

1999 DRAFTING REQUEST

Bill

Received: 12/9/98

Received By: **olsenje**

Wanted: **As time permits**

Identical to LRB:

For: **Alberta Darling (608) 266-5830**

By/Representing: **Jim Villa**

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

Drafter: **olsenje**

May Contact:

Alt. Drafters:

Subject: **Criminal Law - sentencing**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Minimum sentences for certain sex offenders

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	olsenje 01/18/99	wjackson 01/26/99		_____			State
/1			lpaasch 01/26/99	_____	lrb_docadmin 01/26/99	lrb_docadminState 03/10/99	
/2	olsenje 03/11/99	wjackson 03/11/99	hhagen 03/11/99	_____	lrb_docadmin 03/11/99	lrb_docadmin 03/11/99	

FE Sent For:

03-16-99

<END>

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/1		/2 wlj 3/11	lpaasch 01/26/99	_____	lrb_docadmin 01/26/99	lrb_docadmin 03/10/99	

Handwritten: 3/11 CH JF 3/11

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FE Sent For:

<END>

1999

Date (time) needed _____

LRB - 1198 / 1

BILL

D-note

JED : WLjy : _____

JKM

Use the appropriate components and routines developed for bills.

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

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

Analysis by the Legislative Reference Bureau

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

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

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

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

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

SECTION #.



1997 SENATE BILL 118

March 13, 1997 - Introduced by Senators DARLING, DRZEWIECKI, COWLES, HUELSMAN, PANZER, BUETTNER, A. LASEE and ZIEN, cosponsored by Representatives WALKER, LAZICH, PORTER, OTTE, F. LASEE, AINSWORTH, OWENS, HUTCHISON, WASSERMAN, ALBERS, KREIBICH, GARD, LADWIG, MUSSER, ROBSON, DUFF, HASENOHRL, URBAN, VRAKAS, OTT, KELSO, GREEN, KAUFERT, RILEY, KEDZIE, SCHAFFER, FREESE, GRONEMUS, STASKUNAS, SERATTI and BRANDEMUEHL. Referred to Committee on Judiciary, Campaign Finance Reform and Consumer Affairs.

1 ~~AN ACT to amend~~ 940.22 (2), 948.06 (intro.), 948.07 (intro.), 948.08, 948.11 (2) (a),
 2 948.12 (intro.) and 948.13 (2), and ~~to create~~ 939.615, 940.225 (3s), 948.02 (3g),
 3 948.025 (2g), 948.05 (2m), 948.055 (3) and 948.095 (3) of the statutes; relating
 4 to minimum sentences for certain sex offenses.

Analysis by the Legislative Reference Bureau

Current law provides penalties for various sex offenses. The current penalties include periods of imprisonment in a jail or the state prisons. In addition, a court may currently place a person convicted of a sex offense on probation, except that in certain cases involving repeat offenders a court must impose a prison sentence and may not place the repeat offender on probation.

This bill provides that if a person is convicted of certain felony sex offenses, the court must sentence the person to at least one year in prison and may not place the person on probation. The felony sex offenses covered by the bill include the following: sexual exploitation by a therapist; sexual assault; sexual assault of a child; sexual exploitation of a child; causing a child to view or listen to sexual activity; incest with a child; child enticement; soliciting a child for prostitution; sexual assault of a student by a school instructional staff person; exposing a child to harmful material; possession of child pornography; and working with children after being convicted of a serious child sex offense.

or harmful descriptions or narrations

SENATE BILL 118

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:

939.626

1

SECTION 1. ~~939.615~~ of the statutes is created to read:

939.626

2

~~939.615~~ **Minimum sentence for serious sex crimes.** (1) In this section,

3

“serious sex crime” means a violation of s. 940.22 (2), 940.225 (1), (2) or (3), 948.02

4

(1), (2) or (3), 948.025 (1), 948.05 (1) or (2), 948.055 (1), 948.06, 948.07, 948.08,

5

948.095 (2), 948.11 (2) (a), 948.12 or 948.13 (2).

6

(2) If a person is convicted of committing a serious sex crime, the court shall

7

sentence the person to not less than one year in the Wisconsin state prisons, but

8

otherwise the penalties for the crime apply, subject to any applicable penalty

9

enhancement. The court may not place the person on probation.

939.62 (2m) or

10

(3) Subsection (2) does not apply to a person who is sentenced under s. 939.623.

