

2007 DRAFTING REQUEST

Bill

Received: **02/12/2007**

Received By: **chanaman**

Wanted: **As time permits**

Identical to LRB:

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

By/Representing: **Lance**

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

Drafter: **chanaman**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - sex offenses**
Criminal Law - victims

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Gundrum@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Closing preliminary hearings following an alleged violation of sexual exploitation by therapist

Instructions:

See Attached

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>
/?	chanaman 02/13/2007	kfollett 03/02/2007		_____			
/1			jfrantze 03/05/2007	_____	mbarman 03/05/2007	sbasford 05/10/2007	

FE Sent For: **NONE**

<END>

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/?	chanaman	1/1/gjf 3/2		J. Selb 3/2			

FE Sent For:

<END>

970.03(4)(a) Preliminary Hearings when they may be closed to the public.
940.22 Sexual Exploitation by Therapist

Every felony prosecution in Wisconsin must have a preliminary hearing where the state, through testimony establishes probable cause to receive court permission to continue the prosecution. In certain sexual assault prosecutions the hearing is closed to the public to protect victims from undue embarrassment and emotional trauma. The statutory provisions include any felony sexual assault whether they are child victims or adults and are listed by specific statutes.

Wis.Stat.Sect. 940.22, Sexual Exploitation by Therapist was created after many of the listed exceptions in the preliminary hearing statute. By neglecting to incorporate this statute into the fold, Sexual Exploitation victims are the only category of sexual assault victims that are not protected with this provision despite being among the most vulnerable.

By amending 970.03(4)(a) to simply include the statutory number 940.22 in the listed categories to close these hearings this problem and disparity is fully resolved.



3/5 cmh

LRB-1919?
CMH:....
kjf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

in fact

1 AN ACT ...; relating to: preliminary hearings for allegations of sexual
2 exploitation by a therapist.

Analysis by the Legislative Reference Bureau

Under current law, a preliminary hearing is a hearing before a court to determine if probable cause exists to believe the defendant has committed a felony. If the defendant is accused of first-degree sexual assault, sexual assault of a child, sexual exploitation of a child, or incest with a child, the court may exclude from the hearing all persons who are not court officers, family members of the complainant or the defendant, or other persons required to attend if the court finds that the state or the defendant has established a compelling interest that would likely be prejudiced if the persons were not excluded. A compelling interest could be the need to protect the complainant from undue embarrassment and emotional trauma.

This bill adds sexual exploitation by a therapist to the list of felonies for which the preliminary hearing may be closed.

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

3 SECTION 1. 970.03 (4) (a) of the statutes is amended to read:
4 970.03 (4) (a) If the defendant is accused of a crime under s. 940.22, 940.225,
5 948.02, 948.025, 948.05, 948.06, 948.085, or 948.095, the court may exclude from the

1 hearing all persons who are not officers of the court, members of the complainant's
2 or defendant's families or others considered by the court to be supportive of the
3 complainant or defendant, the service representative, as defined in s. 895.45 (1) (c),
4 or other persons required to attend, if the court finds that the state or the defendant
5 has established a compelling interest that would likely be prejudiced if the persons
6 were not excluded. The court may consider as a compelling interest, among others,
7 the need to protect a complainant from undue embarrassment and emotional
8 trauma.

~~NOTE: NOTE: Par. (a) is shown as affected by two acts of the 2005 Wisconsin legislature and as merged by the revisor under s. 13.93 (2) (c). NOTE:~~

History: 1975 c. 184; 1977 c. 449; 1979 c. 112, 332; 1985 a. 267; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 332 s. 64; 1987 a. 403; Sup. Ct. Order, 158 Wis. 2d xvii (1990); 1991 a. 193, 276; 1993 a. 27, 98, 227, 486; 1995 a. 456; 1997 a. 252; 1999 a. 111; 2001 a. 103; 2003 a. 36; 2005 a. 42, 155, 277; s. 13.93 (2) (c).

9

(END)

Basford, Sarah

From: Burri, Lance

Sent: Thursday, May 10, 2007 9:56 AM

To: LRB.Legal

Subject: Draft Review: LRB 07-1919/1 Topic: Closing preliminary hearings following an alleged violation of sexual exploitation by therapist

Please Jacket LRB 07-1919/1 for the ASSEMBLY.

05/10/2007