

1999 DRAFTING REQUEST

Bill

Received: **01/12/99**

Received By: **olsenje**

Wanted: **As time permits**

Identical to LRB:

For: **Pedro Colon (608) 267-7669**

By/Representing: **Andy**

This file may be shown to any legislator: **NO**

Drafter: **olsenje**

May Contact:

Alt. Drafters:

Subject: **Criminal Law - miscellaneous**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Prostitution

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	olsenje 01/26/99	wjackson 02/2/99		_____			S&L
/1			martykr 02/2/99	_____	lrb_docadmin 02/2/99		S&L
/2	olsenje 02/19/99	wjackson 02/22/99	martykr 02/22/99	_____	lrb_docadmin 02/22/99	lrb_docadmin 03/3/99	

FE Sent For: **02/22/99, , , , .**

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/2	olsenje 02/19/99	wjackson 02/22/99	martykr 02/22/99	_____	lrb_docadmin 02/22/99		

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eh
2/22

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Do a fiscal for "1/2"

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1/?	olsenje	1 WLJ 1/27	Km/2	HH 2/2 AM/2			

FE Sent For:

<END>



0706

STATE REPRESENTATIVE
ANTONIO R. RILEY
18TH ASSEMBLY DISTRICT

To: **Jefern Olsen, Legislative Reference Bureau Attorney**
From: ^{AR} **State Representative Antonio R. Riley/Legislative Intern Cherry Thapith**
Date: **October 10, 1996**
Re: **Bill drafting request for changes in statutes relating to prostitution**

M e m o r a n d u m

This memo describes one set of proposed statutory changes relating to the enforcement of laws relating to prostitution and two proposed anti-prostitution programs.

I would like one bill draft that combines the proposed law changes and the new programs in one bill, one that contains just the law changes, and one that contains just the programs.

*Wait
fill
1st one
signed
off on*

Please contact my legislative intern, Cherry Thapith, or my legislative aide, Dan Lorentz should you have any questions.

Thanks.

Why the statutory changes and new programs are needed

The streets in some low-income central-city residential neighborhoods in Milwaukee have become infested with prostitutes and men seeking prostitutes.

Women who live in the neighborhoods are frequently approached by men seeking sex for money. Neighborhood children are endangered by the cruising cars and the proximity to drugs and other potential hazards that often accompany prostitution. The activity disturbs the peace and quiet of neighborhoods in the evening. Property values suffer in residential "red-light" areas. The neighborhoods gain a bad reputation which frequently paves the way for other criminal activity and further devaluation of property and neighborhood pride.

**Rep. Riley: Drafting request for changes in statutes relating to prostitution
October 10, 1996**

Community groups and the police in Milwaukee are increasingly frustrated by the difficulty of effectively enforcing current anti-prostitution laws.

Because police officers are prohibited under current law from exposing themselves or touching the prostitutes and because prostitutes routinely employ tactics to foil police investigations, the current anti-prostitution laws are extremely easy to circumvent.

For example, in routine undercover operations police officers posing as solicitors ("johns") are commonly asked by prostitutes to expose their penises to prove that they are not the police. Prostitutes also frequently request that their breasts be fondled before agreeing to exchange sex for money.

Another example of the difficulty of enforcement under current laws involves the operation of escort services and "private dances," which are usually fronts for prostitution activities. Once the client and the escort/dancer are in a secluded location, the client is expected to masturbate while the escort/dancer dances, if not the "service" would be cut off without any discussion of sex for money because the client is a suspected undercover police officer.

Drafting Requests

Proposed Statutory Changes

Exposing Intimate Parts for the Purpose of Prostitution

Any person who intentionally does any of the following would be guilty of a Class A misdemeanor:

A. Exposes or offers to expose or requests another to expose their intimate parts or requests or offers to commit an act of sexual contact, in public or in private, under circumstances which manifest an intent to commit an act in violation of 944.30, 944.31, 944.32, 944.33 or 944.34. ?

*See intent
def
J I*

B Intent under this section may be demonstrated by, without limitation because of enumeration, any of the following: that such person, whether on foot or in a motor vehicle, repeatedly beckons to, stops or attempts to stop, or engages any person whether on foot or in a motor vehicle in conversation or exposes or makes such an offer or request for exposure as a demonstration that one or both parties is not a peace officer or that such person has been previously convicted of a violation under sections 944.30-944.34.

*Other wrongs
presumably
violates 944.04*

Rep. Riley: Drafting request for changes in statutes relating to prostitution
October 10, 1996

Agreeing To Have Sex In Exchange for Anything of Value

The following statutory language is suggested (changes are bold faced and underlined):

944.30 Prostitution Any person who intentionally does any of the following is guilty of a Class A Misdemeanor (except F because it is a suggestion yet to be inserted into current statutes):

- A. Has or offers to have or requests to have or agrees to have non-marital sexual intercourse for anything of value.
- B. Commits or offers to commit or requests to commit or agrees to commit an act of sexual gratification, in public or in private, involving the sex organ or one person and the mouth or anus of another for anything of value.
- C. Is an inmate of a place of prostitution.
- D. Masturbates a person, offers or agrees to masturbate a person, requests or agrees to be masturbated by a person for anything of value.
- E. Commits or offers to commit or requests to commit or agrees to commit an act of sexual contact for anything of value.
- F. Masturbates themselves or offers or agrees to masturbate themselves in the presence of another for anything of value.

D-N
Conspiracy
939-05
(2) (c) or
939-31

Anti-Prostitution Programs

Travel Restriction Program

Create a program similar to *Stay Out of Areas of Prostitution* (SOAP) in Seattle. Under SOAP, an individual arrested and charged for a prostitution related offense is subjected to arrest and additional charges as well as revocation of probation/parole if he is found back in that area.

Expected benefits from the program would include a decrease in prostitution activity, and an easier arrest for police since the only arrest requirement would be the repeat offender's presence in the area.

Obviously can be changed w/ any new crime

need to be convicted

bail jumping?
946-49

bait?

post-con only?
- D-Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0706/1dn

JEO:kmg&jlg:km

Monday, December 2, 1996

Please note all of the following when reviewing this draft:

1. The drafting request asked for 3 different drafts: one with the requested changes to ch. 944; one with the new "programs"; and one with both the requested changes to ch. 944 *and* the new "programs". This is the draft with both the requested changes to ch. 944 *and* the new "programs". This draft can be divided once all of the provisions are in the form that you want them to be.

2. This draft creates proposed s. 944.335, which deals with exposing intimate parts or committing sexual contact with the intent to violate prostitution laws *other* than s. 944.34, stats., since it seemed unclear to me how those acts could be done with intent to violate s. 944.34, stats.

Also, for several reasons the draft does not contain the suggested language concerning how intent can be demonstrated. First, all of that language is, I think, redundant given current law on the discerning of intent. Second, the specific language about beckoning to, stopping, engaging in conversation, etc., seems likely to impinge on constitutionally protected activity (namely, the right to travel and to associate with others) and so is probably unconstitutionally overbroad. Third, the specific language about previous convictions is unnecessary since that issue is governed by s. 904.04 (2), stats.

