

**SENATE SUBSTITUTE AMENDMENT 2,
TO 2005 ASSEMBLY BILL 784**

March 7, 2006 – Offered by Senators DARLING and GROTHMAN.

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, 939.66 (2p), 948.02 (1) (a), (c), (d) and
3 (e), 948.025 (1) (ag) and (ar) and 948.025 (2) (ag) and (ar) of the statutes;
4 **relating to:** mandatory terms of confinement for certain child sex offenses and
5 providing 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.** 939.66 (2p) of the statutes is created to read:

8 **939.66 (2p)** A crime which is a less serious or equally serious type of violation
9 under s. 948.02 than the one charged.

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

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

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

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

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

22 (d) Whoever has sexual contact with a person who has not attained the age of
23 16 years by use or threat of force or violence is guilty of a Class B felony if the actor
24 is at least 18 years of age when the sexual contact occurs.

1 (e) Whoever has sexual contact with a person who has not attained the age of
2 13 years is guilty of a Class B felony.

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

4 948.025 (1) (a) A Class B felony if at least 3 of the violations were violations of
5 s. 948.02 (1) (b) or (c).

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

7 948.025 (1) (ag) A Class B felony if at least 3 of the violations were violations
8 of s. 948.02 (1) (b), (c), or (d) but fewer than 3 of the violations were violations of s.
9 948.02 (1) (b) or (c).

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

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

14 948.025 (2) (a) If an action under sub. (1) (a) is tried to a jury, in order to find
15 the defendant guilty the members of the jury must unanimously agree that at least
16 3 violations of s. 948.02 (1) (b) or (c) occurred within the specified period of time but
17 need not agree on which acts constitute the requisite number and need not agree on
18 whether a particular violation was a violation of s. 948.02 (1) (b) or (c).

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

20 948.025 (2) (ag) If an action under sub. (1) (ag) is tried to a jury, in order to find
21 the defendant guilty the members of the jury must unanimously agree that at least
22 3 violations of s. 948.02 (1) (b), (c), or (d) 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), or (d).

