

1999 DRAFTING REQUEST

Bill

Received: **09/29/1999**

Received By: **olsenje**

Wanted: Soon

Identical to LRB:

For: **Gregory Huber (608) 266-0654**

By/Representing: **himself**

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

Drafter: mdsida

May Contact:

Alt. Drafters:

Subject: **Criminal Law - crimes agnst kids**

Extra Copies: **jeo**

Pre Topic:

No specific pre topic given

Topic:

Using a computer to commit a sex crime against a child

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>Reauired</u> |
|--------------|-----------------------|-------------------------|------------------------|----------------|-----------------------------|-----------------|----------------------|
| /P1 | mdsida 10/28/1999 | chanaman 1 1/02/1999 | mclark 1 1/03/1999 | _____ | lrb-docadmin 1 1/03/1999 | | State |
| /P2 | mdsida 12/07/1999 | chanaman 12/07/1999 | jfrantze 12/07/1999 | _____ | lrb-docadmin 12/07/1999 | | State |
| /P3 | mdsida 12/20/1999 | jgeller 12/20/1999 | martykr 12/20/1999 | _____ | lrb-docadmin 12/20/1999 | | State |
| /1 | mdsida 0 1/25/2000 | jgeller 0 1/26/2000 | martykr 0 1/27/2000 | _____ | lrb-docadmin 0 1/27/2000 | lrb_docadmin | State 0 1/27/2000 |

~ 1" 2/8/00

FE Sent For:

<END>

1999 DRAFTING REQUEST

Bill

Received: **09/29/1999**

Received By: **olsenje**

Wanted: **Soon**

Identical to LRB:

For: **Gregory Huber (608) 266-0654**

By/Representing: **himself**

This file may be shown to any legislator: NO

Drafter: **mdsida**

May Contact:

Alt. Drafters:

Subject: **Criminal Law - crimes agnst kids**

Extra Copies: **jeo**

Pre Topic:

No specific pre topic given

Topic:

Using a computer to commit a sex crime against a child

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> |
|--------------|----------------------|------------------------|------------------------|----------------|----------------------------|-----------------|-----------------|
| /P1 | mdsida 10/28/1999 | chanaman 11/02/1999 | mclark 11/03/1999 | _____ | lrb-docadmin 11/03/1999 | | State |
| /P2 | mdsida 12/07/1999 | chanaman 12/07/1999 | jfrantze 12/07/1999 | _____ | lrb-docadmin 12/07/1999 | for Assembly | State |
| /P3 | mdsida 12/20/1999 | jgeller 12/20/1999 | martykr 12/20/1999 | _____ | lrb-docadmin 12/20/1999 | | State |

FE Sent For:

11/26 jlg *Km 1/27* *Self 1/27*

<END>

1999 DRAFTING REQUEST

Bill

Received: 0912911999

Received By: **olsenje**

Wanted: **Soon**

Identical to LRB:

For: **Gregory Huber (608) 266-0654**

By/Representing: **himself**

This file may be shown to any legislator: NO

Drafter: **mdsida**

May Contact:

Alt. Drafters:

Subject: **Criminal Law - crimes agnst kids**

Extra Copies: **jeo**

Pre Topic:

No specific pre topic given

Topic:

Using a computer to commit a sex crime against a child

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> |
|--------------|----------------------|------------------------|------------------------|----------------|----------------------------|-----------------|-----------------|
| /P1 | mdsida 10/28/1999 | chanaman 11/02/1999 | mclark 11/03/1999 | _____ | lrb_docadmin 11/03/1999 | | State |
| /P2 | mdsida 12/07/1999 | chanaman 12/07/1999 | jfrantze 12/07/1999 | _____ | lrb_docadmin 12/07/1999 | | State |

Handwritten notes:
 /P3 12/20 jg
 Ym 12/20
 JG 12/20
 Km 12/20

FE Sent For:

<END>

1999 DRAFTING REQUEST

Bill

Received: 0912911999

Received By: **olsenje**

Wanted: **Soon**

Identical to LRB:

For: **Gregory Huber (608) 266-0654**

By/Representing: **himself**

This file may be shown to any legislator: NO

Drafter: **mdsida**

May Contact:

Alt, Drafters:

Subject: **Criminal Law - crimes agnst kids**

Extra Copies: **jeo**

Pre Topic:

No specific pre topic given

Topic:

Using a computer to commit a sex crime against a child

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>Resuired</u> |
|--------------|----------------------|------------------------|----------------------|----------------|----------------------------|-----------------|-----------------|
| /P1 | mdsida 10/28/1999 | chanaman 11/02/1999 | mclark 11/03/1999 | _____ | lrb_docadmin 11/03/1999 | | State |

FE Sent For:

cmk
12/7
1 pr
12/7
12/7
<END>

1999 DRAFTING REQUEST

Bill

Received: 0912911999

Received By: **olsenje**

Wanted: **Soon**

Identical to LRB:

For: **Gregory Huber (608) 266-0654**

By/Representing: **himself**

This file may be shown to any legislator: NO

Drafter: **mdsida**

May Contact:

Alt. Drafters:

Subject: **Criminal Law - crimes agnst kids**

Extra Copies: **jeo**

Pre Topic:

No specific pre topic given

Topic:

Using a computer to commit a sex crime against a child

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>Reaured</u> |
|--------------|----------------|-----------------|--------------|-----------------|------------------|-----------------|----------------|
| /P1 | mdsida | emk /p1 | MRC 11/3 | MRC/KJF 11/3 | | | |
| FE Sent For: | | 11/2 | | | | | |

<END>



Reg. Huber

by himself

1) Intent to commit felony sex crime
(follow 948.07 (1) - (4))

2) Use computer / elec. comm. device to solicit
or cause child to meet person in

3) Believes intended victim to be child
under age of 16.

~~Victim~~

Include in: 301.45
948.13.

BC felony

facilitate

communicate

entrap

Subj. -

obj. -

939.23 ?

sub(1) = subj. version of 948.08



cmh

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Soon

sexual

1 **AN ACT relating to:** using a computer to solicit a person believed to be a child
2 for prostitution or to ~~to~~ facilitate the commission of a sex crime against a person
3 believed to be a child and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a person may not solicit or cause a child to practice prostitution or establish a child in a place of prostitution. In addition, under current law, a person may not, with intent to commit any of the following acts, cause or attempt to cause a child to go into a vehicle, building, room or secluded place: (1) having sexual contact or sexual intercourse with the child; (2) causing the child to engage in prostitution; (3) exposing a sex organ to the child or causing the child to expose a sex organ; (4) taking a picture or making an audio recording of the child engaging in sexually explicit conduct; (5) causing bodily or mental harm to the child; and (6) giving or selling to the child a controlled substance or ~~controlled substance analog~~. The victim's age is an element of each of these crimes. *a*

a This bill creates new crimes involving the use of a computer to commit or to attempt to commit certain sex offenses against a person believed to be a child. Under the bill, no person may intentionally use a computerized communication system to solicit an individual whom the person believes has not attained the age of 16 years to practice prostitution or to be established in a place of prostitution. In addition, under the bill, no person may use a computerized communication system to communicate with an individual whom the person believes has not attained the age of **16** years with intent to facilitate the commission of any of the following acts: (1) having sexual contact or sexual intercourse with the individual; (2) exposing a sex

organ to the individual or causing the individual to expose a sex organ; or (3) taking a picture or making an audio recording of the individual engaging in sexually explicit conduct. The person's belief that the individual is under 16 (as opposed to the individual's actual age) is an element of each of these crimes. A person who commits one of these offenses may be imprisoned for up to 20 years, fined up to \$10,000 or both if the offense occurs before December 31, 1999, or imprisoned for up to 30 years, fined up to \$10,000 or both if the offense occurs on or after December 31, 1999. If the person has been previously convicted of a serious child sex offense or two serious felonies as defined in the statutes, the person is subject to a sentence of life imprisonment without the possibility of parole or extended supervision.

In addition, the bill also requires that persons convicted of one of these offenses register with the sex offender registry. The bill also prohibits certain persons convicted of one of these offenses from engaging in an occupation or participating in a volunteer position which requires the person to work or interact primarily and directly with children under 16.

For further information see the *state* 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:

SECTION 1. 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. 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.075, 948.08, 948.11 or 948.30, 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).

History: 1975 c. 430; 1977 c. 26.29; 1977 c. 187 ss. 42, 43, 134, 135; 1977 c. 428 ss. 29 to 65, 115; 1977 c. 447, 449; Sup. Ct. Order, 83 Wis. 2d xiii; 1979 c. 32, 89; Sup. Ct. Order, eff. 1-1-80; 1979 c. 110 s. 60 (1); 1979 c. 175 s 53; 1979 c. 300, 336, 356; 1981 c. 20, 367; 1981 c. 390 s. 252; 1983 a. 27, 219; 1983 a. 474 ss. 2 to 9m, 14; 1985 a. 29 ss. 1067 to 1071, 3200 (56), 3202 (56); 1985 a 139, 176, 321, 332; 1987 a. 27; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 366, 394, 403; 1988 a. 31, 334; 1993 a. 98, 196, 227, 316, 451, 474; 1995 a. 77, 201, 268, 292, 440; Sup. Ct. Order No. 96-08, 207 Wk. 2d xv (1997); 1997 a 35, 130, 237, 283.

SECTION 2. 165.93 (1) (b) of the statutes is amended to read:

1 165.93 (1) (b) "Sexual assault" means conduct that is in violation of s. 940.225,
2 948.02, 948.025, 948.03, 948.055, 948.06, 948.07, 948.075, 948.08, 948.09 or 948.10.

3 History: 1993 a. 16, 227; 1995 a. 225.

SECTION 3. 301.45 (1) (a) of the statutes is amended to read:

4 301.45 (1) (a) Is convicted, adjudicated delinquent or found in need of
5 protection or services on or after December 25, 1993, for any violation, or for the
6 solicitation, conspiracy or attempt to commit any violation, of s. 940.22 (2), 940.225
7 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07,
8 948.075, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the victim was a minor
9 and the person was not the victim's parent.

10 History: 1995 a. 440 ss. 26 to 49, 53 to 74; Stats. 1995 s. 301.45; 1997 a. 3, 35, 130, 191, 237, 283.

~~**SECTION 4.** 301.45 (1) (b) of the statutes is amended to read:~~

~~11 301.45 (1) (b) Is in prison, a secured correctional facility, as defined in s. 938.02
12 (15m), or a secured child caring institution, as defined in s. 938.02 (15g), or on
13 probation, extended supervision, parole, supervision or aftercare supervision on or
14 after December 25, 1993, for any violation, or for the solicitation, conspiracy or
15 attempt to commit any violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02
16 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.075, 948.08, 948.11 or 948.30,
17 or of s. 940.30 or 940.31 if the victim was a minor and the person was not the victim's
18 parent.~~

~~19 History: 1995 a. 440 ss. 26 to 49, 53 to 74; Stats. 1995 s. 301.45; 1997 a. 3, 35, 130, 191, 237, 283.~~

~~**SECTION 5.** 301.45 (1) (b) of the statutes, as affected by 1999 Wisconsin Act 9,~~

~~20 is amended to read:~~

~~21 301.45 (1) (b) Is in prison, a secured correctional facility, a secured child caring
22 institution or a secured group home or is on probation, extended supervision, parole,
23 supervision or aftercare supervision on or after December 25, 1993, for any violation,
24 or for the solicitation, conspiracy or attempt to commit any violation, of s. 940.22 (2),~~

19

please create auto ref a

1 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06,
2 948.07, 948.075, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the victim was
3 a minor and the person was not the victim's parent.

History: 1999 a. 9.

4 ~~SECTION 6. 301. 1) (bm) of the statutes is amended to read:~~

5 301.45 (1) (bm) Is in prison, a secured correctional facility, as defined in s.
6 938.02 (15m), or a secured child caring institution, as defined in s. 938.02 (15g), or
7 on probation, extended supervision, parole, supervision or aftercare supervision on
8 or after December 25, 1993, for a violation, or for the solicitation, conspiracy or
9 attempt to commit a violation, of a law of this state that is comparable to s. 940.22
10 (2), ~~940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06,~~
11 948.075, 948.08, 948.11 or 948.30 or that is comparable to a violation of s. ~~940.30 or~~
12 940.31 if the victim was a minor and the person was not the victim's parent.

History: 1995 a. 440 ss. 26 to 49, 64 to 74; Stats. 1995 s. 301.45; 1997 a. 3, 35, 130, 191, 237, 283.

13 ~~SECTION 7. 301.45 (1) (bm) of the statutes, as affected by 1999 Wisconsin Act~~

14 9, is amended to read:

15 301.45 (1) (bm) Is in prison, a secured correctional facility, a secured child
16 caring institution or a secured group home or is on probation, extended supervision,
17 parole, supervision or aftercare supervision on or after December 25, 1993, for a
18 violation, or for the solicitation, conspiracy or attempt to commit a violation, of a law
19 of this state that is comparable to s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02
20 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.075, 948.08, 948.11 or 948.30
21 or that is comparable to a violation of s. 940.30 or 940.31 if the victim was a minor
22 and the person was not the victim's parent.

History: 1999 8.9.