Finally, note that I have inserted cross-references to proposed s. 944.335 in places (such as forfeiture laws) where other prostitution statutes are referenced. Is that your intent?

3. This draft creates proposed s. 944.30 (4g), but does not insert in s. 944.30, stats., the suggested language about "agreeing" to engage in various acts. I don't think mere "agreement" can be criminalized; a person must also engage in some act. Cf. *State v. Repp*, 117 Wis.2d 143, 147-48 (Ct. App. 1983), *aff'd*, 122 Wis.2d 246 (1985). Agreements to engage in prostitution that are accompanied by acts may be prosecuted under either the party-to-a-crime statute (s. 939.05 (2) (c), stats.) or the conspiracy statute (s. 939.31, stats.).

4. This draft specifically allows a judge or the parole commission to put "travel restrictions" on probationers or parolees convicted of prostitution offenses. (Note that judges probably have that authority already under s. 973.09 (1) (a), stats.) The draft does not deal with the bail conditions of persons charged but not yet convicted, since s. 969.02 (3) (b), stats., already authorizes travel restrictions; also, a person who vio-

lates a condition of bond may be prosecuted under s. 946.49, stats., assuming the person was released on a bond containing a condition that he or she not go certain places.

5. Please review proposed s. 971.41 carefully to make sure that it does what you want it to do. Note that this draft does not "establish" a so-called "john school" since the drafting instructions implied that such programs would be run by community organizations. Did you want a state agency to establish and run such a program? If so, which agency? Also, the drafting instructions implied that "john school" is to be an alternative to prosecution of the offense. Accordingly, this draft creates a deferred prosecution program that is modeled on s. 971.37, stats. It requires "john school" as a condition of deferred prosecution only if there is a community organization offering such a program.

Please let me know if you have any questions or redrafting instructions.

Jefren E. Olsen
Legislative Attorney
266-8906

1999

Date (time) needed _____

LRB - 1718 / 1

BILL

D-Note

JED : WLjy : _____
JKSN

Use the appropriate components and routines developed for bills.

AN ACT . . . [generate catalog] *to repeal . . . ; to renumber . . . ; to consolidate and renumber . . . ; to renumber and amend . . . ; to consolidate, renumber and amend . . . ; to amend . . . ; to repeal and recreate . . . ; and to create . . .* of the statutes; relating to:

.....
.....
.....
.....

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

Analysis by the Legislative Reference Bureau

For the 3 titles used in an analysis, in the component bar:

For the main heading [old =M], execute: create → anal: → title: → head

For the subheading [old =S], execute: create → anal: → title: → sub

For the sub-subheading [old =P], execute: create → anal: → title: → sub-sub

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

SECTION #.



11

12

13

1997 BILL

1 ~~AN ACT to amend~~ 48.57 (3p) (g) 3., 48.65 (1m) (g) 3., 48.651-(2)-(g) 3., 165.60,
 2 165.70 (1) (b), 973.075 (1)-(b) (intro.) and 973.075-(2)-(intro.); and *to create*
 3 304.06 (1z), 944.30 (4g), 944.335, 971.41 and 973.09 (4m) of the statutes;
 4 *relating to* prostitution and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits various conduct related to prostitution. This bill makes several changes in the laws relating to prostitution. Specifically, current law and the changes that the bill makes are as follows:

The offense of prostitution

Under current law, the offense of prostitution includes the following: 1) engaging in, offering to engage in or requesting another to engage in sexual intercourse for anything of value; 2) engaging in, offering to engage in or requesting another to engage in certain acts of sexual contact or sexual gratification for anything of value; and 3) masturbating another, offering to masturbate another or requesting to be masturbated by another for anything of value. A person who is found guilty of prostitution may be fined not more than \$10,000 or imprisoned for not more than 9 months or both.

nine

This bill provides that a person is guilty of prostitution if he or she masturbates himself or herself in the presence of another person at the request of that other person or offers to masturbate himself or herself in the presence of another person for anything of value.

BILL

Other offenses related to prostitution

In addition to prohibiting prostitution, current law prohibits certain conduct relating to prostitution. Specifically, current law prohibits patronizing prostitutes, soliciting prostitutes (commanding, encouraging or requesting a person to practice prostitution on an ongoing basis), pandering (assisting a person in engaging a prostitute) and keeping a place of prostitution. A person who is found guilty of patronizing a prostitute may be fined not more than \$10,000 or imprisoned for not more than ^{nine} 9 months or both. A person who is found guilty of soliciting prostitutes or keeping a place of prostitution may be fined not more than \$10,000 or imprisoned for not more than ^{five} 5 years or both. A person who is found guilty of pandering may be fined not more than \$10,000 or imprisoned for not more than ^{nine} 9 months or both, except that if he or she received compensation from the earnings of the prostitute he or she may be fined not more than \$10,000 or imprisoned for not more than ^{ten} 10 years or both.

This bill prohibits a person from doing any of the following, if they are done with the intent to engage in prostitution, to patronize prostitutes, to solicit prostitutes or to pander: 1) exposing or offering to expose or requesting another to expose his or her intimate parts; and 2) committing or offering to commit or requesting another to commit an act of sexual contact. A person who violates this prohibition may be fined not more than \$10,000 or imprisoned for not more than ^{nine} 9 months or both.

Disposition of prostitution-related cases

The bill makes several changes relating to the disposition of cases of persons arrested for or convicted of offenses relating to prostitution. Specifically, the bill provides that, ~~if a court orders probation for a person convicted of an offense relating to prostitution, the court may require as a condition of the person's probation that the person avoid the premises where the offense occurred or the geographic area where the offense occurred or both.~~ The bill also provides that, when ~~the parole commission paroles a person convicted of an offense relating to prostitution, the parole commission may require as a condition of the person's parole that the person~~ avoid the premises where the offense occurred or the geographic area where the offense occurred or both.

Finally, the bill provides for a deferred prosecution program for certain persons accused of or charged with prostitution, patronizing prostitutes, pandering (if the person did not receive compensation from the prostitute's earnings), or acts done with the intent to engage in prostitution, to patronize prostitutes, to solicit prostitutes or to pander. Under the deferred prosecution program, the accused or charged person must agree to abide by certain conditions, including participation in a program designed to educate offenders about the effect of prostitution on the community and its neighborhoods, if such a program is offered by a community organization in the community in which the person lives or in which the violation occurred. If the person satisfies the conditions of the deferred prosecution, the case against him or her is not prosecuted; but if he or she fails to satisfy the conditions, the case against him or her may be prosecuted.

