

2001 Jr2 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB1)

Received: **03/14/2002**

Received By: **rmarchan**

Wanted: **Today**

Identical to LRB:

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

By/Representing: **mark**

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

Drafter: **mdsida**

May Contact:

Addl. Drafters: **rmarchan**

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

Extra Copies:

Submit via email: **NO**

Pre Topic:

No specific pre topic given

Topic:

Using a computer to facilitate having sexual relations with a person believed to be a child

Instructions:

Same as AB-719, plus AA1.

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 03/14/2002	csicilia 03/14/2002		_____			
/1			pgreensl 03/14/2002	_____	lrb_docadmin 03/14/2002	lrb_docadmin 03/14/2002	

FE Sent For:

<END>

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1?	mdsida	1 cgs 3/14 02	3/14 pg	3/14 pg 1 krf			

FE Sent For:

<END>

**ASSEMBLY AMENDMENT 1,
TO 2001 ASSEMBLY BILL 719**

February 20, 2002 – Offered by COMMITTEE ON CRIMINAL JUSTICE.

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

2 **1.** Page 5, line 5: delete “Class C” and substitute “Class BC”.

3 (END)

2001

Date (time) needed

TODAY

LRB b 2613, 1

BUDGET AMENDMENT

MCD/RJM:CS

NOT FOR COMPILE

RMK

See form AMENDMENTS — COMPONENTS & ITEMS.

January 2002 SPECIAL SESSION AMENDMENT
TO ASSEMBLY SUBSTITUTE AMENDMENT 1
TO 2001 ASSEMBLY BILL 1

At the locations indicated, amend the substitute amendment as follows:

#. Page 48, line 5: after line:

INSERT A

#. Page 173, line 14: after line:

INSERT B ✓

#. Page 188, line 7: after line:

INSERT C ✓

#. Page 188, line 14: after line:

INSERT D ✓

#. Page 226, line 10: after line:

INSERT E ✓

#. Page 232, line 6: after line:

INSERT F ✓

2001

Date (time) needed _____

LRB b _____ / _____

BUDGET AMENDMENT

NOT FOR COMPILE

See form AMENDMENTS — COMPONENTS & ITEMS.

January 2002 SPECIAL SESSION AMENDMENT
TO ASSEMBLY SUBSTITUTE AMENDMENT 1
TO 2001 ASSEMBLY BILL 1

At the locations indicated, amend the substitute amendment as follows:

#. Page 233, line 3: Delete lines 3 to 9 and ~~As~~: ^{substitute} (P)
(INSERT G)

#. Page 235, line 25: after line:
(INSERT H) ✓

#. Page 284, line 14: after line:
(INSERT I) ✓

#. Page 287, line 17: after line:
(INSERT J) ✓

#. Page 288, line 23: after line:
(INSERT K) ✓

#. Page 327, line 10: after line:
(INSERT L) ✓

2001

Date (time)
needed _____

LRB b _____ / _____

BUDGET AMENDMENT

NOT FOR COMPILE

See form AMENDMENTS — COMPONENTS & ITEMS.

January 2002 SPECIAL SESSION AMENDMENT
TO ASSEMBLY SUBSTITUTE AMENDMENT 1
TO 2001 ASSEMBLY BILL 1

At the locations indicated, amend the substitute amendment as follows:

#. Page ³³²....., line ⁷.....: after line:

INSERT M ✓

#. Page ³³²....., line ¹⁷.....: delete lines 17 to 23 and substitute: (P) ✓

INSERT N ✓

#. Page ³³⁹....., line ¹³.....: after line:

INSERT P ✓

#. Page ⁴⁴²....., line ³.....: after "948.07 (intro.)," insert "948.075 (1)," ✓

#. Page ⁴⁵¹....., line ⁷.....: after "2m. b." insert "(by ^(CS) SECTION 566P of this act)." ✓

#. Page ⁴⁵³....., line ⁵.....: after "948.07 (intro.)," insert "948.075 (1)," ✓

2001

Date (time)
needed _____

LRB b _____ / _____

BUDGET AMENDMENT

NOT FOR COMPILE

See form AMENDMENTS — COMPONENTS & ITEMS.

January 2002 SPECIAL SESSION AMENDMENT
TO ASSEMBLY SUBSTITUTE AMENDMENT 1
TO 2001 ASSEMBLY BILL 1

At the locations indicated, amend the substitute amendment as follows:

#. Page ⁴⁵⁴ , line : after "(b) 2." insert "(by ^{CS} SECTION 1134g of this act)".

