

Section 2: PREVENTION OF TRAFFICKING

STATE TASK FORCE FOR PREVENTION OF TRAFFICKING⁴

(a) The Governor shall establish an inter-agency task force to develop and implement a State Plan for the Prevention of Trafficking in Persons. Such a task force shall meet at least annually and should include all aspects of trafficking, including sex trafficking and labor trafficking of both U.S. citizens and foreign nationals.

(b) "Trafficking" shall be defined as in Criminal Provisions 1 and 2 of this Act.

(c) The Governor shall appoint the members of the task force, which shall include, at a minimum, representatives from:

- (1) The Attorney General's Office;
- (2) The Department of Labor (if applicable);
- (3) The Police Chiefs' Association;
- (4) The State Sheriff's Association;
- (5) The State Police;
- (6) Local law enforcement entities;
- (7) The Department of Health;
- (8) The Department of Social Services; and
- (9) Representatives from Non-Governmental Organizations, especially those specializing in trafficking in persons, those representing diverse communities disproportionately affected by trafficking, agencies devoted to child services and runaway services, and academic researchers dedicated to the subject of human trafficking.

(d) The task force shall carry out the following activities either directly or via one or more of its constituent agencies as appropriate:

- (1) Develop the State Plan for the Prevention of Trafficking in Persons.
- (2) Coordinate the implementation of the Plan.
- (3) Coordinate the collection and sharing of trafficking data among government agencies, which data collection shall respect the privacy of victims of trafficking.
- (4) Coordinate the sharing of information between agencies for the purposes of detecting criminal groups engaged in trafficking.
- (5) Explore the establishment of State policies for time limits for the issuance related to Law Enforcement Agency Endorsement (LEA) regulations as found in Section 214.11 (f)(1) of Chapter 8 of the Code of Federal Regulations.
- (6) Establish policies to enable state government to work with non-governmental organizations and other elements of civil society to prevent trafficking and provide assistance to U.S. citizen and foreign national victims.
- (7) Review the existing services and facilities to meet trafficking victims' needs and recommend a system that would coordinate such services, including but not limited to: health services; housing; education and job training; English as a second language classes; interpreting services; legal and immigration services; and victim compensation.

⁴ The state task force provisions incorporate language from the Department of Justice's Model Law, and the Washington, Connecticut, and Arizona State Task Force Statutes. *See* Wash. Rev. Code § 7.68; Connecticut Substitute House Bill No. 5358, Special Act No. 04-8 (approved May 21, 2004, effective October 1, 2004); Arizona S.B. 1300 (proposed February 4, 2004).

- (8) Evaluate various approaches used by state and local governments to increase public awareness of the trafficking in persons, including U.S. citizen and foreign national victims of trafficking.
- (9) Submit an annual report of its findings and recommendations to the governor, the speaker of the House of Representatives and the President of the Senate on or before December 31.

DATA COLLECTION AND DISSEMINATION

(a) The state shall, in cooperation with other appropriate authorities collect and periodically publish statistical data on trafficking.

(b) The state shall elicit the cooperation and assistance of other government agencies, non-governmental organizations, and other elements of civil society as appropriate to assist in the data collection required under (a).

(c) The appropriate authorities in each agency that play a vital role in addressing trafficking shall make best efforts to collect information relevant to tracking progress on trafficking, including but not limited to:

- (1) numbers of investigations, arrests, prosecutions, and successful convictions of traffickers and those committing trafficking related crimes (pimping, pandering, procuring, maintaining a brothel, child pornography, visa fraud, document fraud, and other crimes related to trafficking);
- (2) the estimated number and demographic characteristics of persons engaged in acts as defined in Criminal Provisions 1a and 1b and 2a and 2b, as well as those persons who purchase or receive commercial sex acts or sexually-explicit performances, or labor or services, from victims of trafficking in persons
- (3) statistics on the number of victims, including nationality, age, method of recruitment, and country, state, and/or city of origin, etc.;
- (4) trafficking routes and patterns (States or country of origin, transit States or countries);
- (5) methods of transportation (car, boat, plane, foot), if any transportation took place; and
- (6) social and economic factors that contribute to and foster the demand for all forms of exploitation of persons that leads to trafficking.

TRAINING

(a) The state shall provide training for law enforcement, and other relevant officials in addressing trafficking in persons.

(b) Such training shall focus on:

- (1) the provisions and new crimes contained in the newly passed bill
- (2) methods used in identifying U.S. citizen and foreign national victims of trafficking, including preliminary interview techniques and appropriate questioning methods;
- (3) methods for prosecuting traffickers;
- (4) methods of increasing effective collaboration with non-governmental organizations and other relevant social service organizations in the course of a trafficking case;
- (5) methods for protecting the rights of victims, taking into account the need to consider human rights and special needs of women and children victims, and that victims should be treated as victims rather than criminals; and
- (6) methods for promoting the safety of victims, including, for example, the training of police to recognize U.S. citizen and foreign national victims of trafficking quickly.

(c) The state shall seek the input and/or participation of appropriate non-governmental organizations and other relevant organizations in the preparation and presentation of training called for in this Section.

PUBLIC AWARENESS.

(a) The state in cooperation with appropriate non-governmental organizations shall prepare public awareness programs designed to educate potential victims of trafficking in persons and their families of the risks of victimization. Such public awareness programs shall include, but shall not be limited to:

- (1) information about the risks of becoming a victim, including information about common recruitment techniques, use of debt bondage, and other coercive tactics, risk of maltreatment, rape, exposure to HIV/AIDS and other sexually transmitted diseases, and psychological harm related to victimization in trafficking cases;
- (2) information about the risks of engaging in commercial sex and possible punishment; and
- (3) information about potential victims rights in [insert State] as well as methods for reporting suspected recruitment activities.
- (4) Information on hotlines and available victim's services.

(b) General Public Awareness.—The state in cooperation with other appropriate government agencies and appropriate non-governmental organizations or other elements of civil society shall prepare and disseminate public awareness materials to educate the public on the extent of trafficking in persons, both U.S. citizens and foreign nationals, within the United States; and to discourage the demand that fosters the exploitation of persons and that leads to trafficking.

(c) Such materials may include information on the impact of trafficking on individual victims, whether U.S. citizens or foreign nationals, aggregate information on trafficking worldwide and domestically, as well as warnings of the potential for criminal consequences for taking part in trafficking. Such materials may include, as appropriate, pamphlets, brochures, posters, advertisements in mass media, and any other appropriate methods.

(d) Privacy limitation.—Materials described in this section may include information on the impact of trafficking on individual victims. However, any information on the experiences of individual victims shall preserve the privacy of the victim and the victim's family.

