

2001 DRAFTING REQUEST

Bill

Received: **01/10/2001**

Received By: **mdsida**

Wanted: **As time permits**

Identical to LRB:

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

By/Representing: **Andy**

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

Drafter: **nelsorp1**

May Contact:

Alt. Drafters: **mdsida**

Subject: **Criminal Law - miscellaneous**

Extra Copies: **rlr**

Pre Topic:

No specific pre topic given

Topic:

Prostitution

Instructions:

Redraft LRB1718/2 + a0363/1

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>
/?	mdsida 01/24/2001 nelsorp1 01/25/2001	hhagen 01/30/2001		_____			S&L
/1			pgreensl 02/04/2001	_____	gretskl 02/04/2001	lrb_docadmin 02/13/2001	

FE Sent For:

<END>

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AB 267

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/?	mdsida			_____			

FE Sent For:

<END>

B268

ASSEMBLY BILL 268

An Act to renumber 302.113 (7); to amend 48.57 (3p) (g) 3., 165.60, 165.70 (1) (b), 973.01 (5), 973.075 (1) (b) 1m. c. and 973.075 (2) (intro.); and to create 302.113 (7) (b), 304.06 (1z), 944.30 (4g), 944.335 and 971.41 of the statutes; relating to: prostitution and providing a penalty. (FE) 1999

- 04-09-99. A. Introduced by Representatives Colon, Riley, Klusman, Musser, Turner, Bock, Staskunas and Powers; cosponsored by Senators Burke, Darling and Roessler.
 - 04-09-99. A. Read first time and referred to committee on Criminal Justice **144**
 - 04-09-99. A. **Fiscal estimate received.**
 - 04-09-99. A. **Fiscal estimate received.**
 - 04-09-99. A. **Fiscal estimate received.**
 - 04-09-99. A. **Fiscal estimate received.**
 - 05-06-99. A. Public hearing held.
 - 05-14-99. A. **Fiscal estimate received.**
 - 06-01-99. A. Assembly amendment **1** offered by Representative Colon **212**
 - 06-03-99. A. Executive action taken.
 - 06-15-99. A. Report Assembly amendment **1** adoption recommended by committee on Criminal Justice, Ayes 14, Noes 0 **228**
 - 06-15-99. A. Report passage as amended recommended by committee on Criminal Justice, Ayes 14, Noes 0 **228**
 - 06-15-99. A. Referred to joint committee on Finance **228**
- 2000
- 04-06-00. A. Failed to pass pursuant to Senate Joint Resolution 1 **915**

**ASSEMBLY AMENDMENT 1,
TO 1999 ASSEMBLY BILL 268**

June 1, 1999 – Offered by Representative COLON.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 6, line 19: delete “community organization” and substitute “public
3 agency or private organization”.

4 **2.** Page 6, line 21: before “effect” insert “negative”.

5 (END)

2001-02

1999-2000 LEGISLATURE

1976/11

LRB-1718/2

JEO:wlj&ksh:km

RPN + MGD

2001

1999 ASSEMBLY BILL 268

April 9, 1999 – Introduced by Representatives COLON, RILEY, KLUSMAN, MUSSER, TURNER, BOCK, STASKUNAS and POWERS, cosponsored by Senators BURKE, DARLING and ROESSLER. Referred to Committee on Criminal Justice.

Regenerate

1 AN ACT *to regenerate* to renumber 302.113 (7); to amend 48.57 (3p) (g) 3., 165.60, 165.70 (1)

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

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

4 relating to: prostitution and providing a penalty.

Analysis by the Legislative Reference Bureau

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

The offense of prostitution

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

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

ASSEMBLY BILL 268

Other offenses related to prostitution

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

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

Disposition of prostitution-related cases

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

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

public agency or private

ASSEMBLY BILL 268

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

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

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

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

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

ASSEMBLY BILL 268**SECTION 2**

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

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

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

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

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

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

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

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

ASSEMBLY BILL 268

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

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

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

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

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

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

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

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

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SECTION 9

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

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

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

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

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

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

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

19 (3) If a ^{public agency or private} ~~community~~ organization in the community in which the person lives or
20 in which the violation occurred offers a program designed to educate offenders about
21 the ^{negative} effect of prostitution on the community and its neighborhoods, a deferred
22 prosecution agreement under sub. (1) shall provide, as one of its conditions, that the
23 person must participate in the program, except that if the program requires a
24 participant to pay a fee, the person may be required to participate in the program
25 only if he or she has the financial ability to pay the fee.

ASSEMBLY BILL 268

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

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

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

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

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

ASSEMBLY BILL 268**SECTION 11**

1 **SECTION 11.** 973.075 (1) (b) 1m. c. of the statutes is amended to read:

2 ✓ 973.075 (1) (b) 1m. c. In the commission of a crime in violation of s. 944.30,
3 944.31, 944.32, 944.33, 944.335, or 944.34.

4 **SECTION 12.** 973.075 (2) (intro.) of the statutes is amended to read:

5 ✓ 973.075 (2) (intro.) A law enforcement officer may seize property subject to
6 this section upon process issued by any court of record having jurisdiction over the
7 property. Except for vehicles used in the commission of a crime in violation of s.
8 944.30, 944.31, 944.32, 944.33, 944.335, or 944.34, seizure without process may be
9 made under any of the following circumstances:

10 **SECTION 13. Initial applicability.**

11 (1) This act first applies to offenses that occur on the effective date of this
12 subsection.

13

(END)



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

February 4, 2001

MEMORANDUM

To: Representative Colon

From: Robert P. Nelson, Senior Legislative Attorney

Re: LRB-1976 Prostitution

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 267-7511 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.