23 SECTION 8. 301.45 (1) (c) of the statutes is amended to read:

1 301.45 (1) (c) Is found not guilty or not responsible by reason of mental disease
2 or defect on or after December 25, 1993, and committed under s. 51.20 or 971.17 for
3 any violation, or for the solicitation, conspiracy or attempt to commit any violation,
4 of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05,
5 948.055, 948.06, 948.07, 948.075, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31
6 if the victim was a minor and the person was not the victim's parent.

7 **History:** 1995 a 440 ss. 26 to 49, 53 to 74; Stats. 1995 s. 301.45; 1997 a. 3, 35, 130, 191, 237, 283.

SECTION 9. 301.45 (1) (d) of the statutes is amended to read:

8 301.45 (1) (d) Is in institutional care or on conditional transfer under s. 51.35
9 (1) or conditional release under s. 971.17 on or after December 25, 1993, for any
10 violation, or for the solicitation, conspiracy or attempt to commit any violation, of s.
11 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055,
12 948.06, 948.07, 948.075, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the
13 victim was a minor and the person was not the victim's parent.

14 **History:** 1995 a 440 ss. 26 to 49, 53 to 74; Stats. 1995 s. 301.45; 1997 a. 3, 35, 130, 191, 237, 283.

SECTION 10. 301.45 (1) (dd) of the statutes is amended to read:

15 301.45 (1) (dd) Is in institutional care or on conditional transfer under s. 51.35
16 (1) or conditional release under s. 971.17 on or after December 25, 1993, for a
17 violation, or for the solicitation, conspiracy or attempt to commit a violation, of a law
18 of this state that is comparable to s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02
19 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.075, 948.08, 948.11 or 948.30
20 or that is comparable to a violation of s. 940.30 or 940.31 if the victim was a minor
21 and the person was not the victim's parent.

22 **History:** 1995 a. 440 ss. 26 to 49, 53 to 74; Stats. 1995 s. 301.45; 1997 a. 3, 35, 130, 191, 237, 283.

SECTION 11. 301.45 (1) (dh) of the statutes is amended to read:

23 301.45 (1) (dh) Is on parole, extended supervision or probation in this state
24 from another state under s. 304.13 or 304.135 on or after December 25, 1993, for a

1 violation, or for the solicitation, conspiracy or attempt to commit a violation, of the
 2 law of another state that is comparable to a violation of s. 940.22 (2), 940.225 (1), (2)
 3 or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 928.075,
 4 948.08, 948.11 or 948.30 or that is comparable to a violation of s. 940.30 or 940.31 if
 5 the victim was a minor and the person was not the victim's parent.

6 **History:** 1995 a. 440 SS. 26 to 49.53 to 74; stats.1995 s. 301.45; 1997 a. 3, 35, 130, 191, 237, 283.

6 **SECTION 12.** 301.45 (5) (b) 1. of the statutes is amended to read:

7 301.45 (5) (b) 1. The person has, on 2 or more separate occasions, been convicted
 8 or found not guilty or not responsible by reason of mental disease or defect for any
 9 violation, or for the solicitation, conspiracy or attempt to commit any violation, of s.
 10 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055,
 11 948.06, 948.07, 948.075, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the
 12 victim was a minor and the person was not the victim's parent, or for any violation,
 13 or for the solicitation, conspiracy or attempt to commit any violation, of a law of this
 14 state or any other state that is comparable to a violation of s. 940.22 (2), 940.225 (1),
 15 (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.075,
 16 948.08, 948.11 or 948.30 or that is comparable to a violation of s. 940.30 or 940.31 if
 17 the victim was a minor and the person was not the victim's parent. A conviction that
 18 has been reversed, set aside or vacated is not a conviction for purposes of determining
 19 under this subdivision whether a person has been convicted on 2 or more separate
 20 occasions.

21 **History:** 1995 8.440 ss. 26 to 49.53 to 74; Stats. 1995 s. 301.45; 1997 a. 3, 35, 130, 191, 237, 283.

21 **SECTION 13.** 301.46 (2m) (a) of the statutes is amended to read:

22 301.46 (2m) (a) If an agency with jurisdiction confines a person under s.
 23 301.046, provides a person entering the intensive sanctions program under s.
 24 301.048 with a sanction other than a placement in a Type 1 prison or a jail, or releases

1 a person from confinement or institutional care, and the person has, on one occasion
2 only, been convicted or found not guilty or not responsible by reason of mental disease
3 or defect for any violation, or for the solicitation, conspiracy or attempt to commit any
4 violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025,
5 948.05, 948.055, 948.06, 948.07, 948.075, 948.08, 948.11 or 948.30, or of s. 940.30 or
6 940.31 if the victim was a minor and the person was not the victim's parent, or a law
7 of this state that is comparable to s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02
8 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.075, 948.08, 948.11 or 948.30,
9 or that is comparable to s. 940.30 or 940.31 if the victim was a minor and the person
10 was not the victim's parent, the agency with jurisdiction may notify the police chief
11 of any community and the sheriff of any county in which the person will be residing,
12 employed or attending school if the agency with jurisdiction determines that such
13 notification is necessary to protect the public. Notification under this paragraph may
14 be in addition to providing access to information under sub. (2) or to any other
15 notification that an agency with jurisdiction is authorized to provide.

History: 1995 a. 440; 1997 a 6, 27, 130, 181, 237, 283.

16 **SECTION 14.** 301.46 (2m) (am) of the statutes is amended to read:

17 301.46 **(2m)** (am) If an agency with jurisdiction confines a person under s.
18 301.046, provides a person entering the intensive sanctions program under s.
19 301.048 with a sanction other than a placement in a Type 1 prison or a jail, or releases
20 a person from confinement or institutional care, and the person has been found to be
21 a sexually violent person under ch. 980 or has, on 2 or more separate occasions, been
22 convicted or found not guilty or not responsible by reason of mental disease or defect
23 for any violation, or for the solicitation, conspiracy or attempt to commit any
24 violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025,

1 948.05, 948.055, 948.06, 948.07, 948.075, 948.08 or 948.11 or a law of this state that
2 is comparable to s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025,
3 948.05, 948.055, 948.06, 948.07, 948.075, 948.08 or 948.11, the agency with
4 jurisdiction shall notify the police chief of any community and the sheriff of any
5 county in which the person will be residing, employed or attending school.
6 Notification under this paragraph shall be in addition to providing access to
7 information under sub. (2) and to any other notification that an agency with
8 jurisdiction is authorized to provide.

History: 1995 a. 440; 1997 a. 6.27, 130, 181, 237, 283.

9 **SECTION 15.** 302.045 (2) (c) of the statutes is amended to read:

10 302.045 (2) (c) The inmate is incarcerated regarding a violation other than a
11 crime specified in ch. 940 or s. 948.02, 948.025, 948.03, 948.05, 948.055, 948.06,
12 948.07, 948.075, 948.08 or 948.095.

History: 1989 a. In: 1991 a. 39; 1993 a. 218, 227, 491; 1995 a. 456; 1997 a. 283.

13 **SECTION 16.** 302.11 (lg) (a) 2. of the statutes is amended to read:

14 302.11 (**1g**) (a) 2. Any felony under s. 940.02, 940.03, 940.05, 940.09 (1), 940.19
15 (5), 940.195 (5), 940.21, 940.225 (1) or (2), 940.305 (2), 940.31 (1) or (2) (b), 943.02,
16 943.10 (2), 943.23 (1g) or (1m), 943.32 (2), 946.43, 948.02 (1) or (2), 948.025, 948.03
17 (2) (a) or (c), 948.05, 948.06, 948.07, 948.075, 948.08, 948.30 (2), 948.35 (1) (b) or (c)
18 or 948.36.

History: 1977 c. 266, 353; 1979 c. 221; 1981 c. 266; 1983 a. 66, 528; 1985 a. 27; 1985 a. 332 s. 251 (1); 1987 a. 27, 412; 1989 a. 31 ss. 1629, 1630; Stats. s. 302.11; 1989
a. 107; 1991 a. 39; 1993 a. 79, 97, 194, 289, 483; 1995 a. 77, 448; 1997 a. 133, 275, 283, 284, 295, 326.

19 **SECTION 17.** 304.06 (2m) (a) of the statutes is amended to read:

20 304.06 (**2m**) (a) In this subsection, "serious sex offense" means a violation of
21 s. 940.225 (1) or (2), 948.02 (1) or (2), 948.025, 948.06 ~~or~~, 948.07 or 948.075 or a

1 solicitation, conspiracy or attempt to commit a violation of s. 940.225 (1) or (2), 948.02
2 (1) or (2), ~~948.025, 948.06 or, 948.07 or 948.075.~~

History: 1971 c. 125, 219; 1973 c. 90, 198, 333; 1975 c. 156, 199; 1977 c. 29, 353, 418, 449; 1979 c. 356; 1981 c. 266; 1983 a. 27, 64, 197, 528, 538; 1985 a. 262 s. 8; 1987 a. 244 ss. 1 to 3, 7; 1987 a. 412; 1989 a. 31 ss. 1699 to 1700; Stats. 1989 s. 304.06; 1989 a. 107, 122; 1991 a. 39; 1993 a. 79, 89, 97, 178, 194, 227, 289, 377, 479, 491; 1995 a. 27, 77, 352, 387, 444, 448; 1997 a. 133, 181, 237, 275, 283, 284, 326; s. 13.93 (2) (c).

3 **SECTION 18, 938.34 (Em) (bm)** of the statutes is amended to read:

4 **938.34 (15m) (bm)** If the juvenile is adjudicated delinquent on the basis of a
5 violation, or the solicitation, conspiracy or attempt to commit a violation, of s.
6 940.225 (l), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06,
7 948.07, 948.075, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the victim was
8 a minor and the juvenile was not the victim's parent, the court shall require the
9 juvenile to comply with the reporting requirements under s. 301.45 unless the court
10 determines, after a hearing on a motion made by the juvenile, that the juvenile is not
11 required to comply under s. 301.45 (1m).

as affected by 1999 Wisconsin Act 3,

12

History: 1995 a. 77, 352, 440, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

13 **939.615 (1) (b) 1.** A violation, or the solicitation, conspiracy or attempt to
14 commit a violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 948.02 (1) or (2), 948.025
15 (l), 948.05 (1) or (1m), 948.055 (1), 948.06, 948.07, 948.075, 948.08, 948.11 (2) (a),
16 948.12 or 948.13.

History: 1997 a. 275; 1999 a. 3.
17 **SECTION 20. 939.62 (2m) (a) lm. a.** of the statutes is amended to read:

18 **939.62 (2m) (a) lm. a.** A violation of s. 948.02, 948.025, 948.05, 948.055, 948.06,
19 948.07, 948.075, 948.08 or 948.095 or 948.30 or, if the victim was a minor and the
20 convicted person was not the victim's parent, a violation of s. 940.31.

History: 1977 c. 449; 1989 a. 85; 1993 a. 289, 483, 486; 1995 a. 77, 448; 1997 a. 219, 283, 295, 326; s. 13.93 (2) (c).
21 **SECTION 21. 939.62 (2m) (a) 2m. b.** of the statutes is amended to read:

22 **939.62 (2m) (a) 2m. b.** Any felony under s. 940.01, 940.02, 940.03, 940.05,
23 940.09 (1), 940.16, 940.19 (5), 940.195 (5), 940.21, 940.225 (1) or (2), 940.305, 940.31,

1 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (lg), (lm) or (1r), 943.32 (2), 946.43,
2 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c), 948.05, 948.06, 948.07, 948.075, 948.08,
3 948.30 (2), 948.35 (1) (b) or (c) or 948.36.

~~NOTE: NOTE: Subpar. b. is shown as affected by three acts of the 1997 legislature and as merged by the revisor under s. 13.93 (2) (c). NOTE:~~

History: 1977 c. 449; 1989 a. 85; 1993 a. 289, 483, 486; 1995 a. 77, 448; 1997 a. 219, 283, 295, 326; s. 13.93 (2) (c).

4 **SECTION 22. 939.74 (2) (c) of the statutes is amended to read:**

5 939.74 (2) (c) A prosecution for violation of s. 948.02, 948.025, 948.03 (2) (a),
6 948.05, 948.06, 948.07 (1), (2), (3) or (4), 948.075, 948.08 or 948.095 shall be
7 commenced before the victim reaches the age of 31 years or be barred.

History: 1981 c. 280; 1985 a. 275; 1987 a. 332, 380, 399, 403; 1989 a. 121; 1991 a. 269; 1993 a. 219, 227, 486; 1995 a. 456; 1997 a. 237.

