

2005 Assembly Bill 784

Date of enactment: **May 22, 2006**
Date of publication*: **June 5, 2006**

2005 WISCONSIN ACT 430

AN ACT *to renumber and amend* 948.02 (1); *to amend* 948.025 (1) (a) and 948.025 (2) (a); and *to create* 939.617, 939.66 (2p), 948.02 (1) (a), (c), (d) and (e), 948.025 (1) (ag) and (ar) and 948.025 (2) (ag) and (ar) of the statutes; **relating to:** mandatory terms of confinement for certain child sex offenses and providing penalties.

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

SECTION 1. 939.617 of the statutes is created to read:

939.617 Mandatory minimum sentence for child sex offenses. (1) If a person is convicted of a violation of s. 948.02 (1) (b) or (c) or 948.025 (1) (a), the court shall impose a bifurcated sentence under s. 973.01. The term of confinement in prison portion of the bifurcated sentence shall be at least 25 years. Otherwise the penalties for the crime apply, subject to any applicable penalty enhancement.

(2) If a person is convicted of a violation of s. 948.02 (1) (d) or 948.025 (1) (ag), the court shall impose a bifurcated sentence under s. 973.01. The term of confinement in prison portion of the bifurcated sentence shall be at least 5 years. Otherwise the penalties for the crime apply, subject to any applicable penalty enhancement.

(3) This section does not apply if s. 939.62 (2m) (c) applies.

SECTION 2. 939.66 (2p) of the statutes is created to read:

939.66 (2p) A crime which is a less serious or equally serious type of violation under s. 948.02 than the one charged.

SECTION 3. 948.02 (1) of the statutes is renumbered 948.02 (1) (b) and amended to read:

948.02 (1) (b) Whoever has ~~sexual contact or~~ sexual intercourse with a person who has not attained the age of ~~13~~ 12 years is guilty of a Class B felony.

SECTION 4. 948.02 (1) (a), (c), (d) and (e) of the statutes are created to read:

948.02 (1) (a) In this subsection, "sexual intercourse" means vulvar penetration as well as cunnilingus, fellatio, or anal intercourse between persons or any intrusion of any inanimate object into the genital or anal opening either by the defendant or upon the defendant's instruction. The emission of semen is not required.

(c) Whoever has sexual intercourse with a person who has not attained the age of 16 years by use or threat of force or violence is guilty of a Class B felony.

(d) Whoever has sexual contact with a person who has not attained the age of 16 years by use or threat of force or violence is guilty of a Class B felony if the actor is at least 18 years of age when the sexual contact occurs.

(e) Whoever has sexual contact with a person who has not attained the age of 13 years is guilty of a Class B felony.

SECTION 5. 948.025 (1) (a) of the statutes is amended to read:

948.025 (1) (a) A Class B felony if at least 3 of the violations were violations of s. 948.02 (1) (b) or (c).

SECTION 6. 948.025 (1) (ag) and (ar) of the statutes are created to read:

* Section 991.11, WISCONSIN STATUTES 2003-04 : 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].

948.025 (1) (ag) A Class B felony if at least 3 of the violations were violations of s. 948.02 (1) (b), (c), or (d) but fewer than 3 of the violations were violations of s. 948.02 (1) (b) or (c).

(ar) A Class B felony if at least 3 of the violations were violations of s. 948.02 (1) (b), (c), (d), or (e) but fewer than 3 of the violations were violations of s. 948.02 (1) (b), (c), or (d).

SECTION 7. 948.025 (2) (a) of the statutes is amended to read:

948.025 (2) (a) If an action under sub. (1) (a) is tried to a jury, in order to find the defendant guilty the members of the jury must unanimously agree that at least 3 violations of s. 948.02 (1) (b) or (c) occurred within the specified period of time but need not agree on which acts constitute the requisite number and need not agree on whether a particular violation was a violation of s. 948.02 (1) (b) or (c).

SECTION 8. 948.025 (2) (ag) and (ar) of the statutes are created to read:

948.025 (2) (ag) If an action under sub. (1) (ag) is tried to a jury, in order to find the defendant guilty the members of the jury must unanimously agree that at least 3 violations of s. 948.02 (1) (b), (c), or (d) occurred within the specified period of time but need not agree on which acts constitute the requisite number and need not agree on whether a particular violation was a violation of s. 948.02 (1) (b), (c), or (d).

(ar) If an action under sub. (1) (ar) is tried to a jury, in order to find the defendant guilty the members of the jury must unanimously agree that at least 3 violations of s. 948.02 (1) (b), (c), (d), or (e) occurred within the specified period of time but need not agree on which acts constitute the requisite number and need not agree on whether a particular violation was a violation of s. 948.02 (1) (b), (c), (d), or (e).