#. Page , line :

#. Page , line :

#. Page , line :

#. Page , line :

#. Page , line :

(Handwritten scribble)

ASSEMBLY BILL 719

the age of 16 years. 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 24 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 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 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:

INSERT
A

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- 12

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. 940.22 (2), 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, 948.095, 948.11 (2) (a) or (am), 948.12, 948.13, 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).

149f

165.70 (1) (b)

INSERT
B

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

338p

ASSEMBLY BILL 719

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. ¹⁰ *Lev ins*

INSERT
C

4 "SECTION 3. 301.45 (1d) (b) of the statutes is amended to read:
5 (378P) 301.45 (1d) (b) "Sex offense" means a violation, or the solicitation, conspiracy,
6 or attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02
7 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.075, 948.08, 948.095, 948.11
8 (2) (a) or (am), 948.12, 948.13, or 948.30, or of s. 940.30 or 940.31 if the victim was
9 a minor and the person who committed the violation was not the victim's parent. ¹⁰ *Lev ins*

INSERT
D

10 "SECTION 4. 302.045 (2) (c) of the statutes is amended to read:
11 (379V) 302.045 (2) (c) The inmate is incarcerated regarding a violation other than a
12 crime specified in ch. 940 or s. 948.02, 948.025, 948.03, 948.05, 948.055, 948.06,
13 948.07, 948.075, 948.08, or 948.095. ¹⁰ *Lev ins*

INSERT
E

14 "SECTION 5. 938.34 (15m) (bm) of the statutes is amended to read:
15 (531B) 938.34 (15m) (bm) If the juvenile is adjudicated delinquent on the basis of a
16 violation, or the solicitation, conspiracy, or attempt to commit a violation, of s. 940.22
17 (2), 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, 948.095, 948.11 (2) (a) or (am), 948.12, 948.13, or 948.30, or
19 of s. 940.30 or 940.31 if the victim was a minor and the juvenile was not the victim's
20 parent, the court shall require the juvenile 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 juvenile, that the juvenile is not required to comply under s.
23 301.45 (1m). ¹⁰ *Lev ins*

INSERT
F

24 "SECTION 6. 939.615 (1) (b) 1. of the statutes is amended to read:
(559V)

ASSEMBLY BILL 719

SECTION 6

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

*Insert
6 5*

566d "SECTION 7. 939.62 (2m) (a) 2m. b. of the statutes is amended to read:

6 939.62 (2m) (a) 2m. b. Any felony under s. 940.01, 940.02, 940.03, 940.05,
 7 940.09 (1), 940.16, 940.19 (5), 940.195 (5), 940.21, 940.225 (1) or (2), 940.305, 940.31,
 8 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (1g), (1m), or (1r), 943.32 (2), 946.43 (1m),
 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c), 948.05, 948.06, 948.07, 948.075, 948.08,
 10 948.30 (2), 948.35 (1) (b) or (c), or 948.36.

*Insert
4-109*

11 "SECTION 8. 939.74 (2) (c) of the statutes, as affected by 2001 Wisconsin Act 16,
 is amended to read: *582p*

13 939.74 (2) (c) A prosecution for violation of s. 948.02, 948.025, 948.03 (2) (a),
 14 948.05, 948.06, 948.07 (1), (2), (3), or (4), 948.075, 948.08, or 948.095 shall be
 15 commenced before the victim reaches the age of 31 years or be barred, except as
 provided in sub. (2d) (c). *Leads ms*

*Insert
H
12*

16 "SECTION 9. 948.025 (3) of the statutes is amended to read:

18 *886f* 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
 22 occurred outside of the time period applicable under sub. (1). This subsection does
 23 not prohibit a conviction for an included crime under s. 939.66 when the defendant
 is charged with a violation of this section. *Leads ms*

*Insert
I
17*

24 "SECTION 10. 948.075 of the statutes is created to read:

904m

*Insert
J
25*

ASSEMBLY BILL 719

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 ~~felony.~~ **BC**

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 24 months less than the age of the actor.

9 (3) Proof that the actor did an act, other than use a computerized
 10 communication system to communicate with the individual, to effect the actor's
 11 intent under sub. (1) shall be necessary to prove that intent.