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person
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or extended
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leased
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on
parole
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extended
supervision

BILL

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:

INS
3-1
①

SECTION 1. 48.57 (3p) (g) 3. of the statutes is amended to read:

2 48.57 ~~(3p)~~ (g) 3. The person has been convicted of a violation of ch. 940, 944 or
3 948, other than a violation of s. 940.291, 940.34, 944.36, 948.45, 948.63 or 948.70, or
4 of a violation of the law of any other state or federal law that would be a violation of
5 ch. 940, 944 or 948, other than a violation of s. 940.291, 940.34, 944.36, 948.45, 948.63
6 or 948.70, if committed in this state, except that the department may make payments
7 to a person applying for payments under sub. (3m) and a person receiving payments
8 under sub. (3m) may employ in a position in which the person would have regular
9 contact with the child for whom those payments are being made or permit to be an
10 adult resident a person who has been convicted of a violation of s. 944.30, 944.31 ~~or~~,
11 944.33 or 944.335 or of a violation of the law of any other state or federal law that
12 would be a violation of s. 944.30, 944.31 ~~or~~, 944.33 or 944.335 if committed in this
13 state, if that violation occurred 20 years or more before the date of the investigation.

SECTION 2. 48.65 (1m) (g) 3. of the statutes is amended to read:

15 48.65 ~~(1m)~~ (g) 3. The person has been convicted of a violation of ch. 940, 944
16 or 948, other than a violation of s. 940.291, 940.34, 944.36, 948.45, 948.63 or 948.70,
17 or of a violation of the law of any other state or federal law that would be a violation
18 of ch. 940, 944 or 948, other than a violation of s. 940.291, 940.34, 944.36, 948.45,
19 948.63 or 948.70, if committed in this state, except that the department of health and
20 family services may license a person to be a day care provider under this section, a
21 school board may contract with a person under s. 120.13 (14) and a day care provider

BILL

1 licensed under this section or contracted for under s. 120.13 (14) may employ or
 2 permit to be an adult resident a person who has been convicted of a violation of s.
 3 944.30, 944.31 ~~or~~, 944.33 or 944.335 or of a violation of the law of any other state or
 4 federal law that would be a violation of s. 944.30, 944.31 ~~or~~, 944.33 or 944.335 if
 5 committed in this state, if that violation occurred 20 years or more before the date
 6 of the investigation.

7 **SECTION 3.** 48.651(2) (g) 3. of the statutes is amended to read:

8 48.651 (2) (g) 3. The person has been convicted of a violation of ch. 940, 944 or
 9 948, other than a violation of s. 940.291, 940.34, 944.36, 948.45, 948.63 or 948.70, or
 10 of a violation of the law of any other state or federal law that would be a violation of
 11 ch. 940, 944 or 948, other than a violation of s. 940.291, 940.34, 944.36, 948.45, 948.63
 12 or 948.70, if committed in this state, except that the county department may certify
 13 a person to be a day care provider under this section and a day care provider certified
 14 under this section may employ or permit to be an adult resident a person who has
 15 been convicted of a violation of s. 944.30, 944.31 ~~or~~, 944.33 or 944.335 or of a violation
 16 of the law of any other state or federal law that would be a violation of s. 944.30,
 17 944.31 ~~or~~, 944.33 or 944.335 if committed in this state, if that violation occurred 20
 18 years or more before the date of the investigation.

19 **SECTION 4.** 165.60 of the statutes is amended to read:

20 **165.60 Law enforcement.** The department of justice is authorized to enforce
 21 ss. 101.123 (2), (5) and (8), 944.30, 944.31, 944.33, 944.335, 944.34, 945.02 (2), 945.03
 22 and 945.04 and is ~~invested~~ vested with the powers conferred by law upon sheriffs and
 23 municipal police officers in the performance of those duties. This section does not
 24 deprive or relieve sheriffs, constables and other local police officers of the power and
 25 duty to enforce those sections, and those officers shall likewise enforce those sections.

WRD: Please proof w/stats.

BILL

INS
5-1

1 SECTION 5. ~~165.70~~ (1) (b) of the statutes is amended to read:
 2 165.70 (1) (b) Enforce chs. 945 and 961 and ss. 940.20 (3), 941.25 to 941.27,
 3 943.01 (2) (c), 943.27, ~~943.28, 943.30, 944.30, 944.31, 944.32, 944.33, 944.335, 944.34,~~
 4 946.65, 947.02 (3) and (4) and 948.08.

5 SECTION 6. 304.06 (1z) of the statutes is created to read:
 6 304.06 (1z) If a person is paroled ~~after being convicted of~~ any violation of s.
 7 944.30, 944.31, 944.32, 944.33, 944.335 or 944.34, the parole commission may
 8 require as a condition of parole that the person avoid the premises where the
 9 violation occurred, the geographic area where the violation occurred or both the
 10 premises and the geographic area where the violation occurred. If the parole
 11 commission imposes a condition of parole under this subsection that requires the
 12 person to avoid the geographic area where the violation occurred, the parole
 13 commission shall specify in detail the geographic area to which the condition applies.

from a sentence imposed for

or the department

or the department, whichever is applicable,

INS
5-13

14 SECTION 7. 944.30 (4g) of the statutes is created to read:
 15 944.30 (4g) Masturbates himself or herself in the presence of another person
 16 at the request of that other person or offers to masturbate himself or herself in the
 17 presence of another person for anything of value.

18 SECTION 8. 944.335 of the statutes is created to read:
 19 **944.335 Acts in furtherance of prostitution.** Any person who intentionally
 20 does any of the following is guilty of a Class A misdemeanor:
 21 (1) Exposes or offers to expose or requests another to expose his or her intimate
 22 parts with intent to commit a violation of s. 944.30, 944.31, 944.32 or 944.33.
 23 (2) Commits or offers to commit or requests another to commit an act of sexual
 24 contact with intent to commit a violation of s. 944.30, 944.31, 944.32 or 944.33.

25 SECTION 9. 971.41 of the statutes is created to read:

BILL**SECTION 9**

1 **971.41** **Deferred prosecution programs; prostitution cases.** (1) The
2 district attorney may enter into a deferred prosecution agreement under this section
3 with a person accused of or charged with any violation of s. 944.30, 944.31 or 944.335
4 or any misdemeanor violation of s. 944.33 if all of the following apply to the person:

5 (a) The person has not previously been convicted of any state or federal crime.

6 (b) The person is not also accused of or charged with any crime other than a
7 violation of s. 944.30, 944.31 or 944.335 or a misdemeanor violation of s. 944.33.

8 (2) A deferred prosecution agreement under sub. (1) shall provide that the
9 prosecution will be suspended for a specified period if the person complies with
10 conditions specified in the agreement. The agreement shall be in writing, shall be
11 signed by the district attorney or his or her designee and the person, and shall
12 provide all of the following:

13 (a) That the person waives his or her right to a speedy trial during the period
14 of the agreement.

15 (b) That the agreement will toll any applicable civil or criminal statute of
16 limitations during the period of the agreement.

17 (c) That the person shall file with the district attorney a monthly written report
18 certifying his or her compliance with the conditions specified in the agreement.

19 (3) If a community organization in the community in which the person lives or
20 in which the violation occurred offers a program designed to educate offenders about
21 the effect of prostitution on the community and its neighborhoods, the agreement
22 shall provide, as one of its conditions, that the person must participate in the
23 program.

BILL

1 (4) The written agreement shall be terminated and the prosecution may
2 resume upon written notice by either the person or the district attorney to the other
3 prior to completion of the period of the agreement.

