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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

1999-00

(session year)

Assembly

(Assembly, Senate or Joint)

**Committee on ... Judiciary and Personal Privacy
(AC-JPP)**

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Mike Barman (LRB) (May/2012)

Assembly

Record of Committee Proceedings

Committee on Judiciary and Personal Privacy

Assembly Bill 109

Relating to: release of persons arrested for certain crimes against children.

By Representatives Ladwig, Kestell, Ainsworth, Albers, Brandemuehl, Freese, Goetsch, Huebsch, Kaufert, Kreibich, J. Lehman, Montgomery, Musser, Owens, Plale, Porter, Ryba, Sinicki, Skindrud, Stone, Sykora and Ziegelbauer; cosponsored by Senators Plache, Darling, Huelsman, Lazich, Panzer and Roessler.

February 9, 1999 Referred to committee on Judiciary and Personal Privacy.

February 16, 1999 **PUBLIC HEARING HELD**

Present: (9) Representatives Huebsch, Gundrum, Walker, Suder, Grothman, Sherman, Colon, Hebl and Staskunas.

Absent: (0) None.

Appearances for

- Rep. Bonnie Ladwig, 63rd Assembly District
- John Gordon, Racine Co. Sheriff's Dept.

Appearances against

- None.

Appearances for Information Only

- None.

Registrations for

- Sen. Kim Plache, 21st Senate District

Registrations against

- None.

March 2, 1999 **EXECUTIVE SESSION**

Present: (9) Representatives Huebsch, Gundrum, Walker, Suder, Grothman, Sherman, Colon, Hebl and Staskunas.

Absent: (0) None.

Moved by Representative Staskunas, seconded by Representative Suder, that **Assembly Bill 109** be recommended for passage.

Ayes: (9) Representatives Huebsch, Gundrum, Walker, Suder, Grothman, Sherman, Colon, Hebl and Staskunas.

Noes: (0) None.

Absent: (0) None.

PASSAGE RECOMMENDED, Ayes 9, Noes 0, Absent 0

A handwritten signature in black ink, appearing to read "Robert Delaporte", written over a horizontal line.

Robert Delaporte
Committee Clerk

Vote Record

Assembly Committee on Judiciary and Personal Privacy

Date: 3-2-99
 Moved by: Staskunas Seconded by: Suder
 AB: 109 Clearinghouse Rule: _____
 AB: _____ SB: _____ Appointment: _____
 AJR: _____ SJR: _____ Other: _____
 A: _____ SR: _____

A/S Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____
 A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____ to A/S Sub Amdt: _____

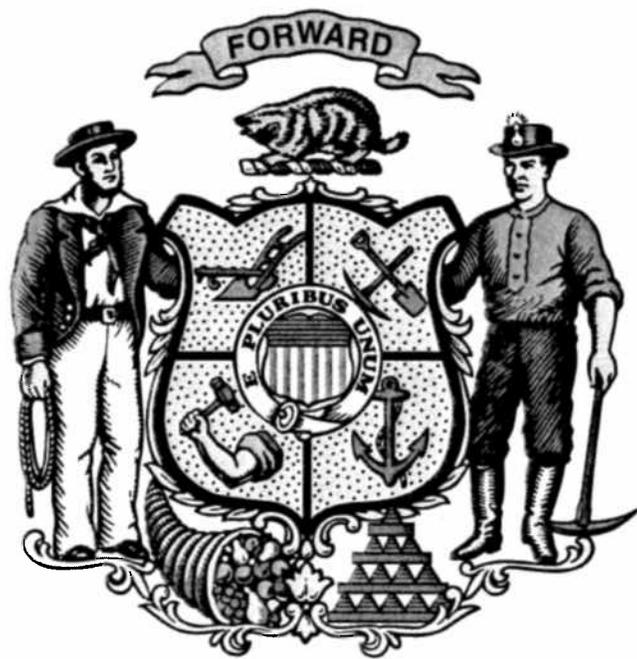
Be recommended for:

- | | |
|---|--|
| <input checked="" type="checkbox"/> Passage | <input type="checkbox"/> Indefinite Postponement |
| <input type="checkbox"/> Introduction | <input type="checkbox"/> Tabling |
| <input type="checkbox"/> Adoption | <input type="checkbox"/> Concurrence |
| <input type="checkbox"/> Rejection | <input type="checkbox"/> Nonconcurrence |
| | <input type="checkbox"/> Confirmation |