8 **SECTION 23. 944.32 of the statutes is amended to read:**

9 944.32 **Soliciting prostitutes.** Except as provided under ~~s.~~ [✓] ss. 948.075 (1)
10 and [✓] 948.08, whoever intentionally solicits or causes any person to practice
11 prostitution or establishes any person in a place of prostitution is guilty of a Class
12 D felony.

as affected by 1999 Wisconsin Act 9,

13 History: 1977 c. ~~SE 1977 c.~~ **SECTION 24. 946.82 (4) of the statutes is amended to read:**

14 946.82 (4) "Racketeering activity" means any activity specified in 18 USC 1961
15 (1) in effect as of April 27, 1982 or the attempt, conspiracy to commit, or commission
16 of any of the felonies specified in: chs. 945 and 961 and ss. 49.49, 134.05, 139.44 (1),
17 180.0129, 181.0129, 185.825, 200.09 (2), 215.12, 221.0625, 221.0636, 221.0637,
18 221.1004, 551.41, 551.42, 551.43, 551.44, 553.41 (3) and (4), 553.52 (2), 940.01,
19 940.19 (3) to (6), 940.20, 940.201, 940.203, 940.21, 940.30, 940.305, 940.31, 941.20
20 (2) and (3), 941.26, 941.28, 941.298, 941.31, 941.32, 943.01 (2) or (2g), 943.011,
21 943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06, 943.10, 943.20 (3) (b) to (d),
22 943.201, 943.23 (lg), (1m), (lr), (2) and (3), 943.24 (2), 943.25, 943.27, 943.28, 943.30,
23 943.32, 943.34 (1) (b) and (c), 943.38, 943.39, 943.40, 943.41 (8) (b) and (c), 943.50 (4)

1 (b) and (c), 943.60, 943.70, 944.205, 944.21 (5) (c) and (e), 944.32, 944.33 (2), 944.34,
 2 945.03^(1m), 945.04^(1m), 945.05⁽¹⁾, 945.08, 946.10, 946.11, 946.12, 946.13, 946.31, 946.32 (1),
 3 946.48^{stet}, 946.49, 946.61, 946.64, 946.65, 946.72, 946.76, 947.015, 948.05, 948.075⁽¹⁾,
 4 948.08, 948.12 and 948.30.

History: 1981 c. 280; 1983 a. 438; 1985 a. 104; 1985 a. 236 s. 15; 1987 a. 266 s. 5; 1987 a. 332, 348, 349, 403; 1989 a. 121,303; 1991 a. 32, 39, 189; 1993 a. 50, 92, 94, 112, 280, 441, 491; 1995 a. 133,249,336,44s; 1997 a. 35,79,101,140,143,252.

5 **SECTION 25.** 948.025 (3) of the statutes is amended to read:

6 948.025 (3) The state may not charge in the same action a defendant with a
 7 violation of this section and with a felony violation involving the same child under
 8 ch. 944 or a violation involving the same child under s. 948.02, 948.05, 948.06,
 9 948.07, 948.075, 948.08, 948.10, 948.11 or 948.12, unless the other violation occurred
 10 outside of the time period applicable under sub. (1). This subsection does not prohibit
 11 a conviction for an included crime under s. 939.66 when the defendant is charged
 12 with a violation of this section.

History: 1993 a. 227; 1995 a. 14.

13 **SECTION 26.** 948.075 of the statutes is created to read:

14 **948.075 Use of a computer to facilitate a child sex crime.** Whoever does
 15 any of the following is guilty of a Class BC felony:

16 (1) Intentionally uses a computerized communication system to solicit an
 17 individual whom^g the actor believes has not attained the age of 16 years to practice
 18 prostitution or to be established in a place of prostitution.

19 (2) Uses a computerized communication system to communicate with an
 20 individual whom^g the actor believes has not attained the age of 16 years with intent
 21 to facilitate the commission of any of the following acts:

22 (a) Having sexual contact or sexual intercourse with the individual in violation
 23 of s. 948.02 or 948.095.

1 (b) Exposing a sex organ to the individual or causing the individual to expose
2 a sex organ in violation of s. 948.10.

3 (c) Taking a picture or making an audio recording of the individual engaging
4 in sexually explicit

5 SECTION 27. 948.13 (1) (a) of the statutes^a is amended to read:

6 948.13 (1) (a) A crime under s. 940.22 (2) or 940.225 (2) (c) or (cm), if the victim
7 is under 18 years of age at the time of the offense, or a crime under s. 948.02 (1),
8 948.025 (l), 948.05 (1) or (lm), 948.06 ~~or~~, 948.07 (1), (2), (3) or (4) or 948.075.

History: 1995 a. 265; 1997 a. 130, 220; 1999 a. 3.

9 SECTION 28. 949.03 (1) (b) of the statutes is amended to read:

10 949.03 (1) (b) The commission or the attempt to commit any crime specified in
11 s. 346.62 (4), 346.63 (2) or (6), 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08,
12 940.09, 940.10, 940.19, 940.20, 940.201, 940.21, 940.22 (2), 940.225, 940.23, 940.24,
13 940.25, 940.285, 940.29, 940.30, 940.305, 940.31, 940.32, 941.327, 943.02, 943.03,
14 943.04, 943.10, 943.20, 943.23 (lg), (lm) or (lr), 943.32, 948.02, 948.025, 948.03,
15 948.04, 948.07, 948.075, 948.095, 948.20, 948.30 or 948.51.

History: 1975 c. 224 s. 1452a; 1975 c. 344; 1977 c. 173, 239; 1979 c. 118; 1983 a. 199, 356, 538; 1985 a. 275; 1985 a. 293 s. 3; 1985 a. 306 s. 5; 1987 a. 90, 332, 380, 399, 403; 1989 a. 105, 140, 359; 1993 a. 92, 227; 1995 a. 153, 374, 456; 1997 a. 35, 143, 258.

16 SECTION 29. 969.08 (10) (b) of the statutes is amended to read:

17 969.08 (16) (b) "Serious crime" means any crime specified in s. 346.62 (4),
18 940.01, 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (5), 940.195
19 (5), 940.20, 940.201, 940.203, 940.21, 940.225 (1) to (3), 940.23, 940.24, 940.25,
20 940.29, 940.295 (3) (b) lg., lm., lr., 2. or 3., 940.31, 941.20 (2) or (3), 941.26, 941.30,
21 941.327, 943.01 (2) (c), 943.011, 943.013, 943.02, 943.03, 943.04, 943.06, 943.10,
22 943.23 (lg), (lm) or (lr), 943.30, 943.32, 946.01, 946.02, 946.43, 947.015, 948.02 (1)
23 (2) 948.025, 948.03, 948.04, 948.05, 948.06, 948.07 ~~or~~ 948.075 948.06, 948.07 948.30.

plain " " "or" move ↑ scored text

1 ~~NOTE: NOTE: NOTE: Pak (b) is shown as affected by three acts of the 1997 legislature and as merged by the revisor under s. 13.93 (2) (c). NOTE:—~~

~~History: 1971 c. 298; 1977 c. 449; 1979 c. 112; 1981 c. 183; 1985 a. 293 s. 3; 1987 a. 90, 332, 399, 403; 1991 a. 153, 269; 1993 a. 50, 92, 94, 227, 441, 445, 491; 1997 a. 143, 180, 295; s. 13.93 (2) (c).~~

2 SECTION 30. 971.17 (lm) (b) 2m. of the statutes is amended to read:

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

~~History: 1975 c. 430; 1977 c. 353; 1977 c. 428 s. 115; 1983 a. 359; Sup. Ct. Order, 141 Wk. 2d xiii (1987); 1987 a. 394; 1989 a. 31, 142, 334, 359; Sup. Ct. Order, 158 Wk. 2d xvii (1990); 1991 a. 39, 189, 269; 1993 a. 16, 98, 227; 1995 a. 27 s. 9126 (19); 1995 a. 417, 425, 440, 448; 1997 a. 35, 130, 181, 252, 275.~~

12 SECTION 31. 973.01 (3m) of the statutes is amended to read:

13 973.01 (3m) CHALLENGE INCARCERATION PROGRAM ELIGIBILITY. When imposing
14 a bifurcated sentence under this section on a person convicted of a crime other than
15 a crime specified in ch. 940 or s. 948.02, 948.025, 948.03, 948.05, 948.055, 948.06,
16 948.07, 948.075, 948.08 or 948.095, the court shall, as part of the exercise of its
17 sentencing discretion, decide whether the person being sentenced is eligible or
18 ineligible for the challenge incarceration program under s. 302.045 during the term
19 of confinement in prison portion of the bifurcated sentence.

History: 1997 a. 283.

20 SECTION 32. 973.0135 (1) (b) 2. of the statutes is amended to read:

21 973.0135 (1) (b) 2. Any felony under s. 940.01, 940.02, 940.03, 940.05, 940.09
22 (1), 940.16, 940.19 (5), 940.195 (5), 940.21, 940.225 (1) or (2), 940.305, 940.31,
23 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (lg), (lm) or (lr), 943.32 (2), 946.43,

1 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c), 948.05, 948.06, 948.07, 948.075, 948.08,
2 948.30 (2), 948.35 (1) (b) or (c) or 948.36. .

NOTE: NOTE: Subd. 2. is shown as affected by two acts of the 1997 legislature and as merged by the revisor under s. 13.93 (2) (c). NOTE:

History: 1993 a. 194, 483; 1995 a. 448; 1997 a. 219, 283, 295; s. 13.93 (2) (c).

as affected by 1999 Wisconsin Act 3,

3 **SECTION 33.** 973.034 of the statutes is amended to read:

4 **973.034 Sentencing; restriction on child sex offender working with**
5 **children.** Whenever a court imposes a sentence or places a defendant on probation
6 regarding a conviction under s. 940.22 (2) or 940.225 (2) (c) or (cm), if the victim is
7 under 18 years of age at the time of the offense, or a conviction under s. 948.02 (l),
8 948.025 (1), 948.05 (1) or (1m), 948.06 ~~or~~, 948.07 (1), (2), (3) or (4) or 948.075, the court
9 shall inform the defendant of the requirements and penalties under s. 948.13.

History: 1995 a. 265; 1997 a. 220; 1999 a. 3.

10 **SECTION 34.** 973.048 (2m) of the statutes is amended to read:

11 973.048 (2m) If a court imposes a sentence or places a person on probation for
12 a violation, or for the solicitation, conspiracy or attempt to commit a violation, of s.
13 940.22 (2), 940.225 (l), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055,
14 948.06, 948.07, 948.075, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the
15 victim was a minor and the person was not the victim's parent, the court shall require
16 the person to comply with the reporting requirements under s. 301.45 unless the
17 court determines, after a hearing on a motion made by the person, that the person
18 is not required to comply under s. 301.45 (1m).

History: 1995 a. 440; 1997 a. 130.

19 **SECTION 35.** 973.20 (4m) of the statutes is amended to read:

20 973.20 (4m) If the defendant violated s. 940.225, 948.02, 948.025, 948.05,
21 948.06, 948.07 ~~or 948.075~~ or 948.08 and sub. (3) (a) does not apply, the restitution
22 order may require that the defendant pay an amount, not to exceed \$10,000, equal
23 to the cost of necessary professional services relating to psychiatric and psychological

21

Y
or 948.075

plain

1 care and treatment. The \$10,000 limit under this subsection does not apply to the
2 amount of any restitution ordered under sub. (3) or (5) for the cost of necessary
3 professional services relating to psychiatric and psychological care and treatment.

4 History: 1987 a. 398 ss. 39 to 41.43; 1989 a. 31.168; 1991 a. 39.269; 1993 a. 213; 1995 a. 141.161; 1997 a. 283.

SECTION 36. 980.01 (6) (a) of the statutes is amended to read:

5 980.01 (6) (a) ~~Any crime~~ specified in s. 940.225 (1) or (2), 948.02 (1) or (2),
6 948.025, 948.06 ~~or~~, 948.07 or 948.075.

7 History: 1993 a. 479; 1995 a. 27 s. 9126 (19); 1997 a. 284.295.

SECTION 37. Effective dates. This act takes effect on the day after publication,

8 except as follows:

whichever is later.

9 (1) The amendment of sections 301.45 (1) (b) and 301.45 (1) (bm) (by SECTIONS
10 5 and 7) of the statutes of the statutes takes effect on January 1, 2000.

(END)

*use auto-reference
of
(created on page
4)*

*cs
(by SECTION 5)*

*use auto-reference "a"
(created on page 3)*

3 1

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3677/P1dn
MGD:.....

October 28, 1999

Rep. Huber:

Please review this draft carefully to ensure that it is consistent with your intent. In particular, please note the following:

1. Under current law, if the age of the victim is an element of a crime, a person who avoids prosecution for the completed offense solely because the victim is not a child is nevertheless subject to prosecution for attempting to commit the offense if he or she mistakenly believes the victim is a child. *See State v. Kordas*, 191 Wis. 2d 124, 129-30 (Ct. App. 1995). Thus, if a person mistakenly believes that the individual whom he or she solicits, through e-mail, to engage in prostitution is a child, the person is guilty of violating proposed s. 948.075 (1) and attempting to violate s. 948.08.

In addition, under this bill, if the child is actually under 16 and the person completes (or attempts to complete) the offense of solicitation of a child for prostitution or one of the predicate offense listed in s. 948.075 (2), the person can be charged both with violating s. 948.075 and with the predicate offense (or with attempting to commit the predicate offense). Is this okay? *in proposed s. 948.075 (2) (intro.)*

2. Is the word "facilitate" *too broad?* ~~One~~ alternative would entail using the word "solicit" plus descriptions of other acts you want to cover.