4 (5) Upon completion of the period of the agreement, if the agreement has not
5 been terminated under sub. (4), the court shall dismiss, with prejudice, any charge
6 or charges against the person in connection with the crime specified in sub. (1), or
7 if no such charges have been filed, none may be filed.

8 (6) Consent to a deferred prosecution under this section is not an admission of
9 guilt and the consent may not be admitted in evidence in a trial for the crime specified
10 in sub. (1), unless the consent is relevant to questions concerning the statute of
11 limitations or lack of speedy trial. No statement relating to the crime, made by the
12 person in connection with any discussions concerning deferred prosecution or made
13 to any person involved in a program in which the person must participate as a
14 condition of the agreement, is admissible in a trial for the crime specified in sub. (1).

IOS
7-15
✓

15 **SECTION 10.** 973.075 (1) (b) (intro.) of the statutes is amended to read:

16 973.075 (1)(b) (intro.) All vehicles, as defined in s. 939.22 (44), which are used
17 to transport any property or weapon used or to be used or received in the commission
18 of any felony, which are used in the commission of a crime under s. 946.70, which are
19 used in the commission of a crime in violation of s. 944.30, 944.31, 944.32, 944.33,
20 944.335 or 944.34, which are used in the commission of a crime relating to a
21 submerged cultural resource in violation of s. 44.47 or which are used to cause more
22 than \$1,000 worth of criminal damage to cemetery property in violation of s. 943.01
23 (2) (d) or 943.012, but:

24 **SECTION 11.** 973.075 (2) (intro.) of the statutes is amended to read:

BILL

SECTION 11

WFO: Please Proof w/ Stats.

1 973.075 (2) (intro.) A law enforcement officer may seize property subject to
 2 this section upon process issued by any court of record having jurisdiction over the
 3 property. Except for vehicles used in the commission of a crime in violation of s.
 4 944.30, 944.31, 944.32, 944.33, 944.335 or 944.34, seizure without process may be
 5 made under any of the following circumstances:

6 **SECTION 12.** 973.09 (4m) of the statutes is created to read:
 7 ~~973.09 (4m) If a person is convicted of any violation of s. 944.30, 944.31, 944.32,~~
 8 ~~944.33, 944.335 or 944.34, the court may require as a condition of probation that the~~
 9 ~~person avoid the premises where the violation occurred, the geographic area where~~
 10 ~~the violation occurred or both the premises and the geographic area where the~~
 11 ~~violation occurred. If a court imposes a condition of probation under this subsection~~
 12 ~~that requires the person to avoid the geographic area where the violation occurred,~~
 13 ~~the court shall specify in detail the geographic area to which the condition applies.~~

14 **SECTION 13. Initial applicability.**
 15 (1) This act first applies to offenses that occur on the effective date of this
 16 subsection.
 17

(END)

1

ANALYSIS INSERT A:

(no 9) , if the offense occurs before December 31, 1999, or may be fined not more than \$10,000 or imprisoned for not more than ten years or both, if the offense occurs on or after December 31, 1999

2

ANALYSIS INSERT B:

(no 9) , if the offense occurs before December 31, 1999, or may be fined not more than \$10,000 or imprisoned for not more than 15 years or both, if the offense occurs on or after December 31, 1999

3

INSERT 3-1:

4

SECTION 1. 48.57 (3p) (g) 3. of the statutes is amended to read:

5

48.57 (3p) (g) 3. The person has been convicted of a violation of ch. 940, 944 or

6

948, other than a violation of s. 940.291, 940.34, 944.36, 948.45, 948.63 or 948.70, or

7

of a violation of the law of any other state or federal law that would be a violation of

8

ch. 940, 944 or 948, other than a violation of s. 940.291, 940.34, 944.36, 948.45, 948.63

9

or 948.70, if committed in this state, except that a county department or, in a county

10

having a population of 500,000 or more, the department of health and family services

11

may make payments to a person applying for payments under sub. (3m) and a person

12

receiving payments under sub. (3m) may employ in a position in which the person

13

would have regular contact with the child for whom those payments are being made

14

or permit to be an adult resident a person who has been convicted of a violation of

15

s. 944.30, 944.31 ~~or~~, 944.33 or 944.335 or of a violation of the law of any other state

16

or federal law that would be a violation of s. 944.30, 944.31 ~~or~~, 944.33 or 944.335 if

17

committed in this state, if that violation occurred 20 years or more before the date

18

of the investigation.

Please proof w/stats.

History: 1977 c. 29; 1977 c. 83 s. 26; 1977 c. 271, 354, 418, 447, 449; 1979 c. 34, 221; 1981 c. 329; 1983 a. 189 s. 329 (17); 1983 a. 447; 1985 a. 176; 1987 a. 339; 1993 a. 385, 395, 446, 491; 1995 a. 27 ss. 2575 to 2579m, 9126 (19); 1995 a. 77, 289, 443; 1997 a. 3, 27, 35, 36, 41, 105, 237, 252, 292.

19

Please proof w/ stats.

INSERT 5-1:

SECTION 2. 165.70 (1) (b) of the statutes is amended to read:

165.70 (1) (b) Enforce chs. 945 and 961 and ss. 940.20 (3), 940.201, 941.25 to 941.27, 943.01 (2) (c), 943.011, 943.27, 943.28, 943.30, 944.30, 944.31, 944.32, 944.33, 944.335, 944.34, 946.65, 947.02 (3) and (4) and 948.08.

History: 1971 c. 40, 211, 307; 1973 c. 156; 1975 c. 39; 1977 c. 173 s 168, 1977 c. 215, 260, 1977 c 272 s. 98; 1985 a 29; 1987 a. 332; 1989 a. 31; 1991 a 269, 1993 a. 213; 1995 a. 448; 1997 a. 27, 143.

SECTION 3. 302.113 (7) of the statutes is renumbered 302.113 (7) (a).

SECTION 4. 302.113 (7) (b) of the statutes is created to read:

302.113 (7) (b) If a person is released on extended supervision under a bifurcated sentence imposed for any violation of s. 944.30, 944.31, 944.32, 944.33, 944.335 or 944.34, the department may, subject to par. (a), require as a condition of extended supervision that the person avoid the premises where the violation occurred, the geographic area where the violation occurred or both the premises and the geographic area where the violation occurred. If the department imposes a condition of extended supervision under this paragraph that requires the person to avoid the geographic area where the violation occurred, the department shall specify in detail the geographic area to which the condition applies. This paragraph does not prohibit the department from requiring as a condition of probation that a person placed on probation for any violation of s. 944.30, 944.31, 944.32, 944.33, 944.335 or 944.34 avoid the premises where the violation occurred, the geographic area where the violation occurred or both the premises and the geographic area where the violation occurred.

INSERT 5-13:

This subsection does not prohibit the department from requiring as a condition of probation that a person placed on probation for any violation of s. 944.30, 944.31,

no 9

1 944.32[✓], 944.33[✓], 944.335[✓] or 944.34[✓] avoid the premises where the violation occurred,
2 the geographic area where the violation occurred or both the premises and the
3 geographic area where the violation occurred.