Committee Member	Aye	No	Absent	Not Voting
Rep. Michael Huebsch, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Mark Gundrum	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Scott Walker	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Scott Suder	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Glenn Grothman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Gary Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Pedro Colon	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Tom Hebl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Tony Staskunas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>9</u>	-	-	-

Motion Carried

Motion Failed



State Representative
Bonnie L. Ladwig
63rd Assembly District



Assistant Majority Leader

Testimony for Assembly Bill 109-Conditions of Release in Child Abuse Cases
State Representative Bonnie Ladwig, Author
February 16, 1999

Dear Chairman Huebsch and members of the Assembly Judiciary Committee:

I have introduced Assembly Bill 109 on behalf of the Racine County District Attorney's office and the Racine County Sheriff's Department. The bill addresses a major child abuse issue that has been surfacing during the investigation and prosecution of child abuse cases.

In certain cases, a person will be arrested for physical and/or sexual abuse of a child, only to post bond and be released and go back into the home to live with the child. There has been nothing to prohibit this because the caregiver was able to post bond before going in front of a judge who would be able to set the conditions of release. This loophole in the system puts the child victim in a potentially very dangerous situation.

AB 109 would prohibit the release of a person accused of felony child abuse crimes before they initially appear before a judge. It then would be up to the judge to set the terms and conditions of the accused's release, including a no contact requirement. This bill does not mandate the judge to order a no contact requirement, but instead leaves it up to the judge's discretion on a case by case basis.

Racine County has implemented a process in which the accused child abuse offender prior to his or her release on bond would sign a no contact form if the offender has not appeared before a judge. Racine area judges agreed to the use of this form. The no contact requirement is effective from the time of release of the person arrested until the person makes the initial appearance before a judge. If a person violates this requirement they may be prosecuted for bail jumping and subject to those penalties.

This program has been very effective in Racine County, but it is only being done at a local level. There have been some questions to the constitutionality of this practice, therefore there the need is great for AB 109.

The goal of this bill is ultimately to protect children. In any situation where a child's safety is at risk, I believe our first and foremost consideration should be protecting the children who may not be able to protect themselves.

This is the same language as AB 452 from last session as amended by the Committee on Criminal Justice and Corrections, and was passed out of that committee on a 13-0 vote. It then passed by the Assembly on a voice vote, and was never heard in the Senate.

Thank you for holding a hearing on AB 109, and if you have any questions or concerns please feel free to contact me.

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

LRB-1210/1dn
JEO:jlg:hmh

Monday, January 4, 1999

This is a redraft of assembly substitute amendment 2 to 1997 Assembly Bill 452. Please note the following when reviewing this draft:

1. This draft deletes the amendment of s. 969.07, stats., because, on further reflection, the amendment of that statute is unnecessary.
2. Like ASA 2 to 1997 AB-452, this draft does not restrict the use of a summons under s. 968.04, stats., which would avoid the arrest of the person and simply require the person to show up in court to answer the charge at some future date.
3. The application of proposed s. 968.077 might be unconstitutional if, in a particular case, there is an unreasonable delay in setting conditions of release.

A person arrested for and charged with a crime and awaiting trial has a right to release, albeit under reasonable conditions. Article I, section 8 (2), Wisconsin Constitution; compare *Rohl v. State*, 90 Wis. 2d 18, 53 (Ct. App. 1979) (right to bail). At the same time, however, the right to bail is not absolute, and an arrested person does not have an automatic right to immediate bail, though he or she does have the right not to be denied bail arbitrarily. *Syarto v. Baker*, 500 F. Supp. 888, 890-91 (E.D. Wis. 1980), citing *Mastrian v. Hedman*, 326 F. 2d 708 (8th Cir. 1964), cert. denied, 360 U.S. 965, and other cases. See also *United States v. Salerno*, 481 U.S. 739, 107 S. Ct. 2095 (1987).

