 943.24 (2), 943.27, 943.28, 943.30, 943.32, 943.34 (1) (bf), (bm),

and (c), 943.38, 943.39, 943.40, 943.41 (8) (b) and (c), 943.50 (4) (bf), (bm), and (c), 943.60, 943.70, 943.76, 943.81, 943.82, 943.83, 943.84, 943.85, 943.86, 943.87, 943.88, 943.89, 943.90, 944.21 (5) (c) and (e), 944.32, 944.33 (2), 944.34, 945.03 (1m), 945.04 (1m), 945.05 (1), 945.08, 946.10, 946.11, 946.12, 946.13, 946.31, 946.32 (1), 946.48, 946.49, 946.61, 946.64, 946.65, 946.72, 946.76, 946.79, 947.015, 948.05, 948.051, 948.08, 948.12, and 948.30.

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

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

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

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

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

948.13 (1) (a) A crime under s. 940.22 (2) or 940.225 (2) (c) or (cm), if the victim is under 18 years of age at the time of the offense, a crime under s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies, or a crime under s. 948.02 (1) or (2), 948.025 (1), 948.05 (1) or (1m), 948.051, 948.06, 948.07 (1), (2), (3), or (4), 948.075, or 948.085.

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

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

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

969.08 (10) (b) "Serious crime" means any crime specified in s. 943.23 (1m), 1999 stats., or s. 943.23 (1r), 1999 stats., or s. 346.62 (4), 940.01, 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (5), 940.195 (5), 940.20, 940.201, 940.203, 940.21, 940.225 (1) to (3), 940.23, 940.24, 940.25, 940.29, 940.295 (3) (b) 1g., 1m., 1r., 2. or 3., 940.302 (2), 940.31, 941.20 (2) or (3), 941.26, 941.30, 941.327, 943.01 (2) (c), 943.011,

943.013, 943.02, 943.03, 943.04, 943.06, 943.10, 943.23 (1g), 943.30, 943.32, 943.81, 943.82, 943.83, 943.85, 943.86, 943.87, 943.88, 943.89, 943.90, 946.01, 946.02, 946.43, 947.015, 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.051, 948.06, 948.07, 948.085, or 948.30 or, if the victim is a financial institution, as defined in s. 943.80 (2), a crime under s. 943.84 (1) or (2).

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

970.03 (4) (a) If the defendant is accused of a crime under s. 940.225, 948.02, 948.025, 948.05, 948.051, 948.06, 948.085, or 948.095, or under s. 940.302 (2), if the court finds that the crime was sexually motivated, as defined in s. 980.01 (5), the court may exclude from the hearing all persons who are not officers of the court, members of the complainant's or defendant's families or others considered by the court to be supportive of the complainant or defendant, the service representative, as defined in s. 895.45 (1) (c), or other persons required to attend, if the court finds that the state or the defendant has established a compelling interest that would likely be prejudiced if the persons were not excluded. The court may consider as a compelling interest, among others, the need to protect a complainant from undue embarrassment and emotional trauma.

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

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

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

971.31 (11) In actions under s. 940.225, 948.02, 948.025, 948.051, 948.085, or 948.095, or under s. 940.302 (2), if the court finds that the crime was sexually motivated, as defined in s. 980.01 (5), evidence which is admissible under s. 972.11 (2) must be determined by the court upon pretrial motion to be material to a fact at issue in the case and of sufficient probative value to outweigh its inflammatory and prejudicial nature before it may be introduced at trial.

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

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

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

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

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

973.01 (3m) **CHALLENGE INCARCERATION PROGRAM ELIGIBILITY.** When imposing a bifurcated sentence under this section on a person convicted of a crime other than a crime specified in ch. 940 or s. 948.02, 948.025, 948.03, 948.05, 948.051, 948.055, 948.06, 948.07, 948.075, 948.08, 948.085, or 948.095, the court shall, as part of the exercise of its sentencing discretion, decide whether the person being sentenced is eligible or ineligible for the challenge incarceration program under s. 302.045 during the term of confinement in prison portion of the bifurcated sentence.

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

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

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

973.017 (6) (b) When making a sentencing decision concerning a person convicted of a violation of s. 948.02 (1) or (2), 948.025 (1), ~~or~~ 948.03 (2) or (3), or 948.051, the court shall consider as an aggravating factor the fact

that the person was a person responsible for the welfare of the child who was the victim of the violation.

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

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

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

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

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

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

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

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

- (a) The costs of necessary transportation, housing, and child care for the victim.
- (b) The greater of the following:

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1. The gross income gained by the defendant due to the services of the victim.
 2. The value of the victim's services as provided under the state minimum wage.
- (c) Any expenses incurred by the victim if relocation for personal safety is determined to be necessary by the district attorney.

- (d) The costs of relocating the victim to his or her city, state, or country of origin.
- SECTION 53. Initial applicability.**
- (1) The treatment of sections 940.302 and 948.051 of the statutes first applies to acts committed on the effective date of this subsection.
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