INSERT 7-15:

5 SECTION 5. 973.01 (5)[✓] of the statutes is amended to read:

6 973.01 (5) ~~EXTENDED~~ ^{EXTENDED (CS)} SUPERVISION CONDITIONS. Whenever the court imposes a
7 bifurcated sentence under sub. (1), the court may impose conditions upon the term
8 of extended supervision. If a person is given a bifurcated sentence for any violation
9 of s. 944.30[✓], 944.31[✓], 944.32[✓], 944.33[✓], 944.335[✓] or 944.34[✓], the court may require as a
10 condition of extended supervision that the person avoid the premises where the
11 violation occurred, the geographic area where the violation occurred or both the
12 premises and the geographic area where the violation occurred. If the court imposes
13 a condition of extended supervision under this ~~paragraph~~ ^{subsection} that requires the person
14 to avoid the geographic area where the violation occurred, the court shall specify in
15 detail the geographic area to which the condition applies.

History: 1997 a. 283.

16 SECTION 6. 973.075 (1) (b) 1m. c.[✓] of the statutes is amended to read:

17 973.075 (1) (b) 1m. c. In the commission of a crime in violation of s. 944.30,
18 944.31, 944.32, 944.33, 944.335[✓] or 944.34.

History: 1981 c. 267; 1985 a. 245, 258; 1987 a. 348; 1989 a. 263; 1993 a. 92, 169, 459, 491; 1995 a. 290, 448; 1997 a. 35, 285.

Please proof w/stats.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1718/1dn

JEO: (.....

W LJ

This is a redraft of 1997 LRB-0706/1, except that this draft adds provisions to take into account the changes in felony sentences made by 1997 Wisconsin Act 283 (the "truth in sentencing" act).

The redraft also deletes a proposed amendment to s. 973.09^v, stats., dealing with probation. It is not necessary to amend s. 973.09^v, stats., because a court may currently impose travel restrictions as a condition of probation under the "reasonable and appropriate" language in s. 973.09 (1) (a)^v, stats. See *State v. Nienhardt*, 196 Wis. 2d 161 (Ct. App. 1995).

Jefren E. Olsen
Legislative Attorney
266-8906

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1718/1dn
JEO:wlj:km

February 2, 1999

This is a redraft of 1997 LRB-0706/1, except that this draft adds provisions to take into account the changes in felony sentences made by 1997 Wisconsin Act 283 (the "truth in sentencing" act).

The redraft also deletes a proposed amendment to s. 973.09, stats., dealing with probation. It is not necessary to amend s. 973.09, stats., because a court may currently impose travel restrictions as a condition of probation under the "reasonable and appropriate" language in s. 973.09 (1) (a), stats. See *State v. Nienhardt*, 196 Wis. 2d 161 (Ct. App. 1995).

Jefren E. Olsen
Legislative Attorney
266-8906

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 2/2/99

To: Representative Colon

Drafting number: LRB-1718

Topic
Prostitution

*Jefren,
please give
me a call
re: charges*

Subject(s)
Criminal Law - miscellaneous

1. **JACKET** the draft for introduction _____
in the **Senate** ____ or the **Assembly** ____ (check one)
drafting request is entered in the LRB's drafting system.
allow one day for the preparation of the required draft.

*Thanks,
Andy
7-7669*

_____er under whose name the
draft to be submitted. Please

2. **REDRAFT**. See the changes indicated or attached _____

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Jefren E. Olsen, Legislative Attorney
Telephone: (608) 266-8906



1999 BILL

1 **AN ACT to renumber** 302.113 (7); **to amend** 48.57 (3p) (g) 3., 165.60, 165.70 (1)
2 (b), 973.01 (5), 973.075 (1) (b) 1m. c. and 973.075 (2) (intro.); and **to create**
3 302.113 (7) (b), 304.06 (1z), 944.30 (4g), 944.335 and 971.41 of the statutes;
4 **relating to:** prostitution and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits various conduct related to prostitution. This bill makes several changes in the laws relating to prostitution. Specifically, current law and the changes that the bill makes are as follows:

The offense of prostitution

Under current law, the offense of prostitution includes the following: 1) engaging in, offering to engage in or requesting another to engage in sexual intercourse for anything of value; 2) engaging in, offering to engage in or requesting another to engage in certain acts of sexual contact or sexual gratification for anything of value; and 3) masturbating another, offering to masturbate another or requesting to be masturbated by another for anything of value. A person who is found guilty of prostitution may be fined not more than \$10,000 or imprisoned for not more than nine months or both.

This bill provides that a person is guilty of prostitution if he or she masturbates himself or herself in the presence of another person at the request of that other person or offers to masturbate himself or herself in the presence of another person for anything of value.

BILL***Other offenses related to prostitution***

In addition to prohibiting prostitution, current law prohibits certain conduct relating to prostitution. Specifically, current law prohibits patronizing prostitutes, soliciting prostitutes (commanding, encouraging or requesting a person to practice prostitution on an ongoing basis), pandering (assisting a person in engaging a prostitute) and keeping a place of prostitution. A person who is found guilty of patronizing a prostitute may be fined not more than \$10,000 or imprisoned for not more than nine months or both. A person who is found guilty of soliciting prostitutes or keeping a place of prostitution may be fined not more than \$10,000 or imprisoned for not more than five years or both, if the offense occurs before December 31, 1999, or may be fined not more than \$10,000 or imprisoned for not more than ten years or both, if the offense occurs on or after December 31, 1999. A person who is found guilty of pandering may be fined not more than \$10,000 or imprisoned for not more than nine months or both, except that if he or she received compensation from the earnings of the prostitute he or she may be fined not more than \$10,000 or imprisoned for not more than ten years or both, if the offense occurs before December 31, 1999, or may be fined not more than \$10,000 or imprisoned for not more than 15 years or both, if the offense occurs on or after December 31, 1999.

This bill prohibits a person from doing any of the following, if they are done with the intent to engage in prostitution, to patronize prostitutes, to solicit prostitutes or to pander: 1) exposing or offering to expose or requesting another to expose his or her intimate parts; and 2) committing or offering to commit or requesting another to commit an act of sexual contact. A person who violates this prohibition may be fined not more than \$10,000 or imprisoned for not more than nine months or both.

Disposition of prostitution-related cases

The bill makes several changes relating to the disposition of cases of persons arrested for or convicted of offenses relating to prostitution. Specifically, the bill provides that when a person convicted of an offense relating to prostitution is released from prison on parole or extended supervision, the person may be required as a condition of parole or extended supervision to avoid the premises where the offense occurred or the geographic area where the offense occurred or both.

Finally, the bill provides for a deferred prosecution program for certain persons accused of or charged with prostitution, patronizing prostitutes, pandering (if the person did not receive compensation from the prostitute's earnings), or acts done with the intent to engage in prostitution, to patronize prostitutes, to solicit prostitutes or to pander. Under the deferred prosecution program, the accused or charged person must agree to abide by certain conditions, including participation in a program designed to educate offenders about the effect of prostitution on the community and its neighborhoods, if such a program is offered by a community organization in the community in which the person lives or in which the violation occurred. If the person satisfies the conditions of the deferred prosecution, the case against him or her is not prosecuted; but if he or she fails to satisfy the conditions, the case against him or her may be prosecuted.