3. A person can be convicted under this draft without committing the predicate offense while being punished more severely in certain cases than a person who does. For example, a person who sends an e-mail message to a child (or an individual who the person believes is a child) to induce the child to record himself or herself engaging in sexually explicit conduct is guilty of a Class BC felony, while a person who commits the offense of sexual exploitation of a child is guilty of a Class C felony. Moreover, a person who is convicted of attempted sexual exploitation of a child is subject to only half of the penalty for the Class C felony. This treatment, however, parallels that provided in s. 948.07. If you would like to change it in any way, please let me know.

4. Under the draft, persons who violate proposed s. 948.075 may be subject to lifetime supervision under s. 939.615 (1) (b) 1. In addition, please note that the draft does not refer to any part of proposed s. 948.075 in the exception to the sex offender registration requirements in s. 301.45 (1m) (a). Is this okay?

5. *I included a cross-reference to* ~~Do you want to cover~~ this crime in the sex predator commitment statute (i.e., in s. 980.01 (6) (a)) *is this okay?*

in s. 969.08 (10), which relates to the commission of a serious crime by a person released on bail,
and in ~~s. 304.06 (2m)~~ s. 304.06 (2m), which restricts places restrictions on where certain prisoners may be paroled.

stet
for example

6. Do you want ^{the} commission of this crime ^{both} warrant the non-issuance, suspension or revocation of a driver's license under ss. 343.06 (1) (i) and 343.30, (2d)? (Child enticement is included in ~~all three~~ ^{to} statutes.)

7. Do you want to include proposed s. 948.075 in the list of crimes covered by the victim notification provisions in ss. 301.046 (4), 301.048 (4m) (b), 302.115 (2), 303.068 (4m) (b), 304.06 (1) (d) 1. and ^{to} 304.063 (2)?

8. Under s. 165.70 (1) (b), the department of justice is responsible for enforcing s. 948.08. Do you want it to be responsible for enforcing proposed s. 948.075 (1) as well?

Michael Dsida
Legislative Attorney
Phone: (608) 266-9867

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3677/P1dn
MGD:cmh:mrc

November 3, 1999

Rep. Huber:

Please review this draft carefully to ensure that it is consistent with your intent. In particular, please note the following:

1. Under current law, if the age of the victim is an element of a crime, a person who avoids prosecution for the completed offense solely because the victim is not a child is nevertheless subject to prosecution for attempting to commit the offense if he or she mistakenly believes the victim is a child. *See State v. Kordas*, 191 Wis. 2d 124, 129-30 (Ct. App. 1995). Thus, if a person mistakenly believes that the individual whom he or she solicits, through e-mail, to engage in prostitution is a child, the person is guilty of violating proposed s. 948.075 (1) and attempting to violate s. 948.08.

In addition, under this bill, if the child is actually under 16 and the person completes (or attempts to complete) the offense of solicitation of a child for prostitution or one of the predicate offense listed in s. 948.075 (2), the person can be charged both with violating s. 948.075 and with the predicate offense (or with attempting to commit the predicate offense). Is this okay?

2. Is the word "facilitate" in proposed s. 948.075 (2) (intro.) too broad? One alternative would entail using the word "solicit" plus descriptions of other acts you want to cover.

3. A person can be convicted under this draft without committing the predicate offense while being punished more severely in certain cases than a person who does. For example, a person who sends an e-mail message to a child (or an individual who the person believes is a child) to induce the child to record himself or herself engaging in sexually explicit conduct is guilty of a Class BC felony, while a person who commits the offense of sexual exploitation of a child is guilty of a Class C felony. Moreover, a person who is convicted of attempted sexual exploitation of a child is subject to only half of the penalty for the Class C felony. This treatment, however, parallels that provided in s. 948.07. If you would like to change it in any way, please let me know.

4. Under the draft, persons who violate proposed s. 948.075 may be subject to lifetime supervision under s. 939.615 (1) (b) 1. In addition, please note that the draft does not refer to any part of proposed s. 948.075 in the exception to the sex offender registration requirements in s. 301.45 (lm) (a). Is this okay?

5. I included a cross-reference to this crime in the sex predator commitment statute (i.e., in s. 980.01 (6) (a)), in s. 969.08 (10), which relates to the commission of a serious

crime by a person released on bail, and in s. 304.06 (2m), which places restrictions on where certain prisoners may be paroled. Is this okay?

6. Do you want the commission of this crime to warrant the non-issuance, suspension or revocation of a driver's license under ss. 343.06 (1) (i) and 343.30 (2d)? (Child enticement is included in both statutes.)

7. Do you want to include proposed s. 948.075 in the list of crimes covered by the victim notification provisions in ss. 301.046 (4), 301.048 (4m) (b), 302.115 (2), 303.068 (4m) (b), 304.06 (1) (d) 1. and 304.063 (2)?

8. Under s. 165.70 (1) (b), the department of justice is responsible for enforcing s. 948.08. Do you want it to be responsible for enforcing proposed s. 948.075 (1) as well?

Michael Dsida
Legislative Attorney
Phone: (608) 266-9867

~~Notes~~
Notes w/ Rep. Amber

Make simpler -

Take out prostitution -

~~Notes~~

Keep ~~it~~ in only 948.02(1) + (2) -

Take out rest ✓

~~Exception~~

Make applicable to adult only

Make C felony

believes or has cause to believe

Facilitate the commission ⇒ Commit

Use ~~prob~~ exception for working w/ child

~~Strike~~

Affirmative defense ~~if they~~

or element

⇒ if they've never met

Of any adult

5)

~~Do not~~ Don't include in ch. 980

or in 304.06

6) No X-Ref to D/L

7) No victim notif.

8) DoJ ok

Check to see if any other

Ok for 3 strikes, not 2

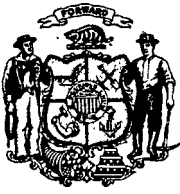
10

10

10

10

10



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-3677/P1
MGD:cmh:mrc

(P2)
RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Contact or sexual
intercourse with

REGULAR

1 **AN ACT** to amend 51.20 (13) (ct) 2m., 165.93 (1) (b), 301.45(1)(a), 301.45(1)(b),
2 301.45 (1) (bm), 301.45 (1) (c), 301.45 (1) (d), 301.45 (1) (dd), 301.45 (1) (dh),
3 301.45 (5) (b) l., 301.46 (2m) (a), 301.46 (2m) (am), 302.045 (2) (c), **302.11 (1g)**
4 **(a) 2., 304.06 (2m) (a), 938.34 (15m) (bm), 939.615 (1) (b) l., 939.62 (2m) (a) lm.**
5 **a., 939.62 (2m) (a) 2m. b., 939.74 (2) (c), 944.32, 946.82 (4), 948.025 (3), 948.13**
6 **(1) (a), 949.03 (1) (b), 969.08 (10) (b), 971.17 (1m) (b) 2m., 973.01 (3m), 973.0135**
7 **(1) (b) 2., 973.034, 973.048 (2m), 973.20 (4m) and 980.01 (6) (a); and to create**
8 **948.075 of the statutes; relating to:** using a computer ~~to solicit a person~~
9 ~~believed to be a child for prostitution or~~ to facilitate ^{having} ~~the commission of~~ sexual
10 ~~crime against~~ a person believed to be a child and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a person may not solicit or cause a child to practice prostitution or establish a child in a place of prostitution. In addition, under current law, a person may not, with intent to commit any of the following acts, cause or attempt to cause a child to go into a vehicle, building, room or secluded place: (1) having sexual contact or sexual intercourse with the child; (2) causing the child to engage in prostitution; (3) exposing a sex organ to the child or causing the child to

OP has reason to believe

expose a sex organ; (4) taking a picture or making an audio recording of the child engaging in sexually explicit conduct; (5) causing bodily or mental harm to the child; and (6) giving or selling to the child a controlled substance or a controlled substance analog. ~~The victim's age is an element of each of these crimes.~~

This bill creates a new crime involving the use of a computer to commit ~~or to attempt to commit~~ certain sex offenses against a person believed to be a child. Under the bill, no person may intentionally use a computerized communication system to solicit an individual whom the person believes has not attained the age of 16 years to practice prostitution or to be established in a place of prostitution. In addition, under the bill, no person may use a computerized communication system to communicate with an individual whom the person believes has not attained the age of 16 years with intent to facilitate the commission of any of the following acts: (1) ~~having~~ sexual contact or sexual intercourse with the individual, (2) exposing a sex organ to the individual or causing the individual to expose a sex organ, or (3) taking a picture or making an audio recording of the individual engaging in sexually explicit conduct. The person's belief that the individual is under 16 (as opposed to the individual's actual age) is an element of each of these crimes.

A person who commits ~~one of these offenses~~ this offense may be imprisoned for up to 20 years, fined up to \$10,000 or both if the offense occurs before December 31, 1999, or imprisoned for up to 30 years, fined up to \$10,000 or both if the offense occurs on or after December 31, 1999. If the person has been previously convicted of a serious child sex offense or two serious felonies as defined in ~~the statutes~~ the person is subject to a sentence of life imprisonment without the possibility of parole or extended supervision.

In addition, the bill also requires that persons convicted of ~~one of these offenses~~ this offense register with the sex offender registry. The bill also prohibits certain persons convicted of ~~one of these offenses~~ from engaging in an occupation or participating in a volunteer position that requires the person to work or interact primarily and directly with children under 16.

For further information see the **state** 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. 51.20 (13) (ct) 2m. of the statutes is amended to read:
- 2 51.20 (13) (ct) 2m. If the subject individual is before the court on a petition filed
- 3 under a court order under s. 938.30 (5) (c) 1. and is found to have committed a
- 4 violation, or to have solicited, conspired or attempted to commit a violation, of s.
- 5 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06,
- 6 948.07, 948.075, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the victim was

Under the "three strikes" law

ANALYSIS
insert

the "three strikes" law

plan
the bill

this offense

ster / upper case

add - parentheses

10
11

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

Insert
3/4

5 **SECTION 2.** 165.93 (1) (b) of the statutes is amended to read:

6 165.93 (1) (b) "Sexual assault" means conduct that is in violation of s. 940.225,
7 948.02, 948.025, 948.03, 948.055, 948.06, 948.07, 948.075, 948.08, 948.09 or 948.10.

8 **SECTION 3.** 301.45 (1) (a) of the statutes is amended to read:

9 301.45 (1) (a) Is convicted, adjudicated delinquent or found in need of
10 protection or services on or after December 25, 1993, for any violation, or for the
11 solicitation, conspiracy or attempt to commit any violation, of s. 940.22 (2), 940.225
12 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07,
13 948.075, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the victim was a minor
14 and the person was not the victim's parent.

15 **SECTION 4.** 301.45 (1) (b) of the statutes, as affected by 1999 Wisconsin Act 9,
16 is amended to read:

17 301.45 (1) (b) Is in prison, a secured correctional facility, a secured child caring
18 institution or a secured group home or is on probation, extended supervision, parole,
19 supervision or aftercare supervision on or after December 25, 1993, for any violation,
20 or for the solicitation, conspiracy or attempt to commit any violation, of s. 940.22 (2),
21 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06,
22 948.07, 948.075, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the victim was
23 a minor and the person was not the victim's parent.

24 **SECTION 5.** 301.45 (1) (bm) of the statutes, as affected by 1999 Wisconsin Act
25 9, is amended to read:

1 301.45 (1) (bm) Is in prison, a secured correctional facility, a secured child
2 caring institution or a secured group home or is on probation, extended supervision,
3 parole, supervision or aftercare supervision on or after December 25, 1993, for a
4 violation, or for the solicitation, conspiracy or attempt to commit a violation, of a law
5 of this state that is comparable to s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02
6 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.075, 948.08, 948.11 or 948.30
7 or that is comparable to a violation of s. 940.30 or 940.31 if the victim was a minor
8 and the person was not the victim's parent.

9 **SECTION 6.** 301.45 (1) (c) of the statutes is amended to read:

10 301.45 (1) (c) Is found not guilty or not responsible by reason of mental disease
11 or defect on or after December 25, 1993, and committed under s. 51.20 or 971.17 for
12 any violation, or for the solicitation, conspiracy or attempt to commit any violation,
13 of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05,
14 948.055, 948.06, 948.07, 948.075, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31
15 if the victim was a minor and the person was not the victim's parent.

16 **SECTION 7.** 301.45 (1) (d) of the statutes is amended to read:

17 301.45 (1) (d) Is in institutional care or on conditional transfer under s. 51.35
18 (1) or conditional release, under s. 971.17 on or after December 25, 1993, for any
19 violation, or for the solicitation, conspiracy or attempt to commit any violation, of s.
20 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055,
21 948.06, 948.07, 948.075, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the
22 victim was a minor and the person was not the victim's parent.

23 **SECTION 8.** 301.45 (1) (dd) of the statutes is amended to read:

24 301.45 (1) (dd) Is in institutional care or on conditional transfer under s. 51.35
25 (1) or conditional release under s. 971.17 on or after December 25, 1993, for a

1 violation, or for the solicitation, conspiracy or attempt to commit a violation, of a law
2 of this state that is comparable to s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02
3 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.075, 948.08, 948.11 or 948.30
4 or that is comparable to a violation of s. 940.30 or 940.31 if the victim was a minor
5 and the person was not the victim's parent.