(e) All public awareness programs shall be evaluated periodically to ensure their effectiveness.

GRANTS

(a) Subject to the availability of appropriations, the State Legislature shall make grants to units of local government, Indian tribes, and nonprofit, nongovernmental victims' service organizations to develop, expand, or strengthen victim service programs for victims of trafficking, whether U.S. citizens or foreign nationals; to carry out the purposes of Section One for the Prevention of Trafficking; and to carry out the purposes of Section Three for Victim Protection.

ROLE OF NON-GOVERNMENTAL ORGANIZATIONS

(a) For each State initiative for the prevention of trafficking, including but not limited to those listed above (State task force; data collection and dissemination; training; and public awareness), the State shall seek out and enlist the cooperation and assistance of non-governmental organizations, especially those specializing in trafficking in persons, those representing diverse communities

disproportionately affected by trafficking, agencies devoted to child services and runaway services, and academic researchers dedicated to the subject of trafficking.

Section 3: VICTIM PROTECTION

PROTECTION FOR THE SAFETY OF VICTIMS

(a) Investigative, prosecutorial, and other appropriate authorities shall take all steps necessary to identify victims of trafficking, both U.S. citizen and foreign national victims, including interviewing all persons arrested on charges of prostitution. Once victims are identified, these authorities shall provide reasonable protection to victims of trafficking to prevent recapture by the traffickers and their associates, secure the victim and the victim's family [if they reside in the United States] from threats, reprisals or intimidation by the traffickers and their associates, and ensure the victim has an opportunity to consult with a victim advocate or other appropriate person to develop a safety plan.

WITNESS PROTECTION

(a) Victims of trafficking in persons, whether U.S. citizens or foreign nationals, who are witnesses or potential witnesses may be eligible for applicable witness relocation and protection programs for victims of organized criminal activity or other serious offenses, if it is determined that an offense involving a crime of violence directed at the witness or potential witness is likely to be committed.

The programs may include:

- (1) relocation;
- (2) new identity, documents establishing identity;
- (3) new residence;
- (4) employment or work permits; or
- (5) protection of confidentiality of identity and location.

ACCESS TO THE STATE CRIME VICTIMS COMPENSATION FUND

Victims of trafficking in persons are entitled to forms of compensation under the State Crime Victim Compensation Fund.

PROTECTION FOR THE PRIVACY OF VICTIMS

In a prosecution for violations of this Title, the identity of the victim and the victim's family should be kept confidential by ensuring that names and identifying information of the victim and victim's family are not released to the public, including by the defendant.

INFORMATION FOR VICTIMS

(a) The state shall inform victims of trafficking, in a language they can understand, of their legal rights and the progress of relevant court and administrative proceedings, as appropriate, including but not limited to prosecution of the criminal offenders, proceedings for the return of the victim to their country of citizenship or lawful residence, and procedures for seeking legal immigration status.

(b) The state crime victim's compensation fund under chapter 351 shall inform victims of trafficking in persons of immigration benefits they may receive under Federal laws, and assist victims in obtaining such benefits.

OPPORTUNITY FOR PRESENTATION OF VICTIM'S VIEWS AND CONCERNS

The state shall provide an opportunity to a victim of trafficking, if the victim desires it, to present the victim's views and concerns at appropriate stages of criminal proceedings against traffickers, in a

manner not prejudicial to the rights of the defendant. An interpreter who speaks a language the victim understands should be made available to the victim during the course of legal proceedings.

SUPPORT FOR VICTIMS

(a) Within 180 days of the enactment of this legislation, the state shall develop plans, in consultation with non-governmental organizations and other elements of civil society, for the provision of appropriate services, from governmental and non-governmental sources, for victims of trafficking, whether U.S. citizens or foreign nationals, and dependent children accompanying the victims, including, but not limited to:

- (1) appropriate housing, taking into account the person's status as a victim of crime and including safe conditions for sleeping, food and personal hygiene;
- (2) psychological counseling in a language the victim can understand;
- (3) medical assistance in a language the victim can understand;
- (4) other material assistance as appropriate;
- (5) employment, educational, and training opportunities; and
- (6) legal assistance in a language the victim understands.

(b) Victims of trafficking in persons and their accompanying dependent children shall be entitled to receive social benefits in the same manner as refugees.

(b) Residence in shelters or other facilities established under this section shall be voluntary, and victims may decline to stay in shelters.

(c) Victims shall have the option to communicate with and receive visits from family, friends, attorneys, and advocates.

(d) Whenever possible, victims of trafficking shall not be housed in prisons or other detention facilities for accused or convicted criminals. Child victims of trafficking shall not be housed in prisons or other detention facilities for accused or convicted criminals under any circumstances.

(e) The authorities described in (a) shall take into account the age, gender, and special needs of victims and accompanying dependent children in formulating plans to provide services to them and in delivering such services.

(f) Plans developed in accordance with (a) shall be submitted for approval to appropriate State authorities, which shall also undertake periodic reviews of the plans and their implementation to ensure compliance with the requirements of this Article and to ensure that all victims are treated with respect for their human rights and dignity.

APPROPRIATE IMPLEMENTATION FOR CHILD VICTIMS

(a) The provisions of this Title shall be provided to trafficking victims who are children in a manner that is in the child's best interests and appropriate to their situation. Child trafficking victims shall be provided with appropriate services, which may include understanding of their rights, privacy, housing, care, and age-appropriate support and rights specified in Article III. Special programs should be developed to accommodate child witnesses including, but not limited to:

- (1) testimony of minor conducted outside court setting or by video;
- (2) all testimony and court proceedings take place with parent, legal guardian or foster parent present;
- (3) whenever safe and possible, children should be reunited with family members either in country of origin or destination country;

- (4) special mental and physical medical care tailored to the child's needs; or
- (5) upon resettlement in a new country, child victims of trafficking should be guaranteed education that at least matches the general standard of education in the country.

HUMAN TRAFFICKING VICTIM-CASEWORKER PRIVILEGE

(a) A trafficking victim, whether or not a party to the action, has a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication between the victim and a human trafficking caseworker if the privilege is claimed by any of the following persons;

- (1) The holder of the privilege;
- (2) A person who is authorized to claim the privilege by the holder of the privilege;
- (3) The person who was the human trafficking caseworker at the time of the confidential communication. However, that person may not claim the privilege if there is no holder of the privilege in existence or if he or she is otherwise instructed by a person authorized to permit disclosure. The human trafficking caseworker who received or made a communication subject to the privilege granted by this article shall claim the privilege whenever, he or she is present when the communication is sought to be disclosed and he or she is authorized to claim the privilege under this section.