BILL

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.** 48.57 (3p) (g) 3. of the statutes is amended to read:

2 48.57 (**3p**) (g) 3. The person has been convicted of a violation of ch. 940, 944 or
3 948, other than a violation of s. 940.291, 940.34, 944.36, 948.45, 948.63 or 948.70, or
4 of a violation of the law of any other state or federal law that would be a violation of
5 ch. 940, 944 or 948, other than a violation of s. 940.291, 940.34, 944.36, 948.45, 948.63
6 or 948.70, if committed in this state, except that a county department or, in a county
7 having a population of 500,000 or more, the department of health and family services
8 may make payments to a person applying for payments under sub. (3m) and a person
9 receiving payments under sub. (3m) may employ in a position in which the person
10 would have regular contact with the child for whom those payments are being made
11 or permit to be an adult resident a person who has been convicted of a violation of
12 s. 944.30, 944.31 ~~or~~ 944.33 or 944.335 or of a violation of the law of any other state
13 or federal law that would be a violation of s. 944.30, 944.31 ~~or~~ 944.33 or 944.335 if
14 committed in this state, if that violation occurred 20 years or more before the date
15 of the investigation.

16 **SECTION 2.** 165.60 of the statutes is amended to read:

17 **165.60 Law enforcement.** The department of justice is authorized to enforce
18 ss. 101.123 (2), (5) and (8), 944.30, 944.31, 944.33, 944.335, 944.34, 945.02 (2), 945.03
19 and 945.04 and is ~~invested~~ vested with the powers conferred by law upon sheriffs and
20 municipal police officers in the performance of those duties. This section does not

BILL

1 deprive or relieve sheriffs, constables and other local police officers of the power and
2 duty to enforce those sections, and those officers shall likewise enforce those sections.

3 **SECTION 3.** 165.70 (1) (b) of the statutes is amended to read:

4 165.70 (1) (b) Enforce chs. 945 and 961 and ss. 940.20 (3), 940.201, 941.25 to
5 941.27, 943.01 (2)(c), 943.011, 943.27, 943.28, 943.30, 944.30, 944.31, 944.32, 944.33,
6 944.335, 944.34, 946.65, 947.02 (3) and (4) and 948.08.

7 **SECTION 4.** 302.113 (7) of the statutes is renumbered 302.113 (7) (a).

8 **SECTION 5.** 302.113 (7) (b) of the statutes is created to read:

9 302.113 (7) (b) If a person is released on extended supervision under a
10 bifurcated sentence imposed for any violation of s. 944.30, 944.31, 944.32, 944.33,
11 944.335 or 944.34, the department may, subject to par. (a), require as a condition of
12 extended supervision that the person avoid the premises where the violation
13 occurred, the geographic area where the violation occurred or both the premises and
14 the geographic area where the violation occurred. If the department imposes a
15 condition of extended supervision under this paragraph that requires the person to
16 avoid the geographic area where the violation occurred, the department shall specify
17 in detail the geographic area to which the condition applies. This paragraph does not
18 prohibit the department from requiring as a condition of probation that a person
19 placed on probation for any violation of s. 944.30, 944.31, 944.32, 944.33, 944.335 or
20 944.34 avoid the premises where the violation occurred, the geographic area where
21 the violation occurred or both the premises and the geographic area where the
22 violation occurred.

23 **SECTION 6.** 304.06 (1z) of the statutes is created to read:

24 304.06 (1z) If a person is paroled from a sentence imposed for any violation of
25 s. 944.30, 944.31, 944.32, 944.33, 944.335 or 944.34, the parole commission or the

BILL

1 department may require as a condition of parole that the person avoid the premises
2 where the violation occurred, the geographic area where the violation occurred or
3 both the premises and the geographic area where the violation occurred. If the parole
4 commission or the department imposes a condition of parole under this subsection
5 that requires the person to avoid the geographic area where the violation occurred,
6 the parole commission or the department, whichever is applicable, shall specify in
7 detail the geographic area to which the condition applies. This subsection does not
8 prohibit the department from requiring as a condition of probation that a person
9 placed on probation for any violation of s. 944.30, 944.31, 944.32, 944.33, 944.335 or
10 944.34 avoid the premises where the violation occurred, the geographic area where
11 the violation occurred or both the premises and the geographic area where the
12 violation occurred.

13 **SECTION 7.** 944.30 (4g) of the statutes is created to read:

14 944.30 (4g) Masturbates himself or herself in the presence of another person
15 at the request of that other person or offers to masturbate himself or herself in the
16 presence of another person for anything of value.

17 **SECTION 8.** 944.335 of the statutes is created to read:

18 **944.335 Acts in furtherance of prostitution.** Any person who intentionally
19 does any of the following is guilty of a Class A misdemeanor:

20 (1) Exposes or offers to expose or requests another to expose his or her intimate
21 parts with intent to commit a violation of s. 944.30, 944.31, 944.32 or 944.33.

22 (2) Commits or offers to commit or requests another to commit an act of sexual
23 contact with intent to commit a violation of s. 944.30, 944.31, 944.32 or 944.33.

24 **SECTION 9.** 971.41 of the statutes is created to read:

BILL

1 **971.41 Deferred prosecution programs; prostitution cases.** (1) The
2 district attorney may enter into a deferred prosecution agreement under this section
3 with a person accused of or charged with any violation of s. 944.30, 944.31 or 944.335
4 or any misdemeanor violation of s. 944.33 if all of the following apply to the person:

5 (a) The person has not previously been convicted of any state or federal crime.

6 (b) The person is not also accused of or charged with any crime other than a
7 violation of s. 944.30, 944.31 or 944.335 or a misdemeanor violation of s. 944.33.

8 (2) A deferred prosecution agreement under sub. (1) shall provide that the
9 prosecution will be suspended for a specified period ^{not exceeding 1 year} if the person complies with
10 conditions specified in the agreement. The agreement shall be in writing, shall be
11 signed by the district attorney or his or her designee and the person, and shall
12 provide all of the following:

13 (a) That the person waives his or her right to a speedy trial during the period
14 of the agreement.

15 (b) That the agreement will toll any applicable civil or criminal statute of
16 limitations during the period of the agreement.

17 (c) That the person shall file with the district attorney a monthly written report
18 certifying his or her compliance with the conditions specified in the agreement.

19 (3) If a community organization in the community in which the person lives or
20 in which the violation occurred offers a program designed to educate offenders about
21 the effect of prostitution on the community and its neighborhoods, the agreement
22 shall provide, as one of its conditions, that the person must participate in the
23 program. — pay for program if able to economically

base of ability to pay.

BILL

1 (4) The written agreement shall be terminated and the prosecution may
2 resume upon written notice by either the person or the district attorney to the other
3 prior to completion of the period of the agreement.

