

2005 DRAFTING REQUEST

Senate Substitute Amendment (SSA-AB784)

Received: **03/07/2006**

Received By: **chanaman**

Wanted: **As time permits**

Identical to LRB:

For: **Glenn Grothman (608) 266-7513**

By/Representing: **Anne Sappenfield**

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

Drafter: **chanaman**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - crimes agnst kids
Criminal Law - sentencing
Criminal Law - sex offenses**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Grothman@legis.state.wi.us**

Carbon copy (CC:) to: **rep.suder@legis.state.wi.us
anne.sappenfield@legis.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

Mandatory minimums for certain child sex offenders

Instructions:

See Attached--add "inanimate" and the simple to SSA1

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>
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/?	chanaman	1 link 3/7	3/7 px	3/7 px/ks			

FE Sent For:

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STAYS

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

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

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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~~ inanimate 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).

25

(END)

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

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 2, line 6: after that line insert:

3 **SECTION 1m.** 939.66 (2p) of the statutes is created to read:

4 939.66 **(2p)** A crime which is a less serious or equally serious type of violation
5 under s. 948.02 than the one charged.

6 (END)

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2-7