(b) A human trafficking caseworker shall inform a trafficking victim of any applicable limitations on confidentiality of communications between the victim and the caseworker. This information may be given orally.

(c) As used in this article, "human trafficking caseworker" means any of the following:

(1) A person who is employed by any organization providing the programs specified in Title 20 whether financially compensated or not, for the purpose of rendering advice or assistance to victims of human trafficking, who has received specialized training in the counseling of human trafficking victims, and who meets one of the following requirements:

(i) Has a master's degree in counseling or a related field; or has one year of counseling experience, at least six months of which is in the counseling of human trafficking victims.

(ii) Has at least 40 hours of training as specified in this paragraph and is supervised by an individual who qualifies as a counselor under subparagraph (i), or is a psychotherapist. The training, supervised by a person qualified under subparagraph (i), shall include, but need not be limited to, the following areas: history of human trafficking, civil and criminal law as it relates to human trafficking, societal attitudes towards human trafficking, peer counseling techniques, housing, public assistance and other financial resources available to meet the financial needs of human trafficking victims, and referral services available to human trafficking victims. A portion of this training must include an explanation of privileged communication.

(d) As used in this article, "confidential communication" means information transmitted between the victim and the caseworker in the course of their relationship and in confidence by a means which, so far as the victim is aware, discloses the information to no third persons other than those who are present to further the interests of the victim in the consultation or those to whom disclosures are reasonably necessary for the transmission of the information or an accomplishment of the purposes for which the human trafficking counselor is consulted. It includes all information regarding the facts and circumstances involving all incidences of human trafficking.

(e) As used in this article, "holder of the privilege" means the victim when he or she has no guardian or conservator, or a guardian or conservator of the victim when the victim has a guardian or conservator.

PROTECTION OF TRAFFICKING AND DOMESTIC VIOLENCE SHELTERS

(a) Any person who maliciously publishes, disseminates, or otherwise discloses the location of any trafficking shelter or domestic violence shelter or any place designated as a trafficking shelter or domestic violence shelter, without the authorization of that trafficking shelter or domestic violence shelter, is guilty of a misdemeanor.

(b) (1) For purposes of this section, "domestic violence shelter" means a confidential location which provides emergency housing on a 24-hour basis for victims of sexual assault, spousal abuse, or both, and their families.

(2) For purposes of this section, "trafficking shelter" means a confidential location, which provides emergency housing on a 24-hour basis for victims of human trafficking.



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-2066/2

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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1 AN ACT ...; relating to: human trafficking and providing a penalty.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

2 SECTION 1. 16.964 (1) (gm) of the statutes is created to read:

3 16.964 (1) (gm) Collect data relating to the number and nature of violations of
4 ss. 940.302 and 948.051 and publish statistics relating to the violations. The data
5 shall include all of the following:

- 6 1. Numbers of investigations, arrests, prosecutions, and convictions of persons.
- 7 2. Demographics of persons investigated, arrested, prosecuted, and convicted.

1 3. Demographics of victims, including nationality, age, method of recruitment,
2 and country, state, ^{add} or city of origin.

3 4. Routes, patterns, and transportation used in violations.

4 5. Social and economic factors contributing to the violations.

5 **SECTION 2.** 48.355 (2d) (a) 2. of the statutes is amended to read:

6 48.355 (2d) (a) 2. "Sexual abuse" means a violation of s. 940.225, 944.30,
7 948.02, 948.025, 948.05, 948.051, 948.055, 948.06, 948.085, 948.09 or 948.10 or a
8 violation of the law of any other state or federal law if that violation would be a
9 violation of s. 940.225, 944.30, 948.02, 948.025, 948.05, 948.051, 948.055, 948.06,
10 948.085, 948.09 or 948.10 if committed in this state.

History: 1977 c. 354; 1979 c. 295, 300, 359; 1983 a. 27, 102, 399, 538; 1985 a. 29; 1987 a. 27, 339, 383; 1989 a. 31, 41, 86, 107, 121, 359; 1991 a. 39; 1993 a. 98, 334, 377, 385, 395, 446, 481, 491; 1995 a. 27, 77, 201, 225, 275; 1997 a. 27, 205, 237, 292; 1999 a. 9, 103, 149, 186; 2001 a. 2, 16, 109; 2005 a. 277.

11 **SECTION 3.** 48.371 (3) (d) of the statutes is amended to read:

12 48.371 (3) (d) Any involvement of the child, whether as victim or perpetrator,
13 in sexual intercourse or sexual contact in violation of s. 940.225, 948.02, 948.025, or
14 948.085, prostitution in violation of s. 944.30, sexual exploitation of a child in
15 violation of s. 948.05, trafficking of a child in violation of s. 948.051, or causing a child
16 to view or listen to sexual activity in violation of s. 948.055, if the information is
17 necessary for the care of the child or for the protection of any person living in the
18 foster home, treatment foster home, group home, or residential care center for
19 children and youth.

NOTE: NOTE: Par. (d) 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: 1993 a. 395; 1995 a. 275; 1997 a. 272; 2001 a. 59, 69, 105; 2005 a. 232, 277; s. 13.93 (2) (c).

20 **SECTION 4.** 48.415 (9m) (b) 2. of the statutes is amended to read:

21 48.415 (9m) (b) 2. The commission of a violation of s. 940.19 (3), 1999 stats.,
22 a violation of s. 940.19 (2), (4) or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025,
23 948.03 (2) (a) or (3) (a), 948.05, 948.051, 948.06 or 948.08 or a violation of the law of

1 any other state or federal law, if that violation would be a violation of s. 940.19 (2),
2 (4) or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (3) (a), 948.05,
3 948.051, 948.06 or 948.08 if committed in this state.

History: 1979 c. 330; 1983 a. 189 s. 329 (5); 1983 a. 326; 1983 a. 447 ss. 8, 67; 1983 a. 488, 538; 1987 a. 355, 383; 1989 a. 86; 1993 a. 235, 395; 1995 a. 77, 108, 225, 275; 1997 a. 35, 80, 237, 292, 294; 1999 a. 9, 32; 2001 a. 2, 109; 2005 a. 277, 293.