4 (5) Upon completion of the period of the agreement, if the agreement has not
5 been terminated under sub. (4), the court shall dismiss, with prejudice, any charge
6 or charges against the person in connection with the crime specified in sub. (1), or
7 if no such charges have been filed, none may be filed.

8 (6) Consent to a deferred prosecution under this section is not an admission of
9 guilt and the consent may not be admitted in evidence in a trial for the crime specified
10 in sub. (1), unless the consent is relevant to questions concerning the statute of
11 limitations or lack of speedy trial. No statement relating to the crime, made by the
12 person in connection with any discussions concerning deferred prosecution or made
13 to any person involved in a program in which the person must participate as a
14 condition of the agreement, is admissible in a trial for the crime specified in sub. (1).

15 **SECTION 10.** 973.01 (5) of the statutes is amended to read:

16 973.01 (5) ~~EXTENDED~~ EXTENDED SUPERVISION CONDITIONS. Whenever the court
17 imposes a bifurcated sentence under sub. (1), the court may impose conditions upon
18 the term of extended supervision. If a person is given a bifurcated sentence for any
19 violation of s. 944.30, 944.31, 944.32, 944.33, 944.335 or 944.34, the court may
20 require as a condition of extended supervision that the person avoid the premises
21 where the violation occurred, the geographic area where the violation occurred or
22 both the premises and the geographic area where the violation occurred. If the court
23 imposes a condition of extended supervision under this subsection that requires the
24 person to avoid the geographic area where the violation occurred, the court shall
25 specify in detail the geographic area to which the condition applies.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1718/1

JEO:wlj&ksh:km

Joan

redraft
maker
run

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2

1999 BILL

1 AN ACT ^{Reger} to renumber 302.113 (7); to amend 48.57 (3p) (g) 3., 165.60, 165.70 (1)

2 (b), 973.01 (5), 973.075 (1) (b) 1m. c. and 973.075 (2) (intro.); and to create

3 302.113 (7) (b), 304.06 (1z), 944.30 (4g), 944.335 and 971.41 of the statutes;

4 relating to: prostitution and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits various conduct related to prostitution. This bill makes several changes in the laws relating to prostitution. Specifically, current law and the changes that the bill makes are as follows:

The offense of prostitution

Under current law, the offense of prostitution includes the following: 1) engaging in, offering to engage in or requesting another to engage in sexual intercourse for anything of value; 2) engaging in, offering to engage in or requesting another to engage in certain acts of sexual contact or sexual gratification for anything of value; and 3) masturbating another, offering to masturbate another or requesting to be masturbated by another for anything of value. A person who is found guilty of prostitution may be fined not more than \$10,000 or imprisoned for not more than nine months or both.

This bill provides that a person is guilty of prostitution if he or she masturbates himself or herself in the presence of another person at the request of that other person or offers to masturbate himself or herself in the presence of another person for anything of value.

BILL***Other offenses related to prostitution***

In addition to prohibiting prostitution, current law prohibits certain conduct relating to prostitution. Specifically, current law prohibits patronizing prostitutes, soliciting prostitutes (commanding, encouraging or requesting a person to practice prostitution on an ongoing basis), pandering (assisting a person in engaging a prostitute) and keeping a place of prostitution. A person who is found guilty of patronizing a prostitute may be fined not more than \$10,000 or imprisoned for not more than nine months or both. A person who is found guilty of soliciting prostitutes or keeping a place of prostitution may be fined not more than \$10,000 or imprisoned for not more than five years or both, if the offense occurs before December 31, 1999, or may be fined not more than \$10,000 or imprisoned for not more than ten years or both, if the offense occurs on or after December 31, 1999. A person who is found guilty of pandering may be fined not more than \$10,000 or imprisoned for not more than nine months or both, except that if he or she received compensation from the earnings of the prostitute he or she may be fined not more than \$10,000 or imprisoned for not more than ten years or both, if the offense occurs before December 31, 1999, or may be fined not more than \$10,000 or imprisoned for not more than 15 years or both, if the offense occurs on or after December 31, 1999.

This bill prohibits a person from doing any of the following, if they are done with the intent to engage in prostitution, to patronize prostitutes, to solicit prostitutes or to pander: 1) exposing or offering to expose or requesting another to expose his or her intimate parts; and 2) committing or offering to commit or requesting another to commit an act of sexual contact. A person who violates this prohibition may be fined not more than \$10,000 or imprisoned for not more than nine months or both.

Disposition of prostitution-related cases

The bill makes several changes relating to the disposition of cases of persons arrested for or convicted of offenses relating to prostitution. Specifically, the bill provides that when a person convicted of an offense relating to prostitution is released from prison on parole or extended supervision, the person may be required as a condition of parole or extended supervision to avoid the premises where the offense occurred or the geographic area where the offense occurred or both.

Finally, the bill provides for a deferred prosecution program for certain persons accused of or charged with prostitution, patronizing prostitutes, pandering (if the person did not receive compensation from the prostitute's earnings), or acts done with the intent to engage in prostitution, to patronize prostitutes, to solicit prostitutes or to pander. Under the deferred prosecution program, the accused or charged person must agree to abide by certain conditions, including participation in a program designed to educate offenders about the effect of prostitution on the community and its neighborhoods, if such a program is offered by a community organization in the community in which the person lives or in which the violation occurred. If the person satisfies the conditions of the deferred prosecution, the case against him or her is not prosecuted; but if he or she fails to satisfy the conditions, the case against him or her may be prosecuted.

and if the person has the financial ability to pay any fee required to participate in the program

BILL

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.** 48.57 (3p) (g) 3. of the statutes is amended to read:

2 48.57 (3p) (g) 3. The person has been convicted of a violation of ch. 940, 944 or
3 948, other than a violation of s. 940.291, 940.34, 944.36, 948.45, 948.63 or 948.70, or
4 of a violation of the law of any other state or federal law that would be a violation of
5 ch. 940, 944 or 948, other than a violation of s. 940.291, 940.34, 944.36, 948.45, 948.63
6 or 948.70, if committed in this state, except that a county department or, in a county
7 having a population of 500,000 or more, the department of health and family services
8 may make payments to a person applying for payments under sub. (3m) and a person
9 receiving payments under sub. (3m) may employ in a position in which the person
10 would have regular contact with the child for whom those payments are being made
11 or permit to be an adult resident a person who has been convicted of a violation of
12 s. 944.30, 944.31 ~~or~~, 944.33 or 944.335 or of a violation of the law of any other state
13 or federal law that would be a violation of s. 944.30, 944.31 ~~or~~, 944.33 or 944.335 if
14 committed in this state, if that violation occurred 20 years or more before the date
15 of the investigation.

16 **SECTION 2.** 165.60 of the statutes is amended to read:

17 **165.60 Law enforcement.** The department of justice is authorized to enforce
18 ss. 101.123 (2), (5) and (8), 944.30, 944.31, 944.33, 944.335, 944.34, 945.02 (2), 945.03
19 and 945.04 and is ~~invested~~ vested with the powers conferred by law upon sheriffs and
20 municipal police officers in the performance of those duties. This section does not

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1 deprive or relieve sheriffs, constables and other local police officers of the power and
2 duty to enforce those sections, and those officers shall likewise enforce those sections.