6 **SECTION 9.** 301.45 (1) (dh) of the statutes is amended to read:

7 301.45 (1) (dh) Is on parole, extended supervision or probation in this state
8 from another state under s. 304.13 or 304.135 on or after December 25, 1993, for a
9 violation, or for the solicitation, conspiracy or attempt to commit a violation, of the
10 law of another state that is comparable to a violation of s. 940.22 (2), 940.225 (1), (2)
11 or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.075,
12 948.08, 948.11 or 948.30 or that is comparable to a violation of s. 940.30 or 940.31 if
13 the victim was a minor and the person was not the victim's parent.

1 4 **SECTION 10.** 301.45 (5) (b) 1. of the statutes is amended to read:

15 301.45 (5) (b) 1. The person has, on 2 or more separate occasions, been convicted
1 6 or found not guilty or not responsible by reason of mental disease or defect for any
17 violation, or for the solicitation, conspiracy or attempt to commit any violation, of s.
18 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055,
19 948.06, 948.07, 948.075, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the
20 victim was a minor and the person was not the victim's parent, or for any violation,
21 or for the solicitation, conspiracy or attempt to commit any violation, of a law of this
22 state or any other state that is comparable to a violation of s. 940.22 (2), 940.225 (1),
23 (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.075,
24 948.08, 948.11 or 948.30 or that is comparable to a violation of s. 940.30 or 940.31 if
25 the victim was a minor and the person was not the victim's parent. A conviction that

1 has been reversed, set aside or vacated is not a conviction for purposes of determining
2 under this subdivision whether a person has been convicted on 2 or more separate
3 occasions.

4 **SECTION 11.** 301.46 (2m) (a) of the statutes is amended to read:

5 301.46 **(2m)** (a) If an agency with jurisdiction confines a person under s.
6 301.046, provides a person entering the intensive sanctions program under s.
7 301.048 with a sanction other than a placement in a Type 1 prison or a jail, or releases
8 a person from confinement or institutional care, and the person has, on one occasion
9 only, been convicted or found not guilty or not responsible by reason of mental disease
10 or defect for any violation, or for the solicitation, conspiracy or attempt to commit any
11 violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025,
12 948.05, 948.055, 948.06, 948.07, 948.075, 948.08, 948.11 or 948.30, or of s. 940.30 or
13 940.31 if the victim was a minor and the person was not the victim's parent, or a law
14 of this state that is comparable to s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02
15 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.075, 948.08, 948.11 or 948.30,
16 or that is comparable to s. 940.30 or 940.31 if the victim was a minor and the person
17 was not the victim's parent, the agency with jurisdiction may notify the police chief
18 of any community and the sheriff of any county in which the person will be residing,
19 employed or attending school if the agency with jurisdiction determines that such
20 notification is necessary to protect the public. Notification under this paragraph may
21 be in addition to providing access to information under sub. (2) or to any other
22 notification that an agency with jurisdiction is authorized to provide.

23 **SECTION 12.** 301.46 (2m) (am) of the statutes is amended to read:

24 301.46 **(2m)** (am) If an agency with jurisdiction confines a person under s.
25 301.046, provides a person entering the intensive sanctions program under s.

1 301.048 with a sanction other than a placement in a Type 1 prison or a jail, or releases
 2 a person from confinement or institutional care, and the person has been found to be
 3 a sexually violent person under ch. 980 or has, on 2 or more separate occasions, been
 4 convicted or found not guilty or not responsible by reason of mental disease or defect
 5 for any violation, or for the solicitation, conspiracy or attempt to commit any
 6 violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025,
 7 948.05, 948.055, 948.06, 948.07, 948.075, 948.08 or 948.11 or a law of this state that
 8 is comparable to s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025,
 9 948.05, 948.055, 948.06, 948.07, 948.075, 948.08 or 948.11, the agency with
 10 jurisdiction shall notify the police chief of any community and the sheriff of any
 11 county in which the person will be residing, employed or attending school.
 12 Notification under this paragraph shall be in addition to providing access to
 13 information under sub. (2) and to any other notification that an agency with
 14 jurisdiction is authorized to provide.

15 SECTION 13. 302.045 (2) (c) of the statutes is amended to read:

16 302.045 (2) (c) The inmate is incarcerated regarding a violation other than a
 17 crime specified in ch. 940 or s. 948.02, 948.025, 948.03, 948.05, 948.055, 948.06,
 18 948.07, 948.075, 948.08 or 948.095.

19 SECTION 14. 302.11 (1g) (a) 2. of the statutes is amended to read:

20 302.11 (1g) (a) 2. Any felony under s. 940.02, 940.03, 940.05, 940.09 (1), 940.19
 21 (5), 940.195 (5), 940.21, 940.225 (1) or (2), 940.305 (2), 940.31 (1) or (2) (b), 943.02,
 22 943.10 (2), 943.23 (lg) or (1m), 943.32 (2), 946.43, 948.02 (1) or (2), 948.025, 948.03
 23 (2) (a) or (c), 948.05, 948.06, 948.07, 948.075, 948.08, 948.30 (2), 948.35 (1) (b) or (c)
 24 or 948.36.

25 SECTION 15. 304.06 (2m) (a) of the statutes is amended to read:

1 ~~304.06 (2m) (a) In this subsection, "serious sex offense" means a violation of~~
2 ~~s. 940.225 (1) or (2), 948.02 (1) or (2), 948.025, 948.06 or 948.07 or 948.075 or a~~
3 ~~solicitation, conspiracy or attempt to commit a violation of s. 940.225 (1) or (2), 948.02~~
4 ~~(1) or (2), 948.025, 948.06 or 948.07 or 948.075.~~

5 SECTION 16. 938.34 (15m) (bm) of the statutes is amended to read:

6 938.34 (15m) (bm) If the juvenile is adjudicated delinquent on the basis of a
7 violation, or the solicitation, conspiracy or attempt to commit a violation, of s.
8 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06,
9 948.07, 948.075, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the victim was
10 a minor and the juvenile was not the victim's parent, the court shall require the
11 juvenile to comply with the reporting requirements under s. 301.45 unless the court
12 determines, after a hearing on a motion made by the juvenile, that the juvenile is not
13 required to comply under s. 301.45 (1m).

14 SECTION 17. 939.615 (1) (b) 1. of the statutes, as affected by 1999 Wisconsin Act
15 3, is amended to read:

16 939.615 (1) (b) 1. A violation, or the solicitation, conspiracy or attempt to
17 commit a violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 948.02 (1) or (2), 948.025
18 (1), 948.05 (1) or (1m), 948.055 (1), 948.06, 948.07, 948.075, 948.08, 948.11 (2) (a),
19 **948.12 or 948.13.**

20 SECTION 18. 939.62 (2m) (a) 1m. a. of the statutes is amended to read:

21 939.62 (2m) (a) 1m. a. A violation of s. 948.02, 948.025, 948.05, 948.055, 948.06,
22 948.07, 948.075, 948.08 or 948.095 or 948.30 or, if the victim was a minor and the
23 convicted person was not the victim's parent, a violation of s. 940.31.

24 SECTION 19. 939.62 (2m) (a) 2m. b. of the statutes is amended to read:

1 939.62 **(2m)** (a) 2m. b. Any felony under s. 940.01, 940.02, 940.03, 940.05,
 2 940.09(1), 940.16, 940.19(5), 940.195 (5), 940.21, 940.225 (1) or (2), 940.305, 940.31,
 3 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (lg), (1m) or (lr), 943.32 (2), 946.43,
 4 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c), 948.05, 948.06, 948.07, 948.075, 948.08,
 5 948.30 (2), 948.35 (1) (b) or (c) or 948.36.

6 **SECTION 20.** 939.74 (2) (c) of the statutes is amended to read:

7 939.74 (2) (c) A prosecution for violation of s. 948.02, 948.025, 948.03 (2) (a),
 8 948.05, 948.06, 948.07 (1), (2), (3) or (4), 948.075, 948.08 or 948.095 shall be
 9 commenced before the victim reaches the age of 31 years or be barred.

10 **SECTION 21.** 944.32 of the statutes is amended to read:

11 **944.32 Soliciting prostitutes.** Except as provided under ~~s. ss.~~ 948.075 (1)
 12 and 948.08, whoever intentionally solicits or causes any person to practice
 13 prostitution or establishes any person in a place of prostitution is guilty of a Class
 14 D felony.

15 **SECTION 22.** 946.82 (4) of the statutes, as affected by 1999 Wisconsin Act 9, is
 16 amended to read:

17 946.82 (4) "Racketeering activity" means any activity specified in 18 USC 1961
 18 (1) in effect as of April 27, 1982 or the attempt, conspiracy to commit, or commission
 19 of any of the felonies specified in: chs. 945 and 961 and ss. 49.49, 134.05, 139.44 (1),
 20 180.0129, 181.0129, 185.825, 200.09 (2), 215.12, 221.0625, 221.0636, 221.0637,
 21 221.1004, 551.41, 551.42, 551.43, 551.44, 553.41 (3) and (4), 553.52 (2), 940.01,
 22 940.19 (3) to (6), 940.20, 940.201, 940.203, 940.21, 940.30, 940.305, 940.31, 941.20
 23 (2) and (3), 941.26, 941.28, 941.298, 941.31, 941.32, 943.01 (2) or (2g), 943.011,
 24 943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06, 943.10, 943.20 (3) (b) to (d),
 25 943.201, 943.23 (lg), (lm), (lr), (2) and (3), 943.24 (2), 943.25, 943.27, 943.28, 943.30,

~~943.32, 943.34 (1) (b) and (c), 943.38, 943.39, 943.40, 943.41 (8) (b) and (c), 943.50 (4) (b) and (c), 943.60, 943.70, 944.205, 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, 947.015, 948.05, 948.075 (1), 948.08, 948.12 and 948.30.~~

SECTION 23. 948.025 (3) of the statutes is amended to read:

948.025 (3) The state may not charge in the same action a defendant with a violation of this section and with a felony violation involving the same child under ch. 944 or a violation involving the same child under s. 948.02, 948.05, 948.06, 948.07, 948.075, 948.08, 948.10, 948.11 or 948.12, unless the other violation occurred outside of the time period applicable under sub. (1). This subsection does not prohibit a conviction for an included crime under s. 939.66 when the defendant is charged with a violation of this section.

SECTION 24. 948.075 of the statutes is created to read:

948.075 Use of a computer to facilitate a child sex crime. ^(B) ⁽¹⁾ Whoever ~~does~~ any of the following is guilty of a Class BC felony:

(1) Intentionally uses a computerized communication system to solicit an individual who the actor believes has not attained the age of 16 years to practice prostitution or to be established in a place of prostitution.

(2) ~~Uses~~ ^{or has reason to believe} a computerized communication system to communicate with an individual who the actor believe? has not attained the age of 16 years with intent to facilitate the commission of any of the following ~~acts~~ ^{have}

^(a) ~~Having~~ ^(no P) sexual contact or sexual intercourse with the individual in violation of s. 948.02 ~~or 948.075~~. (1) or (2) is guilty of a Class C felony.

Insert →
10/24

1 (b) Exposing a sex organ to the individual or causing the individual to expose
2 a sex organ in violation of s. 948.10.

3 (c) Taking a picture or making an audio recording of the individual engaging
4 in sexually explicit conduct.

5 SECTION 25. 948.13 (1) (a) of the statutes, as affected by 1999 Wisconsin Act 3,
6 is amended to read:

7 948.13 (1) (a) A crime under s. 940.22 (2) or 940.225 (2) (c) or (cm), if the victim
8 is under 18 years of age at the time of the offense, or a crime under s. 948.02 (1),
9 948.025 (l), 948.05 (1) or (1m), 948.06 or 948.07 (1), (2), (3) or (4) or 948.075.

10 SECTION 26. 949.03 (1) (b) of the statutes is amended to read:

11 949.03 (1) (b) The commission or the attempt to commit any crime specified in
12 s. 346.62 (4), 346.63 (2) or (6), 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08,
13 940.09, 940.10, 940.19, 940.20, 940.201, 940.21, 940.22 (2), 940.225, 940.23, 940.24,
14 940.25, 940.285, 940.29, 940.30, 940.305, 940.31, 940.32, 941.327, 943.02, 943.03,
15 943.04, 943.10, 943.20, 943.23 (lg), (1m) or (1r), 943.32, 948.02, 948.025, 948.03,
16 948.04, 948.07, 948.075, 948.095, 948.20, 948.30 or 948.51.

17 SECTION 27. 969.08 (10) (b) of the statutes is amended to read:

18 969.08 (10) (b) "Serious crime" means any crime specified in s. 346.62 (4),
19 940.01, 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (5), 940.195
20 (5), 940.20, 940.201, 940.203, 940.21, 940.225 (1) to (3), 940.23, 940.24, 940.25,
21 940.29, 940.295 (3) (b) 1g., 1m., 1r., 2. or 3., 940.31, 941.20 (2) or (3), 941.26, 941.30,
22 941.327, 943.01 (2) (c), 943.011, 943.013, 943.02, 943.03, 943.04, 943.06, 943.10,
23 943.23 (lg), (1m) or (1r), 943.30, 943.32, 946.01, 946.02, 946.43, 947.015, 948.02 (1)
24 or (2), 948.025, 948.03, 948.04, 948.05, 948.06, 948.07, 948.075 or 948.30.