4 **SECTION 5.** 48.417 (1) (d) of the statutes is amended to read:

5 48.417 (1) (d) A court of competent jurisdiction has found that the parent has
6 committed a violation of s. 940.19 (3), 1999 stats., a violation of s. 940.19 (2), (4), or
7 (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (3) (a), 948.051, or
8 948.085 or a violation of the law of any other state or federal law, if that violation
9 would be a violation of s. 940.19 (2), (4), or (5), 940.225 (1) or (2), 948.02 (1) or (2),
10 948.025, 948.03 (2) (a) or (3) (a), 948.051, or 948.085 if committed in this state, and
11 that the violation resulted in great bodily harm, as defined in s. 939.22 (14), or in
12 substantial bodily harm, as defined in s. 939.22 (38), to the child or another child of
13 the parent. If the circumstances specified in this paragraph apply, the petition shall
14 be filed or joined in within 60 days after the date on which the court assigned to
15 exercise jurisdiction under this chapter determines, based on a finding that a
16 circumstance specified in this paragraph applies, that reasonable efforts to make it
17 possible for the child to return safely to his or her home are not required.

History: 1997 a. 237; 2001 a. 109; 2005 a. 277.

18 **SECTION 6.** 48.685 (1) (c) of the statutes is amended to read:

19 48.685 (1) (c) "Serious crime" means a violation of s. 940.19 (3), 1999 stats., a
20 violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19 (2), (4), (5) or (6), 940.22
21 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2), 940.29, 940.295, 948.02 (1) or (2), 948.025,
22 948.03 (2), 948.05, 948.051, 948.055, 948.06, 948.07, 948.08, 948.085, 948.11 (2) (a)
23 or (am), 948.12, 948.13, 948.21 (1), 948.30, or 948.53 or a violation of the law of any
24 other state or United States jurisdiction that would be a violation of s. 940.19 (3),

1 1999 stats., or a violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19 (2), (4),
2 (5) or (6), 940.22 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2), 940.29, 940.295, 948.02
3 (1) or (2), 948.025, 948.03 (2), 948.05, 948.051, 948.055, 948.06, 948.07, 948.08,
4 948.085, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21 (1), 948.30, or 948.53 if
5 committed in this state.

~~NOTE: NOTE: Par. (c) 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: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109; 2003 a. 321; 2005 a. 149, 184, 277; s. 13.93 (2) (c).

6 **SECTION 7. 50.065 (1) (e) 2.** of the statutes is amended to read:

7 50.065 (1) (e) 2. For the purposes of an entity that serves persons under the age
8 of 18, "serious crime" includes a violation of s. 948.02 (2), 948.03 (2) (b) or (c), 948.05,
9 948.051, 948.055, 948.06, 948.07, 948.08, 948.085, 948.11 (2) (a) or (am), 948.12,
10 948.13, 948.21 (1), 948.30, or 948.53 or a violation of the law of any other state or
11 United States jurisdiction that would be a violation of s. 948.02 (2), 948.03 (2) (b) or
12 (c), 948.05, 948.051, 948.055, 948.06, 948.07, 948.08, 948.085, 948.11 (2) (a) or (am),
13 948.12, 948.13, 948.21 (1), 948.30, or 948.53 if committed in this state.

~~NOTE: NOTE: Subd. 2. 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: 1997 a. 27, 105, 237; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109; 2005 a. 25, 184, 277, 351; s. 13.93 (2) (c).

14 **SECTION 8. 51.20 (13) (ct) 2m.** of the statutes is amended to read:

15 51.20 (13) (ct) 2m. If the subject individual is before the court on a petition filed
16 under a court order under s. 938.30 (5) (c) 1. and is found to have committed a
17 violation, or to have solicited, conspired, or attempted to commit a violation, of s.
18 940.22 (2), 940.225 (1), (2), or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.051,
19 948.055, 948.06, 948.07, 948.075, 948.08, 948.085, 948.095, 948.11 (2) (a) or (am),
20 948.12, 948.13, or 948.30, or of s. 940.30 or 940.31 if the victim was a minor and the
21 subject individual was not the victim's parent, the court shall require the individual
22 to comply with the reporting requirements under s. 301.45 unless the court

1 determines, after a hearing on a motion made by the individual, that the individual
2 is not required to comply under s. 301.45 (1m).

History: 1975 c. 430; 1977 c. 26, 29; 1977 c. 187 ss. 42, 43, 134, 135; 1977 c. 428 ss. 29 to 65, 115; 1977 c. 447, 449; Sup. Ct. Order. 83 Wis. 2d xiii; 1979 c. 32, 89; Sup. Ct. Order, eff. 1-1-80; 1979 c. 110 s. 60 (1); 1979 c. 175 s. 53; 1979 c. 300, 336, 356; 1981 c. 20, 367; 1981 c. 390 s. 252; 1983 a. 27, 219; 1983 a. 474 ss. 2 to 9m, 14; 1985 a. 29 ss. 1067 to 1071, 3200 (56), 3202 (56); 1985 a. 139, 176, 321, 332; 1987 a. 27; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 366, 394, 403; 1989 a. 31, 334; 1993 a. 98, 196, 227, 316, 451, 474; 1995 a. 77, 201, 268, 292, 440; Sup. Ct. Order No. 96-08, 207 Wis. 2d xv (1997); 1997 a. 35, 130, 237, 283; 1999 a. 83, 89, 162; 2001 a. 16 ss. 1966i to 1966n, 4034ze to 4034zh; 2001 a. 38, 61, 109; 2003 a. 33, 50, 326; 2005 a. 22, 264, 277, 387; s. 13.93 (2) (c).

3 **SECTION 9. 301.048 (2) (bm) 1. a.** of the statutes is amended to read:

4 301.048 (2) (bm) 1. a. A crime specified in s. 940.19 (3), 1999 stats., s. 940.195
5 (3), 1999 stats., s. 943.23 (1m), 1999 stats., or s. 943.23 (1r), 1999 stats., or s. 940.01,
6 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (4) or (5), 940.195 (4)
7 or (5), 940.20, 940.201, 940.203, 940.21, 940.225 (1) to (3), 940.23, 940.285 (2) (a) 1.
8 or 2., 940.29, 940.295 (3) (b) 1g., 1m., 1r., 2., or 3., 940.31, 940.43 (1) to (3), 940.45 (1)
9 to (3), 941.20 (2) or (3), 941.26, 941.30, 941.327, 943.01 (2) (c), 943.011, 943.013,
10 943.02, 943.04, 943.06, 943.10 (2), 943.23 (1g), 943.30, 943.32, 946.43, 947.015,
11 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.051, 948.06, 948.07, 948.08,
12 948.085, or 948.30.

History: 1991 a. 39; 1993 a. 79, 97, 227, 437, 479; 1995 a. 27; 1997 a. 27, 133, 181, 283; 1999 a. 9; 2001 a. 109; 2005 a. 277.