Proposed s. 968.077 denies release only for a limited time (until the person sees a judge who sets conditions of release under ch. 969) and not for the entire time before trial. The person will have to be taken before a judge "within a reasonable time". This is because a person to whom proposed s. 968.077 applies has been arrested and is therefore also subject to s. 970.01 (1), stats., which provides that "[a]ny person who is arrested shall be taken within a reasonable time before a judge in the county in which the offense was alleged to have been committed." Thus, the effect of proposed s. 968.077 is somewhat comparable to s. 969.07, stats., which allows a person to be held in custody under certain limited circumstances until the initial appearance. (This statute has not been directly ruled on in a reported court decision, but the attorney general has implied that there is no trouble with it. *75 Opinions of the Attorney General* 209, 210-11 (1986). See also *Demmith v. Wisconsin Judicial Conference*, 166 Wis. 2d 649, 660-62, 669-71 (1992).)

Section 970.01 (1), stats., "does not provide for a specific time frame in which this [initial] appearance must take place." *State v. Koch*, 175 Wis. 2d 684, 696, cert. denied,

510 U.S. 880, 114 S. Ct. 221 (1993). Instead, what is a "reasonable time" depends initially on whether the person was arrested with or without a warrant, as follows:

A) If the person was arrested *without* a warrant, the United States Supreme Court has said that there must be a probable cause determination by a judge within 48 hours of the arrest, barring extraordinary circumstances. *County of Riverside v. McLaughlin*, 500 U.S. 44, 111 S. Ct. 1661 (1991). In *Koch*, the Wisconsin supreme court concluded that the *Riverside* 48-hour rule is applicable in Wisconsin. *Koch*, 175 Wis. 2d at 696. Thus, for a warrantless arrest, a reasonable time under s. 970.01 (1), stats., will generally have to be within 48 hours.

B) If the person was arrested *with* a warrant, what is a reasonable time under s. 970.01 (1), stats., will depend on the circumstances of the particular case. The *Riverside* 48-hour rule does not apply to arrests with a warrant because, in issuing the arrest warrant, a judge has already made a determination of probable cause to arrest the person. *Koch*, 175 Wis. 2d at 696 n.7; compare *Wagner v. State*, 89 Wis. 2d 70, 76 (1979).

Thus, in a case in which proposed s. 968.077 applies and in which the defendant was arrested *without* a warrant, he or she will probably be denied release for less than 48 hours because under *Riverside* and *Koch* he or she will generally have an initial appearance within that time. However, if the defendant was arrested with a warrant, the timing of the initial appearance is judged according to the circumstances of the case, which, in addition to the person's right to reasonable release, now include the fact that the person can't be released until a court sets conditions of release. (Of course, nothing in proposed s. 968.077 prohibits a court from setting conditions of release before the initial appearance is held.)

Please let me know if you have any questions or changes.

Jefren E. Olsen
Legislative Attorney
266-8906

RACINE COUNTY SHERIFF'S DEPARTMENT

ARRESTED PERSON _____ BOOKING NUMBER _____

DATE OF ARREST _____ TIME OF ARREST _____

NOTICE OF CONDITIONAL RELEASE AND CONTACT PROHIBITION

CRIMES AGAINST CHILDREN

1. You have been arrested for a CRIME AGAINST A CHILD under Chapter 948 of Wisconsin State Statutes. This means you have been arrested for the crime of _____ and that the circumstances under which this crime was committed constitutes a CRIME AGAINST A CHILD.

2. You must AVOID ALL CONTACT with _____, the victim, or any residence occupied by the victim, or any school attended by the victim, until your first court appearance on _____ (the date specified on your bond receipt) and refrain, as a further condition of your bond, from any threats or acts of violence toward the victim or any other person.

3. If you violate any of the conditions of your bond, as stated in Paragraph 2, especially the NO CONTACT WITH THE VICTIM provision, you may be further charged with the crime of BAIL JUMPING and subject to the following penalty (check one).

9 months imprisonment and/or a \$10,000 fine.

5 years imprisonment and/or a \$10,000 fine.

4. If you are released AFTER YOUR ARREST:

A. You may not cause anyone other than YOUR ATTORNEY or the VICTIM'S ATTORNEY to contact the victim.

5. Your release is conditional upon your signed acknowledgement that you have received and understand these requirements and the consequences of violating these requirements.

