

2001 DRAFTING REQUEST

Bill

Received: **01/02/2001**

Received By: **mdsida**

Wanted: **As time permits**

Identical to LRB:

For: **Mark Gundrum (608) 267-5158**

By/Representing: **Jolene**

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

Drafter: **mdsida**

May Contact:

Addl. Drafters:

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

Extra Copies:

Submit via email: **NO**

Requester's email:

Pre Topic:

No specific pre topic given

Topic:

Child sex offenders working or volunteering with children

Instructions:

Redraft 1999 AB 284

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 01/22/2001	jdye 01/23/2001		_____			
/1			martykr 01/23/2001	_____	lrb_docadmin 01/23/2001	lrb_docadmin 04/10/2001	
				_____	lrb_docadmin 01/25/2001		

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Redraft 1999 AB 284 ~~1999 AB 284~~ w/ 1999 LRB 0 0408

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1?	mdsida	1/22 jld	1/23	1/23			

FE Sent For:

<END>



State of Wisconsin
1999 - 2000 LEGISLATURE

1725/1
LRB-1999-02
JEO:km
mrgd
jld

2001
1999 BILL

John

Regen

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

Analysis by the Legislative Reference Bureau

Under current law, a person who has been convicted of certain sex offenses against children may not thereafter engage in an occupation or participate in a volunteer position that requires him or her to work or interact primarily and directly with children under 16 years of age. The sex offenses against children covered by this prohibition include first degree sexual assault of child, which is sexual assault of a child who has not attained the age of 13, repeated acts of sexual assault of a child who has not attained the age of 16, sexual exploitation of a child, incest with a child, and child enticement for sexual purposes.

Current law also provides that a person who has been convicted of repeated acts of sexual assault of a child may be granted an exemption from the prohibition if all of the following apply: 1) the child was age 13, 14, or 15; 2) the person had not attained the age of 19 and was within four years of age of the child; and 3) a judge determines that it is not necessary in the interest of public protection to have the prohibition apply to the person. If a person who has been convicted of one of the covered sex offenses and who has not been granted an exemption from the prohibition is convicted of violating the prohibition, he or she may be fined not more than \$10,000 or imprisoned for not more than ten years or both, if the violation 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 violation occurs on or after December 31, 1999.

is subject to a fine of \$10,000 or a term of imprisonment, not to exceed 15 years

BILL

This bill provides that the prohibition against a child sex offender working or volunteering with children also applies to a person who has been convicted of second degree sexual assault of a child ^o which is sexual assault of a child who has not attained the age of 16. The bill also provides that a person convicted of second degree sexual assault of a child may be granted an exemption from the prohibition if he or she satisfies the same criteria that currently allow for exemption of a person convicted of repeated acts of sexual assault of a child.

ANALYSIS INSENT

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) ← plain} 948.06 or 948.07 (1), (2), (3) or (4).

SECTION 2. 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 3. 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 4 years older or not more than 4 years younger than the child with whom the person had sexual contact or sexual intercourse.

SECTION 4. 973.034 of the statutes is amended to read:

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INSENT
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BILL

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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) ← plain} 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 5. 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 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.

(END)

, subject to section 948.13 (2) (b) and (c) of the statutes)



**ASSEMBLY AMENDMENT,
TO 1999 ASSEMBLY BILL 284**

Inserts

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At the locations indicated, amend the bill as follows:

1. Page 2, line 4, after that line insert:

~~SECTION 17.~~ [#] 948.13 (2) ^x 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 17a.~~ [#] 948.13 (2) (b) ^x of the statutes is created to read:

*Insert
2-4
RWF*

INS 2-4 CONT

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

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

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

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

End ins 2-4

11 ~~2. Page 2, line 8: after "(2)" insert "a)"~~ (end ins 2-4)

12 ~~3. Page 2, line 17: after that line insert:~~

13 ~~SECTION 32~~ [#] 948.13 (2m) (a) 2. [✓]of the statutes is amended to read:

14 948.13 (2m) (a) 2. It is not necessary, in the interest of public protection, to
15 require the person to comply with sub. (2) (a). [✓]

16 ~~SECTION 32~~ [#] 948.13 (2m) (c) [✓]of the statutes is amended to read:

17 948.13 (2m) (c) A court may hold a hearing on a petition filed under par. (a) and
18 the district attorney who prosecuted the person may appear at the hearing. Any
19 hearing that a court decides to hold under this paragraph shall be held no later than
20 30 days after the petition is filed if the petition specifies that the person filing the
21 petition is covered under sub. (2) (b), that he or she has received actual written notice
22 from a law enforcement agency of the prohibition under sub. (2) (a) and that he or
23 she is seeking an exemption under this subsection before the expiration of the 90-day
24 period under sub. (2) (b).

1/12/00 2-17

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~~3p.~~[#] SECTION 948.13 (2m) (e) 2.^x 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.

~~3t.~~[#] SECTION 948.13 (2m) (em)^x 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).[✓]

(end ins 2-17)
(END)

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1725/lins
MCD:.....

1

analysis INSERT

NO
Finally, the prohibition does not immediately apply to a person convicted of second degree sexual assault of a child before this bill becomes law if the person has not been convicted of any other covered sex offense against children and if the person satisfies the first and second exemption criteria discussed above. Instead, the prohibition first applies 90 days after the person receives notice of the prohibition from a law enforcement agency.

the date on which



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

January 25, 2001

MEMORANDUM

To: Representative Gundrum

From: Michael Dsida, Legislative Attorney

Re: LRB-1725 Child sex offenders working or volunteering with children

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) 266-9867 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.

Oliver Churchill
267-5158
April 10, 2001