

2001 Assembly Bill 482

Date of enactment: **April 22, 2002**

Date of publication\*: **May 6, 2002**

## 2001 WISCONSIN ACT 97

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

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

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

948.13 (1) (a) A crime 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 crime under s. 948.02 (1) or (2), 948.025 (1), 948.05 (1) or (1m), 948.06 or 948.07 (1), (2), (3) or (4).

**SECTION 2.** 948.13 (2) of the statutes is renumbered 948.13 (2) (a) and amended to read:

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

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

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

948.13 (2) (b) If all of the following apply, the prohibition under par. (a) does not apply to a person who has been convicted of a serious child sex offense until 90 days

after the date on which the person receives actual written notice from a law enforcement agency, as defined in s. 165.77 (1) (b), of the prohibition under par. (a):

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

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

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

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

948.13 (2m) (a) (intro.) A person who has been convicted of a crime under s. 948.02 (2) or 948.025 (1) may petition the court in which he or she was convicted to order that the person be exempt from sub. (2) (a) and permitted to engage in an occupation or participate in a volunteer position that requires the person to work or interact primarily and directly with children under 16 years of age. The court may grant a petition filed under this paragraph if the court finds that all of the following apply:

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

948.13 (2m) (a) 1. At the time of the commission of the crime under s. 948.02 (2) or 948.025 (1) the person had not attained the age of 19 years and was not more than

\* Section 991.11, WISCONSIN STATUTES 1999-00 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

4 years older or not more than 4 years younger than the child with whom the person had sexual contact or sexual intercourse.

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

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

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

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

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

948.13 (2m) (e) 2. If a person is examined by a physician, psychologist or other expert under subd. 1., the physician, psychologist or other expert shall file a report of his or her examination with the court, and the court shall provide copies of the report to the person and, if he or she requests a copy, to the district attorney. The contents of the report shall be confidential until the physician, psychologist or other expert has testified at the a hearing held under par. (c). The report shall contain an opinion regarding whether it would be in the interest of public protection to require the person to comply with sub. (2) (a) and the basis for that opinion.

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

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

**SECTION 10.** 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) or (2), 948.025 (1), 948.05 (1) or (1m), 948.06 or 948.07 (1), (2), (3) or (4), the court shall inform the defendant of the requirements and penalties under s. 948.13.

**SECTION 11. Initial applicability.**

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

(2) INFORMATION AT SENTENCING. The treatment of section 973.034 of the statutes first applies to sentencing proceedings that occur on the effective date of this subsection.