6. If you refuse to sign this NOTICE and post the requisite cash bond, you will not be released from custody.

AGREEMENT

I acknowledge receipt of this NOTICE. I had been informed and by reading this NOTICE of the conditions of my release including the no contact provisions set forth in Paragraphs 2 and 4. I understand these conditions and the penalties for violating these conditions. I reaffirm that I will refrain from any further threats or acts of abuse against the victim or any other person.

ARRESTED PERSON

TIME & DATE OF SIGNING AND RELEASE



RACINE COUNTY SHERIFF'S DEPARTMENT

717 Wisconsin Avenue, Racine, WI 53403-1237

(414) 636-3213 FAX 637-5279

Waterford 534-5166 Burlington 763-9558

Sheriff William L. McReynolds

Chief Deputy James S. Litwin

February 11, 1999

BONNIE L LADWIG
REPRESENTATIVE
P O BOX 8952
MADISON WI 53708-8952

Dear Bonnie:

I am writing to you reference Assembly Bill 109, which I would like to endorse. This bill relates to the safety and well-being of the children of Wisconsin.

In Racine County we have had two occasions that I am aware of, in which a child's care-giver was arrested and incarcerated for physical abuse of the child. The arrested party was able to successfully post the bond and was released from jail to return to the home of the victim. This is not allowed in cases of domestic abuse involving adult victims. I feel that we should afford more protection to our children who cannot protect themselves, as we do to the adult citizens.

Assembly Bill 109 would provide that protection by not allowing a person arrested for sexual contact or sexual intercourse with a child, physical abuse of a child, abandonment of a child, or neglecting a child. I realize that sometimes in domestic abuse cases the victims allow the suspect back into the home or maintain contact with the suspect. That is a decision made by an adult victim on his or her own behalf. We often find in child abuse cases that the non-arrested care-giver will allow the suspect back into the home, but no concern is given to the victim's wishes or safety. This Bill would allow a judge to order no contact between the suspect and the victim and would be enforceable by arrest if the no contact order was not adhered to.

On behalf of the Racine County Sheriff's Department, I wish to thank you for your work on this Bill, and wish to support its passage.

Sincerely yours,

A handwritten signature in black ink that reads "William L. McReynolds". The signature is written in a cursive style.

William L. McReynolds
Sheriff, Racine County

WLM:cap

February 15, 1999

Representative Bonnie Ladwig
113 West State Capitol
Madison, WI 53706

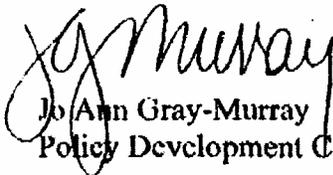
Dear Representative Ladwig,

The Wisconsin Coalition Against Domestic Violence supports AB 109 concerning the release of persons arrested for certain crimes against children. The safety and protection of children from further abuse and violence are fundamental part of our work at the Coalition. The passage of AB109 is an important step in that endeavor.

As the numbers of reported child abuse and neglect continue to increase at an alarming rate, the need for more stringent legal measures to protect children must be developed. Denying release to persons arrested for certain felony offenses against children (sexual contact or sexual intercourse, physical abuse of a child, abandonment of a child and neglecting a child) until a court has established conditions of release for the person is critical in safeguarding children from further serious bodily harm or intimidation.

We believe that AB109 will help to protect children against child abuse and neglect. We applaud your efforts and support this bill. Please do not hesitate to call us if we can be of further assistance with the its passage through the legislature.

Sincerely,


Jo Ann Gray-Murray
Policy Development Coordinator



1400 EAST WASHINGTON AVENUE | SUITE 232 | MADISON, WISCONSIN 53703
608 | 255 | 0539 | FAX: 608 | 255 | 3560

ROBERT S. FLANCHER
DISTRICT ATTORNEY



Office of the District Attorney
Racine County Courthouse
730 Wisconsin Avenue
Racine, Wisconsin 53403-1274

General: (414) 636-3172
Victim/Witness: (414) 636-3858
Consumer Fraud: (414) 636-3125
Facsimile: (414) 636-3346

February 16, 1999

Mrs. Bonnie Ladwig
State Representative
P.O. Box 8952
Madison, Wisconsin 52308-8952

Re: 1999 Assembly Bill 109

Dear Representative Ladwig:

This office wishes to endorse 1999 Assembly Bill 109 and I offer my support in your efforts to have this bill passed into law.