11

SECTION 2. 940.22 (2) of the statutes is amended to read:

12

940.22 (2) **SEXUAL CONTACT PROHIBITED.** Any person who is or who holds himself

13

or herself out to be a therapist and who intentionally has sexual contact with a

14

patient or client during any ongoing therapist-patient or therapist-client

15

relationship, regardless of whether it occurs during any treatment, consultation,

16

interview or examination, is guilty of a Class C felony and shall be sentenced as

939.626

17

provided in s. ~~939.615~~. Consent is not an issue in an action under this subsection.

18

SECTION 3. 940.225 (3s) of the statutes is created to read:

19

940.225 (3s) **MINIMUM SENTENCE.** A person who violates sub. (1), (2) or (3) shall

20

be sentenced as provided in s. ~~939.615~~ 939.626

21

SECTION 4. 948.02 (3g) of the statutes is created to read:

Please proof w/ stats.

SENATE BILL 118

1 948.02 (3g) MINIMUM SENTENCE. A person who violates sub. (1), (2) or (3) shall

2 be sentenced as provided in s. ~~948.015~~ 939.626 ✓

3 SECTION 5. 948.025 (2g) of the statutes is created to read:

4 948.025 (2g) A person who violates sub. (1) shall be sentenced as provided in

5 s. ~~948.015~~ 939.626 ✓

6 SECTION 6. 948.05 (2m) of the statutes is created to read:

7 948.05 (2m) A person who violates sub. (1) or (2) shall be sentenced as provided

8 in s. ~~948.015~~

9 SECTION 7. 948.055 (3) of the statutes is created to read:

10 948.055 (3) A person who violates sub. (1) shall be sentenced as provided in s.

11 ~~948.015~~

12 SECTION 8. 948.06 (intro.) of the statutes is amended to read:

13 948.06 Incest with a child. (intro.) Whoever does any of the following is
14 guilty of a Class BC felony and shall be sentenced as provided in s. ~~948.015~~

15 SECTION 9. 948.07 (intro.) of the statutes is amended to read:

16 948.07 Child enticement. (intro.) Whoever, with intent to commit any of
17 the following acts, causes or attempts to cause any child who has not attained the age
18 of 18 years to go into any vehicle, building, room or secluded place is guilty of a Class
19 BC felony and shall be sentenced as provided in s. ~~948.015~~

20 SECTION 10. 948.08 of the statutes is amended to read:

21 948.08 Soliciting a child for prostitution. Whoever intentionally solicits
22 or causes any child to practice prostitution or establishes any child in a place of
23 prostitution is guilty of a Class BC felony and shall be sentenced as provided in s.

24 ~~948.015~~

25 SECTION 11. 948.095 (3) of the statutes is created to read:

Please proof w/stats.

SENATE BILL 118

1 948.095 (3) A person who violates sub. (2) shall be sentenced as provided in s.

INS
4-4
2

~~939.615~~ 939.626 ✓

3 SECTION 12. 948.11 (2) (a) of the statutes is amended to read:

please proof w/ stats.

4 948.11 (2) (a) Whoever, with knowledge of the nature of the material, sells,
5 rents, exhibits, transfers or loans to a child any material which is harmful to
6 children, with or without monetary consideration, is guilty of a Class E felony and
7 shall be sentenced as provided in s. 939.615.

8 SECTION 13. 948.12 (intro.) of the statutes is amended to read:

9 948.12 Possession of child pornography. (intro.) Whoever possesses any
10 undeveloped film, photographic negative, photograph, motion picture, videotape or
11 other pictorial reproduction or audio recording of a child engaged in sexually explicit
12 conduct under all of the following circumstances is guilty of a Class E felony and shall
13 be sentenced as provided in s. ~~939.615~~ 939.626 ✓

INS
4-15
15

14 SECTION 14. 948.13 (2) of the statutes is amended to read:

15 948.13 (2) Whoever has been convicted of a serious child sex offense and
16 subsequently engages in an occupation or participates in a volunteer position that
17 requires him or her to work or interact primarily and directly with children under
18 16 years of age is guilty of a Class C felony and shall be sentenced as provided in s.
19 939.615.

20 SECTION 15. Initial applicability.

21 (1) This act applies to offenses committed on or after the effective date of this
22 subsection.

23 (END)

INS 4-4:

~~Section # 948.11(2)(a) of the statutes~~

Please P. Conf
w/ Staff

948.11 (2) (a) Whoever, with knowledge of the nature of the material, sells, rents, exhibits, transfers or loans to a child any harmful material, with or without monetary consideration, is guilty of a Class E felony.