3 **SECTION 3.** 165.70 (1) (b) of the statutes is amended to read:

4 165.70 (1) (b) Enforce chs. 945 and 961 and ss. 940.20 (3), 940.201, 941.25 to
5 941.27, 943.01 (2) (c), 943.011, 943.27, 943.28, 943.30, 944.30, 944.31, 944.32, 944.33,
6 944.335, 944.34, 946.65, 947.02 (3) and (4) and 948.08.

7 **SECTION 4.** 302.113 (7) of the statutes is renumbered 302.113 (7) (a).

8 **SECTION 5.** 302.113 (7) (b) of the statutes is created to read:

9 302.113 (7) (b) If a person is released on extended supervision under a
10 bifurcated sentence imposed for any violation of s. 944.30, 944.31, 944.32, 944.33,
11 944.335 or 944.34, the department may, subject to par. (a), require as a condition of
12 extended supervision that the person avoid the premises where the violation
13 occurred, the geographic area where the violation occurred or both the premises and
14 the geographic area where the violation occurred. If the department imposes a
15 condition of extended supervision under this paragraph that requires the person to
16 avoid the geographic area where the violation occurred, the department shall specify
17 in detail the geographic area to which the condition applies. This paragraph does not
18 prohibit the department from requiring as a condition of probation that a person
19 placed on probation for any violation of s. 944.30, 944.31, 944.32, 944.33, 944.335 or
20 944.34 avoid the premises where the violation occurred, the geographic area where
21 the violation occurred or both the premises and the geographic area where the
22 violation occurred.

23 **SECTION 6.** 304.06 (1z) of the statutes is created to read:

24 304.06 (1z) If a person is paroled from a sentence imposed for any violation of
25 s. 944.30, 944.31, 944.32, 944.33, 944.335 or 944.34, the parole commission or the

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1 department may require as a condition of parole that the person avoid the premises
2 where the violation occurred, the geographic area where the violation occurred or
3 both the premises and the geographic area where the violation occurred. If the parole
4 commission or the department imposes a condition of parole under this subsection
5 that requires the person to avoid the geographic area where the violation occurred,
6 the parole commission or the department, whichever is applicable, shall specify in
7 detail the geographic area to which the condition applies. This subsection does not
8 prohibit the department from requiring as a condition of probation that a person
9 placed on probation for any violation of s. 944.30, 944.31, 944.32, 944.33, 944.335 or
10 944.34 avoid the premises where the violation occurred, the geographic area where
11 the violation occurred or both the premises and the geographic area where the
12 violation occurred.

13 **SECTION 7.** 944.30 (4g) of the statutes is created to read:

14 944.30 (4g) Masturbates himself or herself in the presence of another person
15 at the request of that other person or offers to masturbate himself or herself in the
16 presence of another person for anything of value.

17 **SECTION 8.** 944.335 of the statutes is created to read:

18 **944.335 Acts in furtherance of prostitution.** Any person who intentionally
19 does any of the following is guilty of a Class A misdemeanor:

20 (1) Exposes or offers to expose or requests another to expose his or her intimate
21 parts with intent to commit a violation of s. 944.30, 944.31, 944.32 or 944.33.

22 (2) Commits or offers to commit or requests another to commit an act of sexual
23 contact with intent to commit a violation of s. 944.30, 944.31, 944.32 or 944.33.

24 **SECTION 9.** 971.41 of the statutes is created to read:

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SECTION 9

1 **971.41 Deferred prosecution programs; prostitution cases.** (1) The
2 district attorney may enter into a deferred prosecution agreement under this section
3 with a person accused of or charged with any violation of s. 944.30, 944.31 or 944.335
4 or any misdemeanor violation of s. 944.33 if all of the following apply to the person:

5 (a) The person has not previously been convicted of any state or federal crime.

6 (b) The person is not also accused of or charged with any crime other than a
7 violation of s. 944.30, 944.31 or 944.335 or a misdemeanor violation of s. 944.33.

8 (2) A deferred prosecution agreement under sub. (1) shall provide that the
9 prosecution will be suspended for a specified period not to exceed one year if the person complies with
10 conditions specified in the agreement. The agreement shall be in writing, shall be
11 signed by the district attorney or his or her designee and the person, and shall
12 provide all of the following:

13 (a) That the person waives his or her right to a speedy trial during the period
14 of the agreement.

15 (b) That the agreement will toll any applicable civil or criminal statute of
16 limitations during the period of the agreement.

17 (c) That the person shall file with the district attorney a monthly written report
18 certifying his or her compliance with the conditions specified in the agreement.

19 (3) If a community organization in the community in which the person lives or
20 in which the violation occurred offers a program designed to educate offenders about

21 the effect of prostitution on the community and its neighborhoods, a deferred prosecution
22 under sub. (1) the agreement

23 shall provide, as one of its conditions, that the person must participate in the
program

except that if the program requires a participant to pay a fee, the person may be required to participate in the program only if he or she has the financial ability to pay the fee

BILL

1 (4) The written agreement shall be terminated and the prosecution may
2 resume upon written notice by either the person or the district attorney to the other
3 prior to completion of the period of the agreement.

4 (5) Upon completion of the period of the agreement, if the agreement has not
5 been terminated under sub. (4), the court shall dismiss, with prejudice, any charge
6 or charges against the person in connection with the crime specified in sub. (1), or
7 if no such charges have been filed, none may be filed.

8 (6) Consent to a deferred prosecution under this section is not an admission of
9 guilt and the consent may not be admitted in evidence in a trial for the crime specified
10 in sub. (1), unless the consent is relevant to questions concerning the statute of
11 limitations or lack of speedy trial. No statement relating to the crime, made by the
12 person in connection with any discussions concerning deferred prosecution or made
13 to any person involved in a program in which the person must participate as a
14 condition of the agreement, is admissible in a trial for the crime specified in sub. (1).

15 **SECTION 10.** 973.01 (5) of the statutes is amended to read:

16 973.01 (5) ^{plain text} ~~EXTENDED SUPERVISION~~ SUPERVISION CONDITIONS. Whenever the court
17 imposes a bifurcated sentence under sub. (1), the court may impose conditions upon
18 the term of extended supervision. If a person is given a bifurcated sentence for any
19 violation of s. 944.30, 944.31, 944.32, 944.33, 944.335 or 944.34, the court may
20 require as a condition of extended supervision that the person avoid the premises
21 where the violation occurred, the geographic area where the violation occurred or
22 both the premises and the geographic area where the violation occurred. If the court
23 imposes a condition of extended supervision under this subsection that requires the
24 person to avoid the geographic area where the violation occurred, the court shall
25 specify in detail the geographic area to which the condition applies.

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 2/22/99

To: Representative Colon

Relating to LRB drafting number: LRB-1718

Topic
Prostitution

Subject(s)
Criminal Law - miscellaneous

1. **JACKET** the draft for introduction _____

in the **Senate** _____ or the **Assembly** AS (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Jefren E. Olsen, Legislative Attorney
Telephone: (608) 266-8906

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