13 **SECTION 10. 301.45 (1d) (b)** of the statutes is amended to read:

14 301.45 (1d) (b) "Sex offense" means a violation, or the solicitation, conspiracy,
15 or attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02
16 (1) or (2), 948.025, 948.05, 948.051, 948.055, 948.06, 948.07, 948.075, 948.08,
17 948.085, 948.095, 948.11 (2) (a) or (am), 948.12, 948.13, or 948.30, or of s. 940.30 or
18 940.31 if the victim was a minor and the person who committed the violation was not
19 the victim's parent.

History: 1995 a. 440 ss. 26 to 49, 53 to 74; Stats. 1995 s. 301.45; 1997 a. 3, 35, 130, 191, 237, 283; 1999 a. 9, 89, 156, 186; 2001 a. 38, 96, 109; 2003 a. 50, 53; 2005 a. 25, 253, 277, 344, 432, 434.

20 **SECTION 11. 302.045 (2) (c)** of the statutes is amended to read:

1 302.045 (2) (c) The inmate is incarcerated regarding a violation other than a
2 crime specified in ch. 940 or s. 948.02, 948.025, 948.03, 948.05, 948.051, 948.055,
3 948.06, 948.07, 948.075, 948.08, 948.085, or 948.095.

History: 1989 a. 122; 1991 a. 39; 1993 a. 218, 227, 491; 1995 a. 456; 1997 a. 283; 2001 a. 109; 2003 a. 33; 2005 a. 277.

4 **SECTION 12.** 302.05 (3) (a) 1. of the statutes is amended to read:

5 302.05 (3) (a) 1. The inmate is incarcerated regarding a violation other than
6 a crime specified in ch. 940 or s. 948.02, 948.025, 948.03, 948.05, 948.051, 948.055,
7 948.06, 948.07, 948.075, 948.08, 948.085, or 948.095.

History: 1989 a. 31; 1995 a. 27 s. 9126 (19); 2003 a. 33; 2005 a. 25, 277.

8 **SECTION 13.** 343.12 (7) (c) 15m. of the statutes is created to read:

9 343.12 (7) (c) 15m. Trafficking a minor under s. 948.051.

10 **SECTION 14.** 440.982 (2) of the statutes is amended to read:

11 440.982 (2) The department may not grant a license under this subchapter to
12 any person who has been convicted of an offense under s. 940.22, 940.225, 944.06,
13 944.15, 944.17, 944.30, 944.31, 944.32, 944.33, 944.34, 948.02, 948.025, 948.051,
14 948.06, 948.07, 948.075, 948.08, 948.09, 948.095, 948.10, 948.11, or 948.12.

~~NOTE: NOTE: This section is created eff. 5-1-07 by 2005 Wis. Act 292. NOTE:~~

History: 2005 a. 292.

15 **SECTION 15.** 901.04 (3) (c) of the statutes is amended to read:

16 901.04 (3) (c) In actions under s. 940.225, 948.02, 948.025, 948.051, 948.085,
17 or 948.095, admissibility of the prior sexual conduct or reputation of a complaining
18 witness.

History: Sup. Ct. Order, 59 Wis. 2d R1, R14 (1975); 1975 c. 184, 421; 1985 a. 275; 1987 a. 332 s. 64; 1991 a. 32, 269; 1993 a. 97, 227; 1995 a. 456; 2005 a. 277.

19 **SECTION 16.** 939.615 (1) (b) 1. of the statutes is amended to read:

20 939.615 (1) (b) 1. A violation, or the solicitation, conspiracy, or attempt to
21 commit a violation, of s. 940.22 (2), 940.225 (1), (2), or (3), 948.02 (1) or (2), 948.025

1 (1), 948.05 (1) or (1m), 948.051, 948.055 (1), 948.06, 948.07, 948.075, 948.08, 948.085,
2 948.11 (2) (a), 948.12, or 948.13.

3 History: 1997 a. 275; 1999 a. 3, 89; 2001 a. 109; 2005 a. 277.

3 **SECTION 17.** 939.62 (2m) (a) 1m. a. of the statutes is amended to read:

4 939.62 (2m) (a) 1m. a. A violation of s. 948.02, 948.025, 948.05, 948.051,
5 948.055, 948.06, 948.07, 948.08, 948.085, or 948.095 or 948.30 or, if the victim was
6 a minor and the convicted person was not the victim's parent, a violation of s. 940.31.

7 History: 1977 c. 449; 1989 a. 85; 1993 a. 289, 483, 486; 1995 a. 77, 448; 1997 a. 219, 283, 295, 326; 1999 a. 32, 85, 188; 2001 a. 109; 2005 a. 14, 277.

7 **SECTION 18.** 939.632 (1) (e) 1. of the statutes is amended to read:

8 939.632 (1) (e) 1. Any felony under s. 940.01, 940.02, 940.03, 940.05, 940.09
9 (1c), 940.19 (2), (4) or (5), 940.21, 940.225 (1), (2) or (3), 940.305, 940.31, 941.20,
10 941.21, 943.02, 943.06, 943.10 (2), 943.23 (1g), 943.32 (2), 948.02 (1) or (2), 948.025,
11 948.03 (2) (a) or (c), 948.05, 948.051, 948.055, 948.07, 948.08, 948.085, or 948.30 (2).

12 History: 1995 a. 22; 2001 a. 109; 2005 a. 277.

12 **SECTION 19.** 940.302 of the statutes is created to read:

13 **940.302 Human trafficking.** (1) In this section:

14 (a) "Debt bondage" means the condition of a debtor arising from the debtor's
15 pledge of services as a security for debt if the reasonable value of those services is not
16 applied toward repaying the debt or if the length and nature of the services are not
17 defined.

18 (b) "Services" means activities performed by one individual at the request,
19 under the supervision, or for the benefit of another person.

20 (c) "Trafficking" means recruiting, enticing, harboring, transporting,
21 providing, or obtaining, or attempting to recruit, entice, harbor, transport, provide,
22 or obtain, an individual without the consent of the individual.

1 (2) (a) Except as provided in s. 948.051, whoever knowingly engages in
 2 trafficking is guilty of a Class D felony if the trafficking is for the purposes of labor
 3 or services and the trafficking is done by any of the following:

- 4 1. Causing or threatening to cause bodily harm to any individual.
- 5 2. Causing or threatening to cause financial harm to any individual.
- 6 3. Restraining or threatening to restrain any individual.
- 7 4. Violating or threatening to violate a law.
- 8 5. Destroying, concealing, removing, confiscating, or possessing, or
 9 threatening to destroy, conceal, remove, confiscate, or possess, any actual or
 10 purported passport or any other actual or purported official identification document
 11 of any individual.
- 12 6. Extortion.
- 13 7. Fraud or deception.
- 14 8. Debt bondage.
- 15 9. Controlling any individual's access to an addictive controlled substance.
- 16 10. Using any scheme or pattern to cause an individual to believe that any
 17 individual would suffer bodily harm, financial harm, restraint, or other harm.