25 SECTION 28. 971.17 (1m) (b) 2m. of the statutes is amended to read:

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

10 **SECTION 29.** 973.01 (3m) of the statutes is amended to read:

11 973.01 (3m) **CHALLENGE INCARCERATION PROGRAM ELIGIBILITY.** When imposing
12 a bifurcated sentence under this section on a person convicted of a crime other than
13 a crime specified in ch. 940 or s. 948.02, 948.025, 948.03, 948.05, 948.055, 948.06,
14 948.07, 948.075, 948.08 or 948.095, the court shall, as part of the exercise of its
15 sentencing discretion, decide whether the person being sentenced is eligible or
16 ineligible for the challenge incarceration program under s. 302.045 during the term
17 of confinement in prison portion of the bifurcated sentence.

18 **SECTION 30.** 973.0135 (1) (b) 2. of the statutes is amended to read:

19 973.0135 (1) (b) 2. Any felony under s. 940.01, 940.02, 940.03, 940.05, 940.09
20 (l), 940.16, 940.19 (5), 940.195 (5), 940.21, 940.225 (1) or (2), 940.305, 940.31,
21 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (lg), (lm) or (lr), 943.32 (2), 946.43,
22 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c), 948.05, 948.06, 948.07, 948.075, 948.08,
23 948.30 (2), 948.35 (1) (b) or (c) or 948.36.

24 **SECTION 31.** 973.034 of the statutes, as affected by 1999 Wisconsin Act 3, is
25 amended to read:

1 **973.034 Sentencing; restriction on child sex offender working with**
2 **children.** Whenever a court imposes a sentence or places a defendant on probation
3 regarding a conviction under s. 940.22 (2) or 940.225 (2) (c) or (cm), if the victim is
4 under 18 years of age at the time of the offense, or a conviction under s. 948.02 (l),
5 948.025 (1), 948.05 (1) or (1m), 948.06 ~~or~~, 948.07 (1), (2), (3) or (4) or 948.075, the court
6 shall inform the defendant of the requirements and penalties under s. 948.13.

7 SECTION 32. 973.048 (2m) of the statutes is amended to read:

8 973.048 **(2m)** If a court imposes a sentence or places a person on probation for
9 a violation, or for the solicitation, conspiracy or attempt to commit a violation, of s.
10 **940.22** (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055,
11 948.06, 948.07, 948.075, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the
12 victim was a minor and the person was not the victim's parent, the court shall require
13 the person to comply with the reporting requirements under s. 301.45 unless the
14 court determines, after a hearing on a motion made by the person, that the person
15 is not required to comply under s. 301.45 (1m).

16 SECTION 33. 973.20 (4m) of the statutes is amended to read:

17 973.20 **(4m)** If the defendant violated s. 940.225, ~~948.02~~, 948.025, 948.05,
18 948.06, 948.07, 948.075 or 948.08 and sub. (3) (a) does not apply, the restitution order
19 may require that the defendant pay an amount, not to exceed \$10,000, equal to the
20 cost of necessary professional services relating to psychiatric and psychological care
21 and treatment. The ~~\$10,000~~ limit under this subsection does not apply to the amount
22 of any restitution ordered under sub. (3) or (5) for the cost of necessary professional
23 services relating to psychiatric and psychological care and treatment.

24 SECTION 34. 980.01 (6) (a) of the statutes is amended to read:

1 980.01 (6) (a) Any crime specified in s. 940.225 (1) or (2), 948.02 (1) or (2),
2 948.025, 948.06 or, 948.07 or 948.075.

3 SECTION **35. Effective date.**

4 (1) This act takes effect on January 1, 2000, or on the day after publication,
5 whichever is later.

6 (END)

1 **ANALYSIS INSERT**

of the offense. This prohibition does not apply if the person sending the communication is not more than ^{four} 4 years older than the individual to whom the communication was sent and the individual to whom the the communication was sent had attained the age of 13 at the time of the communication. *er*

2 **INSERT 3/4**

3 SECTION 1. 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,
6 944.34, 946.65, 947.02 (3) and (4), 948.075 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.

7 **INSERT 10/24**

8 **(9)** (2) This section does not apply if the person sending the communication is not
9 more than 4 years older than the individual to whom the communication was sent
10 and the individual to whom the the communication was sent had attained the age
11 of 13 at the time of the communication.

(END INSERT)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-3677/P2

MGD:cmh:jf

SOON

P3
jlg+ KMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Regen

1 **AN ACT** to **amend** 51.20 (13) (ct) 2m., 165.70 (1) (b), 301.45 (1) (a), 301.45 (1) (b),
2 301.45 (1) (bm), 301.45 (1) (c), **301.45** (1) (d), **301.45** (1) (dd), 301.45 (1) (dh),
3 301.45 (5) (b) 1., 301.46 (2m) (a), 301.46 (2m) (am), 302.045 (2) (c), 938.34 (15m)
4 (bm), 939.615 (1) (b) 1., 939.62 (2m) (a) 2m. b., 939.74 (2) (c), 948.025 (3), 948.13
5 (l)(a), 971.17 (lm) (b) 2m., 973.01 (3m), 973.0135 (1) (b) 2., 973.034 and 973.048
6 (2m); and to **create** 948.075 of the statutes; **relating to:** using a computer to
7 facilitate having sexual contact or sexual intercourse with a person believed to
8 be a child and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a person may not, with intent to commit any of the following acts, cause or attempt to cause a child to go into a vehicle, building, room or secluded place: (1) having sexual contact or sexual intercourse with the child; (2) causing the child to engage in prostitution; (3) exposing a sex organ to the child or causing the child to expose a sex organ; (4) taking a picture or making an audio recording of the child engaging in sexually explicit conduct; (5) causing bodily or mental harm to the child; and (6) giving or selling to the child a controlled substance or a controlled substance analog.

This bill creates a new crime involving the use of a computer with intent to commit certain sex offenses against a person believed to be a child. Under the bill,

was no more than
30 months less than
the sender's own age. ↓

reasonably believed that
the age of

no person may intentionally use a computerized communication system to communicate with an individual who the person believes or has reason to believe has not attained the age of 16 years with intent to have sexual contact or sexual intercourse with the individual. The person's belief that the individual is under 16 (as opposed to the individual's actual age) is an element of the offense. This prohibition does not apply if the person sending the communication is not more than four years older than the individual to whom the communication was sent and the individual to whom the the communication was sent had attained the age of 13 at the time of the communication.

A person who commits this offense may be imprisoned for up to 15 years, fined up to \$10,000 or both. If the person has been previously convicted of two serious felonies (as defined in the "three strikes" law), the person is subject to a sentence of life imprisonment without the possibility of parole or extended supervision.

In addition, the bill also requires that persons convicted of this offense register with the sex offender registry. The bill also prohibits certain persons convicted of the offense from engaging in an occupation or participating in a volunteer position that requires the person to work or interact primarily and directly with children under 16.

For further information see the *state* 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. 51.20 (13) (ct) 2m. of the statutes is amended to read:
2 51.20 (13) (ct) 2m. If the subject individual is before the court on a petition filed
3 under a court order under s. 938.30 (5) (c) 1. and is found to have committed a
4 violation, or to have solicited, conspired or attempted to commit a violation, of s.
5 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06,
6 948.07, 948.075, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the victim was
7 a minor and the subject individual was not the victim's parent, the court shall require
8 the individual to comply with the reporting requirements under s. 301.45 unless the
9 court determines, after a hearing on a motion made by the individual, that the
10 individual is not required to comply under s. 301.45 (1m).

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

1 165.70 (1) (b) Enforce chs. 945 and 961 and ss. 940.20 (3), 940.201, 941.25 to
2 941.27, 943.01 (2)(c), 943.011, 943.27, 943.28, 943.30, 944.30, 944.31, 944.32, 944.33,
3 944.34, 946.65, 947.02 (3) and (4), 948.075 and 948.08.

4 **SECTION 3.** 301.45 (1) (a) of the statutes is amended to read:

5 301.45 (1) (a) Is convicted, adjudicated delinquent or found in need of
6 protection or services on or after December 25, 1993, for any violation, or for the
7 solicitation, conspiracy or attempt to commit any violation, of s. 940.22 (2), 940.225
8 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07,
9 948.075, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the victim was a minor
10 and the person was not the victim's parent.

11 **SECTION 4.** 301.45 (1) (b) of the statutes, as affected by 1999 Wisconsin Act 9,
12 is amended to read:

13 301.45 (1) (b) Is in prison, a secured correctional facility, a secured child caring
14 institution or a secured group home or is on probation, extended supervision, parole,
15 supervision or aftercare supervision on or after December 25, 1993, for any violation,
16 or for the solicitation, conspiracy or attempt to commit any violation, of s. 940.22 (2),
17 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06,
18 948.07, 948.075, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the victim was
19 a minor and the person was not the victim's parent.

20 **SECTION 5.** 301.45 (1) (bm) of the statutes, as affected by 1999 Wisconsin Act
21 9, is amended to read:

22 301.45 (1) (bm) Is in prison, a secured correctional facility, a secured child
23 caring institution or a secured group home or is on probation, extended supervision,
24 parole, supervision or aftercare supervision on or after December 25, 1993, for a
25 violation, or for the solicitation, conspiracy or attempt to commit a violation, of a law

1 of this state that is comparable to s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02
2 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.075, 948.08, 948.11 or 948.30
3 or that is comparable to a violation of s. 940.30 or 940.31 if the victim was a minor
4 and the person was not the victim's parent.

5 **SECTION 6.** 301.45 (1) (c) of the statutes is amended to read:

6 301.45 (1) (c) Is found not guilty or not responsible by reason of mental disease
7 or defect on or after December 25, 1993, and committed under s. 51.20 or 971.17 for
8 any violation, or for the solicitation, conspiracy or attempt to commit any violation,
9 of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05,
10 948.055, 948.06, 948.07, 948.075, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31
11 if the victim was a minor and the person was not the victim's parent.

12 **SECTION 7.** 301.45 (1) (d) of the statutes is amended to read:

13 301.45 (1) (d) Is in institutional care or on conditional transfer under s. 51.35
14 (1) or conditional release under s. 971.17 on or after December 25, 1993, for any
15 violation, or for the solicitation, conspiracy or attempt to commit any violation, of s.
16 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055,
17 948.06, 948.07, 948.075, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the
18 victim was a minor and the person was not the victim's parent.

19 **SECTION 8.** 301.45 (1) (dd) of the statutes is amended to read:

20 301.45 (1) (dd) Is in institutional care or on conditional transfer under s. 51.35
21 (1) or conditional release under s. 971.17 on or after December 25, 1993, for a
22 violation, or for the solicitation, conspiracy or attempt to commit a violation, of a law
23 of this state that is comparable to s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02
24 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.075, 948.08, 948.11 or 948.30

1 or that is comparable to a violation of s. 940.30 or 940.31 if the victim was a minor
2 and the person was not the victim's parent.

3 **SECTION 9.** 301.45 (1) (dh) of the statutes is amended to read:

4 301.45 (1) (dh) Is on parole, extended supervision or probation in this state
5 from another state under s. 304.13 or 304.135 on or after December 25, 1993, for a
6 violation, or for the solicitation, conspiracy or attempt to commit a violation, of the
7 law of another state that is comparable to a violation of s. 940.22 (2), 940.225 (l), (2)
8 or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.075,
9 948.08, 948.11 or 948.30 or that is comparable to a violation of s. 940.30 or 940.31 if
10 the victim was a minor and the person was not the victim's parent.

11 **SECTION 10.** 301.45 (5) (b) 1. of the statutes is amended to read:

12 301.45 (5) (b) 1. The person has, on 2 or more separate occasions, been convicted
13 or found not guilty or not responsible by reason of mental disease or defect for any
14 violation, or for the solicitation, conspiracy or attempt to commit any violation, of s.
15 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055,
16 948.06, 948.07, 948.075, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the
17 victim was a minor and the person was not the victim's parent, or for any violation,
18 or for the solicitation, conspiracy or attempt to commit any violation, of a law of this
19 state or any other state that is comparable to a violation of s. 940.22 (2), 946.225 (l),
20 (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.075,
21 948.08, 948.11 or 948.30 or that is comparable to a violation of s. 940.30 or 940.31 if
22 the victim was a minor and the person was not the victim's parent. A conviction that
23 has been reversed, set aside or vacated is not a conviction for purposes of determining
24 under this subdivision whether a person has been convicted on 2 or more separate
25 occasions.