~~History: 1987 a. 332; 1989 a. 31; 1993 a. 220, 399; 1995 a. 27 s. 9154 (1); 1997 a. 27, 82.~~

and shall be sentenced as
provided in s. 939.626

IAS 4-15.

~~Section # 948.13 (2) of the statutes.~~

Please proof
w/stats.

948.13 (2) Whoever has been convicted of a serious child sex offense and subsequently engages in an occupation or participates in a volunteer position that requires him or her to work or interact primarily and directly with children under 16 years of age is guilty of a Class C felony. This subsection does not apply to a person who is exempt under a court order issued under sub. (2m).

~~History: 1995 a. 265; 1997 a. 130, 220~~

and shall be sentenced
as provided in
S. 939.626¹

CRB-1198/1 dn
JEO: Wlj :

D-Nak

4 This is a redraft of 1997

Senate Bill 118.

JEO

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

LRB-1198/1dn
JEO:wlj:lp

January 26, 1999

This is a redraft of 1997 Senate Bill 118.

Jefren E. Olsen
Legislative Attorney
266-8906

Olsen, Jefren

From: Villa, Jim
Sent: Tuesday, March 09, 1999 4:10 PM
To: Olsen, Jefren

Jefren

At your convenience, may we please have LRB 1198 relating to minimum sentences for sex offenders jacketed?

Thanks

*Jim Villa
Chief of Staff
Office of Senator Alberta Darling
Room 22 South - State Capitol
Madison, Wisconsin 53707
(608) 266-5830 (608) 267-0588 fax
jim.villa@legis.state.wi.us*

Today

1999 BILL

*redraft
maker
run*

9
2

regenerate

1 AN ACT *to amend* 940.22 (2), 948.06 (intro.), 948.07 (intro.), 948.08, 948.11 (2) (a),
2 948.12 (intro.) and 948.13 (2); and *to create* 939.615, 940.225 (3s), 948.02 (3g),
3 948.025 (2g), 948.05 (2m), 948.055 (3) and 948.095 (3) of the statutes; **relating**
4 **to:** minimum sentences for certain sex offenses.

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Current law provides penalties for various sex offenses. The current penalties include periods of imprisonment in a jail or the state prisons. In addition, a court may currently place a person convicted of a sex offense on probation, except that in certain cases involving repeat offenders a court must impose a prison sentence and may not place the repeat offender on probation.

This bill provides that if a person is convicted of certain felony sex offenses, the court must sentence the person to at least one year in prison and may not place the person on probation. The felony sex offenses covered by the bill include the following: sexual exploitation by a therapist; sexual assault; sexual assault of a child; sexual exploitation of a child; causing a child to view or listen to sexual activity; incest with a child; child enticement; soliciting a child for prostitution; sexual assault of a student by a school instructional staff person; exposing a child to harmful material or harmful descriptions or narrations; possession of child pornography; and working with children after being convicted of a serious child sex offense.

BILL

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.** 939.626 of the statutes is created to read:

2 **939.626 Minimum sentence for serious sex crimes.** (1) In this section,
3 “serious sex crime” means a violation of s. 940.22 (2), 940.225 (1), (2) or (3), 948.02
4 (1), (2) or (3), 948.025 (1), 948.05 (1) or (2), 948.055 (1), 948.06, 948.07, 948.08,
5 948.095 (2), 948.11 (2) (a), ^{or (am)} 948.12 or 948.13 (2).

6 (2) If a person is convicted of committing a serious sex crime, the court shall
7 sentence the person to not less than one year in the Wisconsin state prisons, but
8 otherwise the penalties for the crime apply, subject to any applicable penalty
9 enhancement. The court may not place the person on probation.

10 (3) Subsection (2) does not apply to a person who is sentenced under s. 939.626
11 (2m) or 939.623.

12 **SECTION 2.** 940.22 (2) of the statutes is amended to read:

13 **940.22 (2) SEXUAL CONTACT PROHIBITED.** Any person who is or who holds himself
14 or herself out to be a therapist and who intentionally has sexual contact with a
15 patient or client during any ongoing therapist–patient or therapist–client
16 relationship, regardless of whether it occurs during any treatment, consultation,
17 interview or examination, is guilty of a Class C felony and shall be sentenced as
18 provided in s. 939.626. Consent is not an issue in an action under this subsection.

19 **SECTION 3.** 940.225 (3s) of the statutes is created to read:

20 **940.225 (3s) MINIMUM SENTENCE.** A person who violates sub. (1), (2) or (3) shall
21 be sentenced as provided in s. 939.626.