18 (b) Whoever benefits in any manner from a violation of par. (a) is guilty of a
 19 Class D felony if the person knows or should know that the benefits come from an act
 20 described in par. (a).

21 (3) Any person who incurs an injury or death as a result of a violation of sub.
 22 (2) may bring a civil action against the person who committed the violation. In
 23 addition to actual damages, the court may award punitive damages to the injured
 24 party not to exceed treble the amount of actual damages incurred.

25 SECTION 20. 946.82 (4) of the statutes is amended to read:

1 946.82 (4) "Racketeering activity" means any activity specified in 18 USC 1961
 2 (1) in effect as of April 27, 1982, or the attempt, conspiracy to commit, or commission
 3 of any of the felonies specified in: chs. 945 and 961 and ss. 49.49, 134.05, 139.44 (1),
 4 180.0129, 181.0129, 185.825, 201.09 (2), 215.12, 221.0625, 221.0636, 221.0637,
 5 221.1004, 551.41, 551.42, 551.43, 551.44, 553.41 (3) and (4), 553.52 (2), 940.01,
 6 940.19 (4) to (6), 940.20, 940.201, 940.203, 940.21, 940.30, 940.302, 940.305, 940.31,
 7 941.20 (2) and (3), 941.26, 941.28, 941.298, 941.31, 941.32, 942.09, 943.01 (2), (2d),
 8 or (2g), 943.011, 943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06, 943.10,
 9 943.20 (3) (bf) to (e), 943.201, 943.203, 943.23 (1g), (2) and (3), 943.24 (2), 943.27,
 10 943.28, 943.30, 943.32, 943.34 (1) (bf), (bm), and (c), 943.38, 943.39, 943.40, 943.41
 11 (8) (b) and (c), 943.50 (4) (bf), (bm), and (c), 943.60, 943.70, 943.76, 943.81, 943.82,
 12 943.83, 943.84, 943.85, 943.86, 943.87, 943.88, 943.89, 943.90, 944.21 (5) (c) and (e),
 13 944.32, 944.33 (2), 944.34, 945.03 (1m), 945.04 (1m), 945.05 (1), 945.08, 946.10,
 14 946.11, 946.12, 946.13, 946.31, 946.32 (1), 946.48, 946.49, 946.61, 946.64, 946.65,
 15 946.72, 946.76, 946.79, 947.015, 948.05, 948.051, 948.08, 948.12, and 948.30.

History: 1981 c. 280; 1983 a. 438; 1985 a. 104; 1985 a. 236 s. 15; 1987 a. 266 s. 5; 1987 a. 332, 348, 349, 403; 1989 a. 121, 303; 1991 a. 32, 39, 189; 1993 a. 50, 92, 94, 112, 280, 441, 491; 1995 a. 133, 249, 336, 448; 1997 a. 35, 79, 101, 140, 143, 252; 1999 a. 9, 150; 2001 a. 16, 105, 109; 2003 a. 36, 321; 2005 a. 212.

16 **SECTION 21.** 948.051 of the statutes is created to read:

17 **948.051 Trafficking of a child.** (1) Whoever knowingly engages in
 18 trafficking, as defined in s. 940.302 (1) (c), any child if the trafficking is done for the
 19 purpose of commercial sex acts or sexually explicit performance is guilty of a Class
 20 A felony.

21 (2) Whoever benefits in any manner from a violation of sub. (1) is guilty of a
 22 Class A felony if the person knows or should know that the benefits come from an act
 23 described in ^{sub. (1)} par. (a)

1 (3) Any person who incurs an injury or death as a result of a violation of sub.
 2 (1) or (2) may bring a civil action against the person who committed the violation.
 3 In addition to actual damages, the court may award punitive damages to the injured
 4 party not to exceed treble the amount of actual damages incurred.

5 **SECTION 22.** 948.13 (1) (a) of the statutes is amended to read:

6 948.13 (1) (a) A crime under s. 940.22 (2) or 940.225 (2) (c) or (cm), if the victim
 7 is under 18 years of age at the time of the offense, or a crime under s. 948.02 (1) or
 8 (2), 948.025 (1), 948.05 (1) or (1m), 948.051, 948.06, 948.07 (1), (2), (3), or (4), 948.075,
 9 or 948.085.

History: 1995 a. 265; 1997 a. 130, 220; 1999 a. 3; 2001 a. 97, 109; 2003 a. 321; 2005 a. 277.

10 **SECTION 23.** 949.03 (1) (b) of the statutes is amended to read:

11 949.03 (1) (b) The commission or the attempt to commit any crime specified in
 12 s. 346.62 (4), 346.63 (2) or (6), 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08,
 13 940.09, 940.10, 940.19, 940.20, 940.201, 940.21, 940.22 (2), 940.225, 940.23, 940.24,
 14 940.25, 940.285, 940.29, 940.30, 940.302, 940.305, 940.31, 940.32, 941.327, 943.02,
 15 943.03, 943.04, 943.10, 943.20, 943.23 (1g), 943.32, 943.81, 943.86, 943.87, 948.02,
 16 948.025, 948.03, 948.04, 948.051, 948.07, 948.085, 948.095, 948.20, 948.30 or 948.51.

NOTE: NOTE: Par (b) 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. 224 s. 145za; 1975 c. 344; 1977 c. 173, 239; 1979 c. 118; 1983 a. 199, 356, 538; 1985 a. 275; 1985 a. 293 s. 3; 1985 a. 306 s. 5; 1987 a. 90, 332, 380, 399, 403; 1989 a. 105, 140, 359; 1993 a. 92, 227; 1995 a. 153, 374, 456; 1997 a. 35, 143, 258; 2001 a. 109; 2005 a. 212, 277; s. 13.93 (2) (c).