1 SECTION 11. 301.46 (2m) (a) of the statutes is amended to read:

2 301.46 (2m) (a) If an agency with jurisdiction confines a person under s.
3 301.046, provides a person entering the intensive sanctions program under s.
4 301.048 with a sanction other than a placement in a Type 1 prison or a jail, or releases
5 a person from confinement or institutional care, and the person has, on one occasion
6 only, been convicted or found not guilty or not responsible by reason of mental disease
7 or defect for any violation, or for the solicitation, conspiracy or attempt to commit any
8 violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025,
9 948.05, 948.055, 948.06, 948.07, 948.075, 948.08, 948.11 or 948.30, or of s. 940.30 or
10 940.31 if the victim was a minor and the person was not the victim's parent, or a law
11 of this state that is comparable to s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02
12 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.075, 948.08, 948.11 or 948.30,
13 or that is comparable to s. 940.30 or 940.31 if the victim was a minor and the person
14 was not the victim's parent, the agency with jurisdiction may notify the police chief
15 of any community and the sheriff of any county in which the person will be residing,
16 employed or attending school if the agency with jurisdiction determines that such
17 notification is necessary to protect the public. Notification under this paragraph may
18 be in addition to providing access to information under sub. (2) or to any other
19 notification that an agency with jurisdiction is authorized to provide.

20 SECTION 12. 301.46 (2m) (am) of the statutes is amended to read:

21 301.46 (2m) (am) If an agency with jurisdiction confines a person under s.
22 301.046, provides a person entering the intensive sanctions program under s.
23 301.048 with a sanction other than a placement in a Type 1 prison or a jail, or releases
24 a person from confinement or institutional care, and the person has been found to be
25 a sexually violent person under ch. 980 or has, on 2 or more separate occasions, been

1 convicted or found not guilty or not responsible by reason of mental disease or defect
2 for any violation, or for the solicitation, conspiracy or attempt to commit any
3 violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025,
4 948.05, 948.055, 948.06, 948.07, 948.075, 948.08 or 948.11 or a law of this state that
5 is comparable to s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025,
6 948.05, 948.055, 948.06, 948.07, 948.075, 948.08 or 948.11, the agency with
7 jurisdiction shall notify the police chief of any community and the sheriff of any
8 county in which the person will be residing, employed or attending school.
9 Notification under this paragraph shall be in addition to providing access to
10 information under sub. (2) and to any other notification that an agency with
11 jurisdiction is authorized to provide.

12 **SECTION 13.** 302.045 (2) (c) of the statutes is amended to read:

13 302.045 (2) (c) The inmate is incarcerated regarding a violation other than a
14 crime specified in ch. 940 or s. 948.02, 948.025, 948.03, 948.05, 948.055, 948.06,
15 948.07, 948.075, 948.08 or 948.095.

16 **SECTION 14.** 938.34 (15m) (bm) of the statutes is amended to read:

17 938.34 (15m) (bm) If the juvenile is adjudicated delinquent on the basis of a
18 violation, or the solicitation, conspiracy or attempt to commit a violation, of s.
19 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06,
20 948.07, 948.075, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the victim was
21 a minor and the juvenile was not the victim's parent, the court shall require the
22 juvenile to comply with the reporting requirements under s. 301.45 unless the court
23 determines, after a hearing on a motion made by the juvenile, that the juvenile is not
24 required to comply under s. 301.45 (lm).

1 **SECTION 15.** 939.615 (1) (b) 1. of the statutes, as affected by 1999 Wisconsin Act
2 3, is amended to read:

3 939.615 (1) (b) 1. A violation, or the solicitation, conspiracy or attempt to
4 commit a violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 948.02 (1) or (2), 948.025
5 (1), 948.05 (1) or (lm), 948.055 (1), 948.06, 948.07, 948.075, 948.08, 948.11 (2) (a),
6 948.12 or 948.13.

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

8 939.62 (2m) (a) 2m. b. Any felony under s. 940.01, 940.02, 940.03, 940.05,
9 940.09 (1), 940.16, 940.19 (5), 940.195 (5), 940.21, 940.225 (1) or (2), 940.305, 940.31,
10 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (lg), (lm) or (lr), 943.32 (2), 946.43,
11 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c), 948.05, 948.06, 948.07, 948.075, 948.08,
12 948.30 (2), 948.35 (1) (b) or (c) or 948.36.

13 **SECTION 17.** 939.74 (2) (c) of the statutes is amended to read:

14 939.74 (2) (c) A prosecution for violation of s. 948.02, 948.025, 948.03 (2) (a),
15 948.05, 948.06, 948.07 (1), (2), (3) or (4), 948.075, 948.08 or 948.095 shall be
16 commenced before the victim reaches the age of 31 years or be barred.

17 **SECTION 18.** 948.025 (3) of the statutes is amended to read:

18 948.025 (3) The state may not charge in the same action a defendant with a
19 violation of this section and with a felony violation involving the same child under
20 ch. 944 or a violation involving the same child under s. 948.02, 948.05, 948.06,
21 948.07, 948.075, 948.08, 948.10, 948.11 or 948.12, unless the other violation occurred
22 outside of the time period applicable under sub. (1). This subsection does not prohibit
23 a conviction for an included crime under s. 939.66 when the defendant is charged
24 with a violation of this section.

25 **SECTION 19.** 948.075 of the statutes is created to read:

INS
9/5

1 **948.075 Use of a computer to facilitate a child sex crime. (1)** Whoever
2 uses a computerized communication system to communicate with an individual who
3 the actor believes or has reason to believe has not attained the age of 16 years with
4 intent have sexual contact or sexual intercourse with the individual in violation of
5 s. 948.02 (1) or (2) is guilty of a Class C felony.

6 (2) This section does not apply if the person sending the communication is not
7 more than 4 years older than the individual to whom the communication was sent
8 and the individual to whom the the communication was sent had attained the age
9 of 13 at the time of the communication.

10 **SECTION 20.** 948.13 (1) (a) of the statutes, as affected by 1999 Wisconsin Act 3,
11 is amended to read:

12 948.13 (1) (a) A crime under s. 940.22 (2) or 940.225 (2) (c) or (cm), if the victim
13 is under 18 years of age at the time of the offense, or a crime under s. 948.02 (1) ,
14 948.025 (1), 948.05 (1) or (lm), 948.06 ~~or~~ 948.07 (1), (2), (3) or (4) or 948.075.

15 **SECTION 21.** 971.17 (lm) (b) 2m. of the statutes is amended to read:

16 971.17 (lm) (b) 2m. If the defendant under sub. (1) is found not guilty by reason
17 of mental disease or defect for a violation, or for the solicitation, conspiracy or
18 attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02
19 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.075, 948.08, 948.11 or 948.30,
20 or of s. 940.30 or 940.31 if the victim was a minor and the defendant was not the
21 victim's parent, the court shall require the defendant to comply with the reporting
22 requirements under s. 301.45 unless the court determines, after a hearing on a
23 motion made by the defendant, that the defendant is not required to comply under
24 s. 301.45 (lm).

25 **SECTION 22.** 973.01 (3m) of the statutes is amended to read:

1 **973.01 (3m) CHALLENGE INCARCERATION PROGRAM ELIGIBILITY.** When imposing
2 a bifurcated sentence under this section on a person convicted of a crime other than
3 a crime specified in ch. 940 or s. 948.02, 948.025, 948.03, 948.05, 948.055, 948.06,
4 948.07, 948.075, 948.08 or 948.095, the court shall, as part of the exercise of its
5 sentencing discretion, decide whether the person being sentenced is eligible or
6 ineligible for the challenge incarceration program under s. 302.045 during the term
7 of confinement in prison portion of the bifurcated sentence.

8 **SECTION 23.** 973.0135 (1) (b) 2. of the statutes is amended to read;

9 **973.0135 (1) (b) 2.** Any felony under s. 940.01, 940.02, 940.03, 940.05, 940.09
10 (l), 940.16, 940.19 (5), 940.195 (5), 940.21, 940.225 (1) or (2), 940.305, 940.31,
11 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (lg), (lm) or (lr), 943.32 (2), 946.43,
12 948.02 (1) or (2), 948.025, 948.03(2)(a) or (c), 948.05, 948.06, 948.07, 948.075, 948.08,
13 948.30 (2), 948.35 (1) (b) or (c) or 948.36.

14 **SECTION 24.** 973.034 of the statutes, as affected by 1999 Wisconsin Act 3, is
15 amended to read:

16 **973.034 Sentencing; restriction on child sex offender working with**
17 **children.** Whenever a court imposes a sentence or places a defendant on probation
18 regarding a conviction under s. 940.22 (2) or 940.225 (2) (c) or (cm), if the victim is
19 under 18 years of age at the time of the offense, or a conviction under s. 948.02 (1) ,
20 948.025 (1), 948.05 (1) or (lm), 948.06 ~~or~~, 948.07 (1), (2), (3) or (4) or 948.075, the court
21 shall inform the defendant of the requirements and penalties under s. 948.13.

22 **SECTION 25.** 973.048 (2m) of the statutes is amended to read:

23 **973.048 (2m)** If a court imposes a sentence or places a person on probation for
24 a violation, or for the solicitation, conspiracy or attempt to commit a violation, of s.
25 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055,

1 948.06, 948.07, 948.075, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the
2 victim was a minor and the person was not the victim's parent, the court shall require
3 the person to comply with the reporting requirements under s. 301.45 unless the
4 court determines, after a hearing on a motion made by the person, that the person
5 is not required to comply under s. 301.45 (lm).

6 **SECTION 26. Effective date.**

7 (1) This act takes effect on January 1, 2000, or on the day after publication,
8 whichever is later.

9 (END)

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3677/P3
MGD:.....

1

INSERT 9/5

text:
+reat

2

#

(2)

3

4

This section does not apply if, at the time of the communication, the actor reasonably believed that the age of the person to whom the communication was sent was no more than 30 months less than the age of the actor.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-3677P3
MGD:cmh&jlg:km

SOON

①
RMR

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Regen

1 **AN ACT to amend** 51.20 (13) (ct) 2m., 165.70 (1) (b), 301.45 (1) (a), 301.45 (1) (b),
2 301.45 (1) (bm), 301.45 (1) (c), 301.45 (1) (d), 301.45 (1) (dd), **301.45** (1) (dh),
3 301.45 (5) (b) 1., 301.46 (2m) (a), 301.46 (2m) (am), 302.045 (2) (c), 938.34 (15m)
4 (bm), 939.615 (1) (b) 1., 939.62 (2m) (a) 2m. b., 939.74 (2) (c), 948.025 (3), **948.13**
5 (1) (a), 971.17(1m) (b) 2m., **973.01** (3m), 973.0135 (1) (b) 2., 973.034 and 973.048
6 (2m); and **to create** 948.075 of the statutes; **relating to:** using a computer to
7 facilitate having sexual contact or sexual intercourse with a person believed to
8 be a child and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a person may not, with intent to commit any of the following acts, cause or attempt to cause a child to go into a vehicle, building, room or secluded place: (1) having sexual contact or sexual intercourse with the child; (2) causing the child to engage in prostitution; (3) exposing a sex organ to the child or causing the child to expose a sex organ; (4) taking a picture or making an audio recording of the child engaging in sexually explicit conduct; (5) causing bodily or mental harm to the child; and (6) giving or selling to the child a controlled substance or a controlled substance analog.

This bill creates a new crime involving the use of a computer with intent to commit certain sex offenses against a person believed to be a child. Under the bill,

no person may intentionally use a computerized communication system to communicate with an individual who the person believes or has reason to believe has not attained the age of 16 years with intent to have sexual contact or sexual intercourse with the individual. The person's belief that the individual is under 16 (as opposed to the individual's actual age) is an element of the offense. This prohibition does not apply if the person sending the communication reasonably believed that the age of the individual to whom the communication was sent was no more than 30 months less than the sender's own age.

A person who commits this offense may be imprisoned for up to 15 years, fined up to \$10,000 or both. If the person has been previously convicted of two serious felonies (as defined in the "three strikes" law), the person is subject to a sentence of life imprisonment without the possibility of parole or extended supervision.

In addition, the bill also requires that persons convicted of this offense register with the sex offender registry. The bill also prohibits certain persons convicted of the offense from engaging in an occupation or participating in a volunteer position that requires the person to work or interact primarily and directly with children under 16.

For further information see the state 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. 51.20 (13) (ct) 2m. of the statutes is amended to read:

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

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

1 165.70 (1) (b) Enforce chs. 945 and 961 and ss. 940.20 (3), 940.201, 941.25 to
2 941.27, 943.01 (2) (c), 943.011, 943.27, 943.28, 943.30, 944.30, 944.31, 944.32, 944.33,
3 944.34, 946.65, 947.02 (3) and (4), 948.075 and 948.08.

4 **SECTION 3.** 301.45 (1) (a) of the statutes is amended to read:

5 301.45 (1) (a) Is convicted, adjudicated delinquent or found in need of
6 protection or services on or after December 25, 1993, for any violation, or for the
7 solicitation, conspiracy or attempt to commit any violation, of s. 940.22 (2), 940.225
8 (l), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07,
9 948.075, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the victim was a minor
10 and the person was not the victim's parent.

11 **SECTION 4.** 301.45 (1) (b) of the statutes, as affected by 1999 Wisconsin Act 9,
12 is amended to read:

13 **301.45 (1) (b)** Is in prison, a secured correctional facility, a secured child caring
14 institution or a secured group home or is on probation, extended supervision, parole,
15 supervision or aftercare supervision on or after December 25, 1993, for any violation,
16 or for the solicitation, conspiracy or attempt to commit any violation, of s. 940.22 (2),
17 940.225 (l), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06,
18 948.07, 948.075, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the victim was
19 a minor and the person was not the victim's parent.