BILL

1 **SECTION 4.** 948.02 (3g) of the statutes is created to read:

2 **948.02 (3g) MINIMUM SENTENCE.** A person who violates sub. (1), (2) or (3) shall
3 be sentenced as provided in s. 939.626.

4 **SECTION 5.** 948.025 (2g) of the statutes is created to read:

5 **948.025 (2g)** A person who violates sub. (1) shall be sentenced as provided in
6 s. 939.626.

7 **SECTION 6.** 948.05 (2m) of the statutes is created to read:

8 **948.05 (2m)** A person who violates sub. (1) or (2) shall be sentenced as provided
9 in s. 939.626.

10 **SECTION 7.** 948.055 (3) of the statutes is created to read:

11 **948.055 (3)** A person who violates sub. (1) shall be sentenced as provided in s.
12 **939.626.**

13 **SECTION 8.** 948.06 (intro.) of the statutes is amended to read:

14 **948.06 Incest with a child.** (intro.) Whoever does any of the following is
15 guilty of a Class BC felony and shall be sentenced as provided in s. 939.626:

16 **SECTION 9.** 948.07 (intro.) of the statutes is amended to read:

17 **948.07 Child enticement.** (intro.) Whoever, with intent to commit any of
18 the following acts, causes or attempts to cause any child who has not attained the age
19 of 18 years to go into any vehicle, building, room or secluded place is guilty of a Class
20 BC felony and shall be sentenced as provided in s. 939.626:

21 **SECTION 10.** 948.08 of the statutes is amended to read:

22 **948.08 Soliciting a child for prostitution.** Whoever intentionally solicits
23 or causes any child to practice prostitution or establishes any child in a place of
24 prostitution is guilty of a Class BC felony and shall be sentenced as provided in s.
25 939.626.

BILL

1 SECTION 11. 948.095 (3) of the statutes is created to read:

2 948.095 (3) A person who violates sub. (2) shall be sentenced as provided in s.
3 939.626.

4 SECTION 12. 948.11 (2) (a) of the statutes is amended to read:

5 948.11 (2) (a) Whoever, with knowledge of the nature of the material, sells,
6 rents, exhibits, transfers or loans to a child any harmful material, with or without
7 monetary consideration, is guilty of a Class E felony and shall be sentenced as
8 provided in s. 939.626.

ZNS
1-9

9 SECTION 13. 948.12 (intro.) of the statutes is amended to read:

10 **948.12 Possession of child pornography.** (intro.) Whoever possesses any
11 undeveloped film, photographic negative, photograph, motion picture, videotape or
12 other pictorial reproduction or audio recording of a child engaged in sexually explicit
13 conduct under all of the following circumstances is guilty of a Class E felony and shall
14 be sentenced as provided in s. 939.626:

15 SECTION 14. 948.13 (2) of the statutes is amended to read:

16 948.13 (2) Whoever has been convicted of a serious child sex offense and
17 subsequently engages in an occupation or participates in a volunteer position that
18 requires him or her to work or interact primarily and directly with children under
19 16 years of age is guilty of a Class C felony and shall be sentenced as provided in s.
20 939.626. This subsection does not apply to a person who is exempt under a court
21 order issued under sub. (2m).

22 SECTION 15. **Initial applicability.**

23 (1) This act applies to offenses committed on or after the effective date of this
24 subsection.

25 (END)

INS 4-8 :

Section #. 948.11 (2) (am) of the statutes is amended to read:

948.11 (2) (am) Any person who has attained the age of 17 and who, with knowledge of the nature of the description or narrative account, verbally communicates, by any means, a harmful description or narrative account to a child, with or without monetary consideration, is guilty of a Class E felony.

~~History: 1987 a. 332; 1989 a. 31; 1993 a. 220, 399; 1995 a. 27 s. 9154 (1); 1997 a. 27, 82.~~

and shall be sentenced
as provided in s. 939.626 ✓



State of Wisconsin
1999-2000 LEGISLATURE

CORRECTIONS IN:

1999 SENATE BILL 82

Prepared by the Legislative Reference Bureau
(March 22, 1999)

1. Page 2, line 10: substitute "939.62" for "939.626".

LRB-1198/2ccc-1

JLG:ch

Minor clerical corrections in legislation are authorized under s. 35.17, stats.; Senate Rule 31, Assembly Rule 37 and Joint Rule 56.

CCC

1999 SB-82
LRB-1198/2
JEO

#. Page 2, line 10: substitute "939.62" for
"939.626".

JLG