17 **SECTION 24.** 969.08 (10) (b) of the statutes is amended to read:

18 969.08 (10) (b) "Serious crime" means any crime specified in s. 943.23 (1m),
 19 1999 stats., or s. 943.23 (1r), 1999 stats., or s. 346.62 (4), 940.01, 940.02, 940.03,
 20 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (5), 940.195 (5), 940.20, 940.201,
 21 940.203, 940.21, 940.225 (1) to (3), 940.23, 940.24, 940.25, 940.29, 940.295 (3) (b) 1g.,
 22 1m., 1r., 2. or 3., 940.31, 941.20 (2) or (3), 941.26, 941.30, 941.327, 943.01 (2) (c),
 23 943.011, 943.013, 943.02, 943.03, 943.04, 943.06, 943.10, 943.23 (1g), 943.30, 943.32,

1 943.81, 943.82, 943.83, 943.85, 943.86, 943.87, 943.88, 943.89, 943.90, 946.01,
2 946.02, 946.43, 947.015, 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.051,
3 948.06, 948.07, 948.085, or 948.30 or, if the victim is a financial institution, as defined
4 in s. 943.80 (2), a crime under s. 943.84 (1) or (2).

~~NOTE: NOTE: Par. (b) 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: 1971 c. 298; 1977 c. 449; 1979 c. 112; 1981 c. 183; 1985 a. 293 s. 3; 1987 a. 90, 332, 399, 403; 1991 a. 153, 269; 1993 a. 50, 92, 94, 227, 441, 445, 491; 1997 a. 143, 180, 295; 1999 a. 32; 2001 a. 109; 2005 a. 212, 277; s. 13.93 (2) (c).~~

5 **SECTION 25. 970.03 (4) (a)** of the statutes is amended to read:

6 970.03 (4) (a) If the defendant is accused of a crime under s. 940.225, 948.02,
7 948.025, 948.05, 948.051, 948.06, 948.085, or 948.095, the court may exclude from
8 the hearing all persons who are not officers of the court, members of the
9 complainant's or defendant's families or others considered by the court to be
10 supportive of the complainant or defendant, the service representative, as defined
11 in s. 895.45 (1) (c), or other persons required to attend, if the court finds that the state
12 or the defendant has established a compelling interest that would likely be
13 prejudiced if the persons were not excluded. The court may consider as a compelling
14 interest, among others, the need to protect a complainant from undue
15 embarrassment and emotional 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).~~

16 **SECTION 26. 971.17 (1m) (b) 2m.** of the statutes is amended to read:

17 971.17 (1m) (b) 2m. If the defendant under sub. (1) is found not guilty by reason
18 of mental disease or defect for a violation, or for the solicitation, conspiracy, or
19 attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2), or (3), 944.06, 948.02
20 (1) or (2), 948.025, 948.05, 948.051, 948.055, 948.06, 948.07, 948.075, 948.08,
21 948.085, 948.095, 948.11 (2) (a) or (am), 948.12, 948.13, or 948.30, or of s. 940.30 or
22 940.31 if the victim was a minor and the defendant was not the victim's parent, the
23 court shall require the defendant to comply with the reporting requirements under

1 s. 301.45 unless the court determines, after a hearing on a motion made by the
2 defendant, that the defendant is not required to comply under s. 301.45 (1m).

History: 1975 c. 430; 1977 c. 353; 1977 c. 428 s. 115; 1983 a. 359; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 394; 1989 a. 31, 142, 334, 359; Sup. Ct. Order, 158 Wis. 2d xvii (1990); 1991 a. 39, 189, 269; 1993 a. 16, 98, 227; 1995 a. 27 s. 9126 (19); 1995 a. 417, 425, 440, 448; 1997 a. 35, 130, 181, 252, 275; 1999 a. 89; 2001 a. 95, 109; 2003 a. 50; 2005 a. 277, 431.

3 **SECTION 27.** 971.31 (11) of the statutes is amended to read:

4 971.31 (11) In actions under s. 940.225, 948.02, 948.025, 948.051, 948.085, or
5 948.095, evidence which is admissible under s. 972.11 (2) must be determined by the
6 court upon pretrial motion to be material to a fact at issue in the case and of sufficient
7 probative value to outweigh its inflammatory and prejudicial nature before it may
8 be introduced at trial.

History: 1975 c. 184; 1985 a. 275; 1987 a. 332 s. 64; 1993 a. 227, 486; 1995 a. 352, 387, 456; 1997 a. 205; 2005 a. 277.

9 **SECTION 28.** 972.11 (2) (b) (intro.) of the statutes is amended to read:

10 972.11 (2) (b) (intro.) If the defendant is accused of a crime under s. 940.225,
11 948.02, 948.025, 948.05, 948.051, 948.06, 948.085, or 948.095, any evidence
12 concerning the complaining witness's prior sexual conduct or opinions of the
13 witness's prior sexual conduct and reputation as to prior sexual conduct shall not be
14 admitted into evidence during the course of the hearing or trial, nor shall any
15 reference to such conduct be made in the presence of the jury, except the following,
16 subject to s. 971.31 (11):

History: Sup. Ct. Order, 59 Wis. 2d R1, R7 (1973); Sup. Ct. Order, 67 Wis. 2d 585, 784 (1975); 1975 c. 184, 422; 1979 c. 89; 1981 c. 147 ss. 1, 2; 1983 a. 165, 449; 1985 a. 275; 1987 a. 332 s. 64; 1993 a. 16, 97, 227, 359; 1995 a. 456; 1997 a. 319; 1999 a. 185; 2001 a. 16; 2005 a. 155, 277.

17 **SECTION 29.** 973.01 (3g) of the statutes is amended to read:

18 973.01 (3g) **EARNED RELEASE PROGRAM ELIGIBILITY.** When imposing a bifurcated
19 sentence under this section on a person convicted of a crime other than a crime
20 specified in ch. 940 or s. 948.02, 948.025, 948.03, 948.05, 948.051, 948.055, 948.06,
21 948.07, 948.075, 948.08, 948.085, or 948.095, the court shall, as part of the exercise
22 of its sentencing discretion, decide whether the person being sentenced is eligible or

1 ineligible to participate in the earned release program under s. 302.05 (3) during the
2 term of confinement in prison portion of the bifurcated sentence.

3 History: 1997 a. 283; 2001 a. 109; 2003 a. 33; 2005 a. 277.

3 **SECTION 30.** 973.01 (3m) of the statutes is amended to read:

4 973.01 (3m) CHALLENGE INCARCERATION PROGRAM ELIGIBILITY. When imposing
5 a bifurcated sentence under this section on a person convicted of a crime other than
6 a crime specified in ch. 940 or s. 948.02, 948.025, 948.03, 948.05, 948.051, 948.055,
7 948.06, 948.07, 948.075, 948.08, 948.085, or 948.095, the court shall, as part of the
8 exercise of its sentencing discretion, decide whether the person being sentenced is
9 eligible or ineligible for the challenge incarceration program under s. 302.045 during
10 the term of confinement in prison portion of the bifurcated sentence.

