

**SENATE SUBSTITUTE AMENDMENT 1,  
TO 2005 ASSEMBLY BILL 784**

March 1, 2006 – Offered by COMMITTEE ON JUDICIARY, CORRECTIONS AND PRIVACY.

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

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

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

7           **939.617 Mandatory minimum sentence for child sex offenses. (1)** If a  
8           person is convicted of a violation of s. 948.02 (1) (b) or (c) or 948.025 (1) (a), the court  
9           shall impose a bifurcated sentence under s. 973.01. The term of confinement in  
10          prison portion of the bifurcated sentence shall be at least 25 years. Otherwise the  
11          penalties for the crime apply, subject to any applicable penalty enhancement.

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

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

7           **SECTION 2.** 948.02 (1) of the statutes is renumbered 948.02 (1) (b) and amended  
8 to read:

9           **948.02 (1) (b)** Whoever has ~~sexual contact or~~ sexual intercourse with a person  
10 who has not attained the age of ~~13~~ 12 years is guilty of a Class B felony.

11           **SECTION 3.** 948.02 (1) (a), (c), (d) and (e) of the statutes are created to read:

12           **948.02 (1) (a)** In this subsection, “sexual intercourse” means vulvar  
13 penetration as well as cunnilingus, fellatio, or anal intercourse between persons or  
14 any intrusion of any object into the genital or anal opening either by the defendant  
15 or upon the defendant’s instruction. The emission of semen is not required.

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

18           (d) Whoever has sexual contact with a person who has not attained the age of  
19 16 years by use or threat of force or violence is guilty of a Class B felony if the actor  
20 is at least 18 years of age when the sexual contact occurs.

21           (e) Whoever has sexual contact with a person who has not attained the age of  
22 13 years is guilty of a Class B felony.

23           **SECTION 4.** 948.025 (1) (a) of the statutes is amended to read:

24           **948.025 (1) (a)** A Class B felony if at least 3 of the violations were violations of  
25 s. 948.02 (1) (b) or (c).

1           **SECTION 5.** 948.025 (1) (ag) and (ar) of the statutes are created to read:

2           948.025 **(1)** (ag) A Class B felony if at least 3 of the violations were violations  
3 of s. 948.02 (1) (b), (c), or (d) but fewer than 3 of the violations were violations of s.  
4 948.02 (1) (b) or (c).

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

8           **SECTION 6.** 948.025 (2) (a) of the statutes is amended to read:

9           948.025 **(2)** (a) If an action under sub. (1) (a) is tried to a jury, in order to find  
10 the defendant guilty the members of the jury must unanimously agree that at least  
11 3 violations of s. 948.02 (1) (b) or (c) occurred within the specified period of time but  
12 need not agree on which acts constitute the requisite number and need not agree on  
13 whether a particular violation was a violation of s. 948.02 (1) (b) or (c).

14           **SECTION 7.** 948.025 (2) (ag) and (ar) of the statutes are created to read:

15           948.025 **(2)** (ag) If an action under sub. (1) (ag) is tried to a jury, in order to find  
16 the defendant guilty the members of the jury must unanimously agree that at least  
17 3 violations of s. 948.02 (1) (b), (c), or (d) occurred within the specified period of time  
18 but need not agree on which acts constitute the requisite number and need not agree  
19 on whether a particular violation was a violation of s. 948.02 (1) (b), (c), or (d).

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

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(END)