

2001 ASSEMBLY BILL 482

1 **AN ACT** *to renumber and amend* 948.13 (2); *to amend* 948.13 (1) (a), 948.13
2 (2m) (a) (intro.), 948.13 (2m) (a) 1., 948.13 (2m) (a) 2., 948.13 (2m) (c), 948.13
3 (2m) (e) 2. and 973.034; and *to create* 948.13 (2) (b) and 948.13 (2m) (em) of the
4 statutes; **relating to:** child sex offenders working or volunteering with children
5 and providing a penalty.

Analysis by the Legislative Reference Bureau

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

6 **SECTION 1.** 948.13 (1) (a) of the statutes is amended to read:
7 948.13 **(1)** (a) A crime under s. 940.22 (2) or 940.225 (2) (c) or (cm), if the victim
8 is under 18 years of age at the time of the offense, or a crime under s. 948.02 (1) or
9 (2), 948.025 (1), 948.05 (1) or (1m), 948.06 or 948.07 (1), (2), (3) or (4).
10 **SECTION 2.** 948.13 (2) of the statutes is renumbered 948.13 (2) (a) and amended
11 to read:

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1 948.13 (2) (a) ~~Whoever~~ Except as provided in pars. (b) and (c), whoever has been
2 convicted of a serious child sex offense and subsequently engages in an occupation
3 or participates in a volunteer position that requires him or her to work or interact
4 primarily and directly with children under 16 years of age is guilty of a Class C
5 felony. ~~This subsection~~

6 (c) The prohibition under par. (a) does not apply to a person who is exempt
7 under a court order issued under sub. (2m).

8 **SECTION 3.** 948.13 (2) (b) of the statutes is created to read:

9 948.13 (2) (b) If all of the following apply, the prohibition under par. (a) does
10 not apply to a person who has been convicted of a serious child sex offense until 90
11 days after the date on which the person receives actual written notice from a law
12 enforcement agency, as defined in s. 165.77 (1) (b), of the prohibition under par. (a):

13 1. The only serious child sex offense for which the person has been convicted
14 is a crime under s. 948.02 (2).

15 2. The person was convicted of the serious child sex offense before the effective
16 date of this subdivision [revisor inserts date].

17 3. The person is eligible to petition for an exemption from the prohibition under
18 sub. (2m) because he or she meets the criteria specified in sub. (2m) (a) 1. and 1m.

19 **SECTION 4.** 948.13 (2m) (a) (intro.) of the statutes is amended to read:

20 948.13 (2m) (a) (intro.) A person who has been convicted of a crime under s.
21 948.02 (2) or 948.025 (1) may petition the court in which he or she was convicted to
22 order that the person be exempt from sub. (2) (a) and permitted to engage in an
23 occupation or participate in a volunteer position that requires the person to work or
24 interact primarily and directly with children under 16 years of age. The court may

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1 grant a petition filed under this paragraph if the court finds that all of the following
2 apply:

3 **SECTION 5.** 948.13 (2m) (a) 1. of the statutes is amended to read:

4 948.13 **(2m)** (a) 1. At the time of the commission of the crime under s. 948.02
5 (2) or 948.025 (1) the person had not attained the age of 19 years and was not more
6 than 4 years older or not more than 4 years younger than the child with whom the
7 person had sexual contact or sexual intercourse.

8 **SECTION 6.** 948.13 (2m) (a) 2. of the statutes is amended to read:

9 948.13 **(2m)** (a) 2. It is not necessary, in the interest of public protection, to
10 require the person to comply with sub. (2) (a).

11 **SECTION 7.** 948.13 (2m) (c) of the statutes is amended to read:

12 948.13 **(2m)** (c) A court may hold a hearing on a petition filed under par. (a) and
13 the district attorney who prosecuted the person may appear at the hearing. Any
14 hearing that a court decides to hold under this paragraph shall be held no later than
15 30 days after the petition is filed if the petition specifies that the person filing the
16 petition is covered under sub. (2) (b), that he or she has received actual written notice
17 from a law enforcement agency of the prohibition under sub. (2) (a), and that he or
18 she is seeking an exemption under this subsection before the expiration of the 90-day
19 period under sub. (2) (b).

20 **SECTION 8.** 948.13 (2m) (e) 2. of the statutes is amended to read:

21 948.13 **(2m)** (e) 2. If a person is examined by a physician, psychologist or other
22 expert under subd. 1., the physician, psychologist or other expert shall file a report
23 of his or her examination with the court, and the court shall provide copies of the
24 report to the person and, if he or she requests a copy, to the district attorney. The
25 contents of the report shall be confidential until the physician, psychologist or other

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1 expert has testified at the a hearing held under par. (c). The report shall contain an
2 opinion regarding whether it would be in the interest of public protection to require
3 the person to comply with sub. (2) (a) and the basis for that opinion.

4 **SECTION 9.** 948.13 (2m) (em) of the statutes is created to read:

5 948.13 **(2m)** (em) A court shall decide a petition no later than 45 days after the
6 petition is filed if the petition specifies that the person filing the petition is covered
7 under sub. (2) (b), that he or she has received actual written notice from a law
8 enforcement agency of the prohibition under sub. (2) (a), and that he or she is seeking
9 an exemption under this subsection before the expiration of the 90-day period under
10 sub. (2) (b).

11 **SECTION 10.** 973.034 of the statutes is amended to read:

12 **973.034 Sentencing; restriction on child sex offender working with**
13 **children.** Whenever a court imposes a sentence or places a defendant on probation
14 regarding a conviction under s. 940.22 (2) or 940.225 (2) (c) or (cm), if the victim is
15 under 18 years of age at the time of the offense, or a conviction under s. 948.02 (1)
16 or (2), 948.025 (1), 948.05 (1) or (1m), 948.06 or 948.07 (1), (2), (3) or (4), the court shall
17 inform the defendant of the requirements and penalties under s. 948.13.

18 **SECTION 11. Initial applicability.**

19 (1) PROHIBITION AGAINST SEX OFFENDERS WORKING WITH CHILDREN. The treatment
20 of section 948.13 (1) (a) of the statutes first applies to violations of section 948.13 (2)
21 of the statutes that are committed on the effective date of this subsection, but, subject
22 to section 948.13 (2) (b) and (c) of the statutes, does not preclude the counting of an
23 offense under section 948.02 (2) of the statutes that was committed before the
24 effective date of this subsection for purposes of determining whether a person is
25 subject to section 948.13 (2) (a) of the statutes.