20 **SECTION 5.** 301.45 (1) (bm) of the statutes, as affected by 1999 Wisconsin Act
21 9, is amended to read:

22 **301.45 (1) (bm)** Is in prison, a secured correctional facility, a secured child
23 caring institution or a secured group home or is on probation, extended supervision,
24 parole, supervision or aftercare supervision on or after December 25, 1993, for a
25 violation, or for the solicitation, conspiracy or attempt to commit a violation, of a law

1 of this state that is comparable to s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02
2 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.075, 948.08, 948.11 or 948.30
3 or that is comparable to a violation of s. 940.30 or 940.31 if the victim was a minor
4 and the person was not the victim's parent.

5 **SECTION 6.** 301.45 (1) (c) of the statutes is amended to read:

6 301.45 (1) (c) Is found not guilty or not responsible by reason of mental disease
7 or defect on or after December 25, 1993, and committed under s. 51.20 or 971.17 for
8 any violation, or for the solicitation, conspiracy or attempt to commit any violation,
9 of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05,
10 948.055, 948.06, 948.07, 948.075, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31
11 if the victim was a minor and the person was not the victim's parent.

12 **SECTION 7.** 301.45 (1) (d) of the statutes is amended to read:

13 301.45 (1) (d) Is in institutional care or on conditional transfer under s. 51.35
14 (1) or conditional release under s. 971.17 on or after December 25, 1993, for any
15 violation, or for the solicitation, conspiracy or attempt to commit any violation, of s.
16 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055,
17 948.06, 948.07, 948.075, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the
18 victim was a minor and the person was not the victim's parent.

19 **SECTION 8.** 301.45 (1) (dd) of the statutes is amended to read:

20 301.45 (1) (dd) Is in institutional care or on conditional transfer under s. 51.35
21 (1) or conditional release under s. 971.17 on or after December 25, 1993, for a
22 violation, or for the solicitation, conspiracy or attempt to commit a violation, of a law
23 of this state that is comparable to s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02
24 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.075, 948.08, 948.11 or 948.30

1 or that is comparable to a violation of s. 940.30 or 940.31 if the victim was a minor
2 and the person was not the victim's parent.

3 **SECTION 9.** 301.45 (1) (dh) of the statutes is amended to read:

4 301.45 (1) (dh) Is on parole, extended supervision or probation in this state
5 from another state under s. 304.13 or 304.135 on or after December 25, 1993, for a
6 violation, or for the solicitation, conspiracy or attempt to commit a violation, of the
7 law of another state that is comparable to a violation of s. 940.22 (2), 940.225 (1), (2)
8 or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.075,
9 948.08, 948.11 or 948.30 or that is comparable to a violation of s. 940.30 or 940.31 if
10 the victim was a minor and the person was not the victim's parent.

11 **SECTION 10.** 301.45 (5) (b) 1. of the statutes is amended to read:

12 301.45 (5) (b) 1. The person has, on 2 or more separate occasions, been convicted
13 or found not guilty or not responsible by reason of mental disease or defect for any
14 violation, or for the solicitation, conspiracy or attempt to commit any violation, of s.
15 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055,
16 948.06, 948.07, 948.075, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the
17 victim was a minor and the person was not the victim's parent, or for any violation,
18 or for the solicitation, conspiracy or attempt to commit any violation, of a law of this
19 state or any other state that is comparable to a violation of s. 940.22 (2), 940.225 (1),
20 (2) or (3), 944.06, 948.02(1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.075,
21 948.08, 948.11 or 948.30 or that is comparable to a violation of s. 940.30 or 940.31 if
22 the victim was a minor and the person was not the victim's parent. A conviction that
23 has been reversed, set aside or vacated is not a conviction for purposes of determining
24 under this subdivision whether a person has been convicted on 2 or more separate
25 occasions.

1 **SECTION 11.** 301.46 (2m) (a) of the statutes is amended to read:

2 301.46 **(2m)** (a) If an agency with jurisdiction confines a person under s.
3 301.046, provides a person entering the intensive sanctions program under s.
4 301.048 with a sanction other than a placement in a Type 1 prison or a jail, or releases
5 a person from confinement or institutional care, and the person has, on one occasion
6 only, been convicted or found not guilty or not responsible by reason of mental disease
7 or defect for any violation, or for the solicitation, conspiracy or attempt to commit any
8 violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025,
9 948.05, 948.055, 948.06, 948.07, 948.075, 948.08, 948.11 or 948.30, or of s. 940.30 or
10 940.31 if the victim was a minor and the person was not the victim's parent, or a law
11 of this state that is comparable to s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02
12 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.075, 948.08, 948.11 or 948.30,
13 or that is comparable to s. 940.30 or 940.31 if the victim was a minor and the person
14 was not the victim's parent, the agency with jurisdiction may notify the police chief
15 of any community and the sheriff of any county in which the person will be residing,
16 employed or attending school if the agency with jurisdiction determines that such
17 notification is necessary to protect the public. Notification under this paragraph may
18 be in addition to providing access to information under sub. (2) or to any other
19 notification that an agency with jurisdiction is authorized to provide.

20 **SECTION 12.** 301.46 (2m) (am) of the statutes is amended to read:

21 301.46 **(2m)** (am) If an agency with jurisdiction confines a person under s.
22 301.046, provides a person entering the intensive sanctions program under s.
23 301.048 with a sanction other than a placement in a Type 1 prison or a jail, or releases
24 a person from confinement or institutional care, and the person has been found to be
25 a sexually violent person under ch. 980 or has, on 2 or more separate occasions, been

1 convicted or found not guilty or not responsible by reason of mental disease or defect
2 for any violation, or for the solicitation, conspiracy or attempt to commit any
3 violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025,
4 948.05, 948.055, 948.06, 948.07, 948.075, 948.08 or 948.11 or a law of this state that
5 is comparable to s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025,
6 948.05, 948.055, 948.06, 948.07, 948.075, 948.08 or 948.11, the agency with
7 jurisdiction shall notify the police chief of any community and the sheriff of any
8 county in which the person will be residing, employed or attending school.
9 Notification under this paragraph shall be in addition to providing access to
10 information under sub. (2) and to any other notification that an agency with
11 jurisdiction is authorized to provide.

12 **SECTION 13.** 302.045 (2) (c) of the statutes is amended to read:

13 302.045 (2) (c) The inmate is incarcerated regarding a violation other than a
14 crime specified in ch. 940 or s. 948.02, 948.025, 948.03, 948.05, 948.055, 948.06,
15 948.07, 948.075, 948.08 or 948.095.

16 **SECTION 14.** 938.34 (15m) (bm) of the statutes is amended to read:

17 938.34 (**15m**) (bm) If the juvenile is adjudicated delinquent on the basis of a
18 violation, or the solicitation, conspiracy or attempt to commit a violation, of s.
19 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06,
20 948.07, 948.075, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the victim was
21 a minor and the juvenile was not the victim's parent, the court shall require the
22 juvenile to comply with the reporting requirements under s. 301.45 unless the court
23 determines, after a hearing on a motion made by the juvenile, that the juvenile is not
24 required to comply under s. 301.45 (1m).

1 SECTION 15. 939.615 (1) (b) 1. of the statutes, as affected by 1999 Wisconsin Act
2 3, is amended to read:

3 939.615 (1) (b) 1. A violation, or the solicitation, conspiracy or attempt to
4 commit a violation, of s. 940.22 (2), 940.225 (l), (2) or (3), 948.02 (1) or (2), 948.025
5 (l), 948.05 (1) or (lm), 948.055 (l), 948.06, 948.07, 948.075, 948.08, 948.11 (2) (a),
6 948.12 or 948.13.

7 SECTION 16. 939.62 (2m) (a) 2m. b. of the statutes is amended to read:

8 939.62 (2m) (a) 2m. b. Any felony under s. 940.01, 940.02, 940.03, 940.05,
9 940.09 (l), 940.16, 940.19(5), 940.195 (5), 940.21, 940.225 (1) or (2), 940.305, 940.31,
10 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (lg), (1m) or (lr), 943.32 (2), 946.43,
11 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c), 948.05, 948.06, 948.07, 948.075, 948.08,
12 948.30 (2), 948.35 (1) (b) or (c) or 948.36.

13 SECTION 17. 939.74 (2) (c) of the statutes is amended to read:

14 939.74 (2) (c) A prosecution for violation of s. 948.02, 948.025, 948.03 (2) (a),
15 948.05, 948.06, 948.07 (1), (2), (3) or (4), 948.075, 948.08 or 948.095 shall be
16 commenced before the victim reaches the age of 31 years or be barred.

17 SECTION 18. 948.025 (3) of the statutes is amended to read:

18 948.025 (3) The state may not charge in the same action a defendant with a
19 violation of this section and with a felony violation involving the same child under
20 ch. 944 or a violation involving the same child under s. 948.02, 948.05, 948.06,
21 948.07, 948.075, 948.08, 948.10, 948.11 or 948.12, unless the other violation occurred
22 outside of the time period applicable under sub. (1). This subsection does not prohibit
23 a conviction for an included crime under s. 939.66 when the defendant is charged
24 with a violation of this section.

25 SECTION 19. 948.075 of the statutes is created to read:

1 **948.075 Use of a computer to facilitate a child sex crime. (1)** Whoever
2 uses a computerized communication system to communicate with an individual who
3 the actor believes or has reason to believe has not attained the age of 16 years with
4 intent have sexual contact or sexual intercourse with the individual in violation of
5 s. 948.02 (1) or (2) is guilty of a Class C felony.

6 (2) This section does not apply if, at the time of the communication, the actor
7 reasonably believed that the age of the person to whom the communication was sent
8 was no more than 30 months less than the age of the actor.

9 **SECTION 20.** 948.13 (1) (a) of the statutes, as affected by 1999 Wisconsin Act 3,
10 is amended to read:

11 948.13 **(1)** (a) A crime under s. 940.22 (2) or 940.225 (2) (c) or (cm), if the victim
12 is under 18 years of age at the time of the offense, or a crime under s. 948.02 (l),
13 948.025 (1), 948.05 (1) or (lm), '948.06 ~~or~~, 948.07 (l), (2), (3) or (4) or 948.075.

14 **SECTION 21.** 971.17 (lm) (b) 2m. of the statutes is amended to read:

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

24 **SECTION 22.** 973.01 (3m) of the statutes is amended to read:

1 **973.01 (3m) CHALLENGE INCARCERATION PROGRAM ELIGIBILITY.** When imposing
2 a bifurcated sentence under this section on a person convicted of a crime other than
3 a crime specified in ch. 940 or s. 948.02, 948.025, 948.03, 948.05, 948.055, 948.06,
4 948.07, 948.075, 948.08 or 948.095, the court shall, as part of the exercise of its
5 sentencing discretion, decide whether the person being sentenced is eligible or
6 ineligible for the challenge incarceration program under s. 302.045 during the term
7 of confinement in prison portion of the bifurcated sentence.

8 **SECTION 23.** 973.0135 (1) (b) 2. of the statutes is amended to read:

9 **973.0135 (1) (b) 2.** Any felony under s. 940.01, 940.02, 940.03, 940.05, 940.09
10 **(1)**, 940.16, 940.19 **(5)**, 940.195 **(5)**, 940.21, 940.225 (1) or **(2)**, 940.305, 940.31,
11 941.327 (2) **(b) 4.**, 943.02, 943.10 **(2)**, 943.23 (lg), (lm) or (lr), 943.32 **(2)**, 946.43,
12 948.02 (1) or **(2)**, 948.025, 948.03 **(2) (a) or (c)**, 948.05, 948.06, 948.07, 948.075, 948.08,
13 948.30 **(2)**, 948.35 (1) (b) or (c) or 948.36.

14 **SECTION 24.** 973.034 of the statutes, as affected by 1999 Wisconsin Act 3, is
15 amended to read:

16 **973.034 Sentencing; restriction on child sex offender working with**
17 **children,** Whenever a court imposes a sentence or places a defendant on probation
18 regarding a conviction under s. 940.22 (2) or 940.225 (2) (c) or (cm), if the victim is
19 under 18 years of age at the time of the offense, or a conviction under s. 948.02 (l),
20 948.025 (l), 948.05 (1) or (lm), 948.06 ~~or~~, 948.07 (l), (2), (3) or (4) or 948.075, the court
21 shall inform the defendant of the requirements and penalties under s. 948.13.

22 **SECTION 25.** 973.048 (2m) of the statutes is amended to read:

23 **973.048 (2m)** If a court imposes a sentence or places a person on probation for
24 a violation, or for the solicitation, conspiracy or attempt to commit a violation, of s.
25 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055,

1 948.06, 948.07, 948.075, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the
2 victim was a minor and the person was not the victim's parent, the court shall require
3 the person to comply with the reporting requirements under s. 301.45 unless the
4 court determines, after a hearing on a motion made by the person, that the person
5 is not required to comply under s. 301.45 (1m).

6 **~~SECTION 26. Effective date.~~**

7 (1) This act takes effect on January 1, 2000, or on the day after publication,
8 whichever is later.

9 (END)