

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2009/P1dn
JEO:jlg:km

May 12, 1999

Bill:

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

1. It is unclear from the suggested language what the "gratification of the violator" phrase means. We assumed that it meant "satisfaction" in a generic sense, so we did not include it in this draft. If the provision refers to something more specific, such as sexual gratification, or if you want the Class C felony to require proof of gratification generally, we can revise the draft. In addition, if the phrase is intended to relate to sexual gratification, you may want to consider whether this crime should be covered by "two strikes", "three strikes" or sex offender registry provisions in the statutes.

2. Do you want information relating to a child's participation in such activity to be disclosed to a home or facility in which he or she is placed under ss. 48.371 (3) (d) or 938.371 (3) (d)?

3. We did not include any reference to recording the child's injuries, since the underlying crime is a Class E felony even if the defendant does not photograph, film, or videotape the injuries. But if you want a person who records the injuries to be subject to a more severe penalty, either through a sentencing enhancer or by making it a distinct offense, let us know.

4. The bill includes a lesser penalty for a person who causes great bodily harm (which, under s. 939.22 (14), includes "serious permanent disfigurement" and permanent or protracted loss of a bodily function, among other things) than it does for a person who consumes the child's blood without causing serious injury to the child. Is this your intent?

5. We assumed that you wanted a penalty enhancement provision to apply to a person who commits a second offense after having been convicted, as opposed to a person who is convicted on two counts at a single trial. Is that okay? That also leads to another issue. Under the bill, a person can be charged with both a Class D and a Class C felony as a result of the same incident if the person consumes the child's blood and causes great bodily harm to the child. If you prefer, we can revise the draft to prevent a defendant from being charged with both offenses in such circumstances.

6. As drafted, the bill applies to children who take "blood oaths". Is this your intent?

Jefren E. Olsen
Legislative Attorney
Phone: (608) 266-8906
E-mail: Jefren.Olsen@legis.state.wi.us