We are personally aware of several instances where suspects arrested for child abuse related matters were able to post bond prior to appearing before a judge or magistrate for review. In these situations, the bond did not provide for conditions such as "do not return to the home or have contact with the victim or other children". Therefore, the suspect would have been free to return to the home where the offense took place. The suspect and the child victim could again be placed together causing a very dangerous fear-inducing situation for the victim.

It appears that this bill would provide that warrants for arrest in these matters would require the suspect to appear before a magistrate before conditions of release are determined. This bill provides a safety net for a potentially dangerous loophole in the present bond provisions. Thank for your efforts regarding this bill.

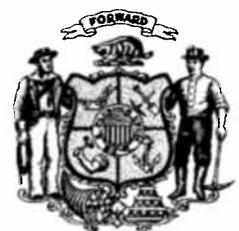
Sincerely,

A handwritten signature in black ink, appearing to read "Robert S. Flancher", is written over the typed name.

Robert S. Flancher
Racine County District Attorney



WISCONSIN STATE LEGISLATURE





WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701-2536

Telephone: (608) 266-1304

Fax: (608) 266-3830

Email: leg.council@legis.state.wi.us

DATE: February 25, 1999

TO: REPRESENTATIVE MICHAEL HUEBSCH, CHAIRPERSON, ASSEMBLY
COMMITTEE ON JUDICIARY AND PERSONAL PRIVACY

FROM: Don Dyke, Senior Staff Attorney

SUBJECT: 1999 Assembly Bill 109, Relating to Release of Persons Arrested for Certain
Crimes Against Children

This memorandum, prepared at your request, describes the provisions of the above-captioned bill.

1999 Assembly Bill 109 provides that a person arrested and taken into custody for specified felonies against children may not be released until a court has established conditions of release for the person. Crimes covered by the proposal are: s. 948.02, Stats., sexual assault of a child; s. 948.025, Stats., engaging in repeated acts of sexual assault of the same child; s. 948.03, Stats., physical abuse of a child; s. 948.20, Stats., abandonment of a child; and that portion of s. 948.21, Stats., neglecting a child, punishable as a felony. The specified crimes are set forth in the attachment to this memorandum.

As a consequence of the bill's prohibition against releasing a person who has been arrested and taken into custody for a violation of the specified crimes against children before a court has established conditions of release, the bill also prohibits a warrant issued for a person for any violation of the specified crimes against children from being endorsed with the amount or method of posting bail. Currently, the amount and method of posting bail may be endorsed upon felony warrants by the judge who issues the warrant. [s. 969.05 (2), Stats.] If a person is arrested pursuant to such a warrant, the person may post bond and be released before making the initial appearance before a judge. The testimony on Assembly Bill 109 indicated that in situations where a person is arrested for child abuse-related crimes, releasing the person before a judge establishes conditions of release may pose a danger to a child victim because there is nothing in the law prohibiting the arrested person from contacting the victim. Under Assembly Bill 109, the person arrested will not be eligible for release until a court has established conditions of release. (Note that item 3. of the Legislative Reference Bureau Drafter's Note to

Assembly Bill 109, included in materials distributed by Representative Ladwig at the February 16, 1999 public hearing on the bill, discusses constitutional and statutory time constraints concerning the establishment of conditions of release in the context of the bill.)

If you have any questions or need additional information, please contact me directly at the Legislative Council Staff offices.

DD:kjf:rv;wu

Attachment

ATTACHMENT

Sections 948.02, 948.025, 948.03, 948.20 and 948.21, Stats.

948.02 Sexual assault of a child. (1) FIRST DEGREE SEXUAL ASSAULT. Whoever has sexual contact or sexual intercourse with a person who has not attained the age of 13 years is guilty of a Class B felony.

(2) SECOND DEGREE SEXUAL ASSAULT. Whoever has sexual contact or sexual intercourse with a person who has not attained the age of 16 years is guilty of a Class BC felony.

(3) FAILURE TO ACT. A person responsible for the welfare of a child who has not attained the age of 16 years is guilty of a Class C felony if that person has knowledge that another person intends to have, is having or has had sexual intercourse or sexual contact with the child, is physically and emotionally capable of taking action which will prevent the intercourse or contact from taking place or being repeated, fails to take that action and the failure to act exposes the child to an unreasonable risk that intercourse or contact may occur between the child and the other person or facilitates the intercourse or contact that does occur between the child and the other person.