ISSUED
5-11

12 **SECTION 11.** 948.13 (1) (a) of the statutes is amended to read:

IN RE
K

13 **910V** 948.13 (1) (a) A crime under s. 940.22 (2) or 940.225 (2) (c) or (cm), if the victim
 14 is under 18 years of age at the time of the offense, or a crime under s. 948.02 (1),
 15 948.025 (1), 948.05 (1) or (1m), 948.06 ~~or~~, 948.07 (1), (2), (3), or (4), or 948.075. **no lead ins**

IN RE
K

16 **SECTION 12.** 971.17 (1m) (b) 2m. of the statutes is amended to read:

17 **1108d** 971.17 (1m) (b) 2m. If the defendant under sub. (1) is found not guilty by reason
 18 of mental disease or defect for a violation, or for the solicitation, conspiracy, or
 19 attempt to commit a violation, of 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, 948.095, 948.11
 21 (2) (a) or (am), 948.12, 948.13, or 948.30, or of s. 940.30 or 940.31 if the victim was
 22 a minor and the defendant was not the victim's parent, the court shall require the
 23 defendant to comply with the reporting requirements under s. 301.45 unless the
 24 court determines, after a hearing on a motion made by the defendant, that the
 25 defendant is not required to comply under s. 301.45 (1m). **no lead ins**

ASSEMBLY BILL 719

INSECT
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1131m
SECTION 12. 973.01 (3m) of the statutes is amended to read:

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

INSECT
N

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1134F
SECTION 11. 973.0135 (1) (b) 2. of the statutes is amended to read:

973.0135 (1) (b) 2. Any felony under s. 940.01, 940.02, 940.03, 940.05, 940.09 (1), 940.16, 940.19 (5), 940.195 (5), 940.21, 940.225 (1) or (2), 940.305, 940.31, 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (1g), (1m), or (1r), 943.32 (2), 946.43 (1m), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c), 948.05, 948.06, 948.07, 948.075, 948.08, 948.30 (2), 948.35 (1) (b) or (c), or 948.36.

INSECT
le-1413

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INSECT
P

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1138k
SECTION 13. 973.034 of the statutes is amended to read:

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

1138n

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SECTION 14. 973.048 (2m) of the statutes is amended to read:

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

ASSEMBLY BILL 719

1 948.06, 948.07, 948.075, 948.08, 948.095, 948.11 (2) (a) or (am), 948.12, 948.13, or
2 948.30, or of s. 940.30 or 940.31 if the victim was a minor and the person was not the
3 victim's parent, the court shall require the person to comply with the reporting
4 requirements under s. 301.45 unless the court determines, after a hearing on a
5 motion made by the person, that the person is not required to comply under s. 301.45
6 (1m). ¹⁰ • *Let us*

7

~~(END)~~

INS 9/19 5-11

Sec 904n. AM; 948.075, as created by 2001 Wisconsin Act.... (this act) :

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. Class BE Class D

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 24 months less than the age of the actor.~~

9 ~~(3) Proof that the actor did an act, other than use a computerized
10 communication system to communicate with the individual, to effect the actor's
11 intent under sub. (1) shall be necessary to prove that intent.~~

12 ~~SECTION 11. 948.13 (1) (a) of the statutes is amended to read:~~

13 ~~948.13 (1) (a) A crime under s. 940.22 (2) or 940.225 (2) (c) or (cm), if the victim
14 is under 18 years of age at the time of the offense, or a crime under s. 948.02 (1),
15 948.025 (1), 948.05 (1) or (1m), 948.06 or 948.07 (1), (2), (3), or (4), or 948.075.~~

16 ~~SECTION 12. 971.17 (1m) (b) 2m. of the statutes is amended to read:~~

17 ~~971.17 (1m) (b) 2m. If the defendant under sub. (1) is found not guilty by reason
18 of mental disease or defect for a violation, or for the solicitation, conspiracy, or
19 attempt to commit a violation, of 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, 948.095, 948.11
21 (2) (a) or (am), 948.12, 948.13, or 948.30, or of s. 940.30 or 940.31 if the victim was
22 a minor and the defendant was not the victim's parent, the court shall require the
23 defendant to comply with the reporting requirements under s. 301.45 unless the
24 court determines, after a hearing on a motion made by the defendant, that the
25 defendant is not required to comply under s. 301.45 (1m).~~

(end ms)

ISSUE 4-10

1 ~~date of this subd. 2m. a. [revisor inserts datel, that is or was punishable by a~~
2 ~~maximum prison term of 30 years or more.~~

, as affected by 2001 Wisconsin Act...
(this act),

3 SECTION ~~565~~^{566f}. 939.62 (2m) (a) 2m. b. of the statutes is amended to read:

4 939.62 (2m) (a) 2m. b. Any felony under s. 940.09 (1), 1999 stats., s. 943.23 (1m)
5 or (1r), 1999 stats., s. 948.35 (1) (b) or (c), 1999 stats., or s. 948.36, 1999 stats., or s.
6 940.01, 940.02, 940.03, 940.05, 940.09 (1) (1c), 940.16, 940.19 (5), 940.195 (5), 940.21,
7 940.225 (1) or (2), 940.305, 940.31, 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (1g),

8 ~~(1m), or (1r), 943.32 (2), 946.43 (1m), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c),~~
Struck comma

9 ~~948.05, 948.06, 948.07, 948.08, or 948.30 (2), 948.35 (1) (b), or (c), or 948.36.~~ *plain* *Let us*
948.075 *struck comma*

10 SECTION 567. 939.622 of the statutes is repealed.

11 SECTION 568. 939.623 (2) of the statutes is amended to read:

12 939.623 (2) If a person has one or more prior convictions for a serious sex crime
13 and subsequently commits a serious sex crime, the court shall impose a bifurcated
14 sentence the person to under s. 973.01. The term of confinement in prison portion
15 of a bifurcated sentence imposed under this subsection may not be less than 5 years'
16 imprisonment 3 years and 6 months, but otherwise the penalties for the crime apply,
17 subject to any applicable penalty enhancement. The court shall may not place the
18 defendant on probation.

19 SECTION 569. 939.624 (2) of the statutes is amended to read:

20 939.624 (2) If a person has one or more prior convictions for a serious violent
21 crime or a crime punishable by life imprisonment and subsequently commits a
22 serious violent crime, the court shall impose a bifurcated sentence the person to
23 under s. 973.01. The term of confinement in prison portion of a bifurcated sentence
24 imposed under this subsection may not be less than 5 years' imprisonment 3 years
25 and 6 months, but otherwise the penalties for the crime apply, subject to any

332 -
IN SECT 6-14

1 3. For a Class D felony, the term of extended supervision may not exceed 10
2 years.

3 4. For a Class E, F, or G felony, the term of extended supervision may not exceed
4 5 years.

5 5. For a Class H felony, the term of extended supervision may not exceed 3
6 years.

7 6. For a Class I felony, the term of extended supervision may not exceed 2 years.

8 SECTION 1132. 973.01 (4) of the statutes is amended to read:

9 973.01 (4) NO GOOD TIME; EXTENSION OR REDUCTION OF TERM OF IMPRISONMENT. A
10 person sentenced to a bifurcated sentence under sub. (1) shall serve the term of
11 confinement in prison portion of the sentence without reduction for good behavior.
12 The term of confinement in prison portion is subject to extension under s. 302.113 (3)
13 and, if applicable, to reduction under s. 302.045 (3m), or 302.113 (9g).

14 SECTION 1133. 973.01 (6) of the statutes is amended to read:

15 973.01 (6) NO PAROLE. A person serving a bifurcated sentence imposed under
16 sub. (1) is not eligible for release on parole under that sentence.

17 SECTION 1134. 973.0135 (1) (b) 2. of the statutes is amended to read:

18 973.0135 (1) (b) 2. Any felony under s. 940.09 (1), 1999 stats., s. 943.23 (1m)
19 or (1r), 1999 stats., s. 948.35 (1) (b) or (c), 1999 stats., or s. 948.36, 1999 stats., s.
20 940.01, 940.02, 940.03, 940.05, 940.09 (1) (1c), 940.16, 940.19 (5), 940.195 (5), 940.21,
21 940.225 (1) or (2), 940.305, 940.31, 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (1g),
22 (1m) or (1r), 943.32 (2), 946.43 (1m), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c),
23 948.05, 948.06, 948.07, 948.08, or 948.30 (2), 948.35 (1) (b) or (c), or 948.36.

24 SECTION 1135. 973.017 of the statutes is created to read:

struck comma

11345

as affected by 2001 Wisconsin Act ... (this act)

948.075

LUC 457