(3m) PENALTY ENHANCEMENT; SEXUAL ASSAULT BY CERTAIN PERSONS. If a person violates sub. (1) or (2) and the person is responsible for the welfare of the child who is the victim of the violation, the maximum term of imprisonment may be increased by not more than 5 years.

(4) MARRIAGE NOT A BAR TO PROSECUTION. A defendant shall not be presumed to be incapable of violating this section because of marriage to the complainant.

(5) DEATH OF VICTIM. This section applies whether a victim is dead or alive at the time of the sexual contact or sexual intercourse.

948.025 Engaging in repeated acts of sexual assault of the same child. (1) Whoever commits 3 or more violations under s. 948.02 (1) or (2) within a specified period of time involving the same child is guilty of a Class B felony.

(2) If an action under sub. (1) is tried to a jury, in order to find the defendant guilty the members of the jury must unanimously agree that at least 3 violations occurred within the time period applicable under sub. (1) but need not agree on which acts constitute the requisite number.

(2m) If a person violates sub. (1) and the person is responsible for the welfare of the child who is the victim of the violation, the maximum term of imprisonment may be increased by not more than 5 years.

(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, 948.08, 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.

948.03 Physical abuse of a child. (1) DEFINITIONS. In this section, "recklessly" means conduct which creates a situation of unreasonable risk of harm to and demonstrates a conscious disregard for the safety of the child.

(2) INTENTIONAL CAUSATION OF BODILY HARM. (a) Whoever intentionally causes great bodily harm to a child is guilty of a Class C felony.

(b) Whoever intentionally causes bodily harm to a child is guilty of a Class D felony.

(c) Whoever intentionally causes bodily harm to a child by conduct which creates a high probability of great bodily harm is guilty of a Class C felony.

(3) RECKLESS CAUSATION OF BODILY HARM. (a) Whoever recklessly causes great bodily harm to a child is guilty of a Class D felony.

(b) Whoever recklessly causes bodily harm to a child is guilty of a Class E felony.

(c) Whoever recklessly causes bodily harm to a child by conduct which creates a high probability of great bodily harm is guilty of a Class D felony.

(4) FAILING TO ACT TO PREVENT BODILY HARM. (a) A person responsible for the child's welfare is guilty of a Class C felony if that person has knowledge that another person intends to cause, is causing or has intentionally or recklessly caused great bodily harm to the child and is physically and emotionally capable of taking action which will prevent the bodily harm from occurring or being repeated, fails to take that action and the failure to act exposes the child to an unreasonable risk of great bodily harm by the other person or facilitates the great bodily harm to the child that is caused by the other person.

(b) A person responsible for the child's welfare is guilty of a Class D felony if that person has knowledge that another person intends to cause, is causing or has intentionally or recklessly caused bodily harm to the child and is physically and emotionally capable of taking action which will prevent the bodily harm from occurring or being repeated, fails to take that action and the failure to act exposes the child to an unreasonable risk of bodily harm by the other person or facilitates the bodily harm to the child that is caused by the other person.

(5) PENALTY ENHANCEMENT; ABUSE BY CERTAIN PERSONS. If a person violates sub. (2) or (3) and the person is responsible for the welfare of the child who is the victim of the violation, the maximum term of imprisonment may be increased by not more than 5 years.

(6) TREATMENT THROUGH PRAYER. A person is not guilty of an offense under this section solely because he or she provides a child with treatment by spiritual means through prayer alone for healing in accordance with the religious method of healing permitted under s. 48.981 (3) (c) 4. or 448.03 (6) in lieu of medical or surgical treatment.

948.20 Abandonment of a child. Whoever, with intent to abandon the child, leaves any child in a place where the child may suffer because of neglect is guilty of a Class D felony.

948.21 Neglecting a child. (1) Any person who is responsible for a child's welfare who, through his or her actions or failure to take action, intentionally contributes to the neglect of the child is guilty of a Class A misdemeanor or, if death is a consequence, a Class C felony.

(2) Under sub. (1), a person responsible for the child's welfare contributes to the neglect of the child although the child does not actually become neglected if the natural and probable consequences of the person's actions or failure to take action would be to cause the child to become neglected.