11 History: 1997 a. 283; 2001 a. 109; 2003 a. 33; 2005 a. 277.

11 **SECTION 31.** 973.0135 (1) (b) 2. of the statutes is amended to read:

12 973.0135 (1) (b) 2. Any felony under s. 940.09 (1), 1999 stats., s. 943.23 (1m)
13 or (1r), 1999 stats., s. 948.35 (1) (b) or (c), 1999 stats., or s. 948.36, 1999 stats., s.
14 940.01, 940.02, 940.03, 940.05, 940.09 (1c), 940.16, 940.19 (5), 940.195 (5), 940.21,
15 940.225 (1) or (2), 940.305, 940.31, 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (1g),
16 943.32 (2), 946.43 (1m), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c), 948.05,
17 948.051, 948.06, 948.07, 948.075, 948.08, or 948.30 (2).

18 History: 1993 a. 194, 483; 1995 a. 448; 1997 a. 219, 283, 295; 1999 a. 32, 188; 2001 a. 109.

18 **SECTION 32.** 973.017 (6) (b) of the statutes is amended to read:

19 973.017 (6) (b) When making a sentencing decision concerning a person
20 convicted of a violation of s. 948.02 (1) or (2), 948.025 (1), ~~or~~ 948.03 (2) or (3), or
21 948.051, the court shall consider as an aggravating factor the fact that the person
22 was a person responsible for the welfare of the child who was the victim of the
23 violation.

History: 2001 a. 109; 2003 a. 321; 2005 a. 14, 277.

1 **SECTION 33.** 973.048 (2m) of the statutes is amended to read:

2 973.048 (2m) If a court imposes a sentence or places a person on probation for
3 a violation, or for the solicitation, conspiracy or attempt to commit a violation, of s.
4 940.22 (2), 940.225 (1), (2), or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.051,
5 948.055, 948.06, 948.07, 948.075, 948.08, 948.085, 948.095, 948.11 (2) (a) or (am),
6 948.12, 948.13, or 948.30, or of s. 940.30 or 940.31 if the victim was a minor and the
7 person was not the victim's parent, the court shall require the person to comply with
8 the reporting requirements under s. 301.45 unless the court determines, after a
9 hearing on a motion made by the person, that the person is not required to comply
10 under s. 301.45 (1m).

History: 1995 a. 440; 1997 a. 130; 1999 a. 89; 2001 a. 109; 2003 a. 50; 2005 a. 277.

11 **SECTION 34.** 973.176 (3) of the statutes is amended to read:

12 973.176 (3) CHILD SEX OFFENDER WORKING WITH CHILDREN. Whenever a court
13 imposes a sentence or places a defendant on probation regarding a conviction under
14 s. 940.22 (2) or 940.225 (2) (c) or (cm), if the victim is under 18 years of age at the time
15 of the offense, or a conviction under s. 948.02 (1) or (2), 948.025 (1), 948.05 (1) or (1m),
16 948.051, 948.06, 948.07 (1), (2), (3), or (4), 948.075, or 948.085, the court shall inform
17 the defendant of the requirements and penalties under s. 948.13.

History: 2003 a. 121 ss. 2, 3, 5; 2005 a. 277, 451.

18 **SECTION 35.** 973.20 (4m) of the statutes is amended to read:

19 973.20 (4m) If the defendant violated s. 940.225, 948.02, 948.025, 948.05,
20 948.051, 948.06, 948.07, 948.08, or 948.085 and sub. (3) (a) does not apply, the
21 restitution order may require that the defendant pay an amount, not to exceed
22 \$10,000, equal to the cost of necessary professional services relating to psychiatric
23 and psychological care and treatment. The \$10,000 limit under this subsection does
24 not apply to the amount of any restitution ordered under sub. (3) or (5) for the cost

1 of necessary professional services relating to psychiatric and psychological care and
2 treatment.

3 History: 1987 a. 398 ss. 39 to 41, 43; 1989 a. 31, 188; 1991 a. 39, 269; 1993 a. 213; 1995 a. 141, 161; 1997 a. 283; 2001 a. 16, 61; 2003 a. 139, 321; 2005 a. 277, 447.

3 SECTION 36. 973.20 (4o) of the statutes is created to read:

4 973.20 (4o) If the defendant violated s. 940.302 or 948.051, and sub. (2) or (3)
5 does not apply, the restitution order may require that the defendant pay an amount
6 equal to any of the following:

- 7 (a) The costs of necessary transportation, housing, and child care *for the victim*
- 8 (b) The greater of the following:
 - 9 1. The gross income gained by the defendant due to the services of the victim.
 - 10 2. The value of the ~~labor~~ *victim's services* as provided under the state minimum wage.

11 (c) Any expenses incurred by the victim if relocation for personal safety is
12 determined to be necessary by ~~law enforcement~~ *the district attorney* or if relocation is determined to be
13 necessary for emotional well being as determined by a mental health treatment
14 provider.

15 **SECTION 37. Initial applicability.**

16 (1) The treatment of sections 940.302 and 948.051 of the statutes first applies
17 to acts committed on the effective date of this subsection.

18 (END)

③ NOTE:

*** Please review this provision. We probably need a method of determination put in the statutes if you want this provision in the bill.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-20667/dn

CMH:.....

P/1
Wlj

~~Cross~~
Please review the new references to the created statutes on human trafficking (s. 940.302) and trafficking of a child (s. 948.051). Generally, I added references to s. 948.051 to statutes that already contained references to sexual assault of a child or sexual exploitation of a child. These statutes vary widely. For instance, I required persons convicted of a violation under s. 948.051 to register as a sex offender, and under s. 440.982, as amended, a person convicted of a violation under s. 948.051 could not be licensed as a midwife. I included ~~these statutes~~ primarily for your review so that you could make the policy decisions about whether to include them in the final draft ~~or not~~. ~~Cross~~

I also made this draft a preliminary draft because I expect changes to be made. It will have to be redrafted as a /1 to be introducible.

~~Cross~~
all of these references
Cathlene Hanaman
Legislative Attorney
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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2066/P1dn
CMH:wlj:nwn

March 2, 2007

Please review the new cross-references to the created statutes on human trafficking (s. 940.302) and trafficking of a child (s. 948.051). Generally, I added cross-references to s. 948.051 to statutes that already contained references to sexual assault of a child or sexual exploitation of a child. These statutes vary widely. For instance, I required persons convicted of a violation under s. 948.051 to register as a sex offender, and under s. 440.982, as amended, a person convicted of a violation under s. 948.051 could not be licensed as a midwife. I included all of these cross-references primarily for your review so that you could make the policy decisions about whether to include them in the final draft.

I also made this draft a preliminary draft because I expect changes to be made. It will have to be redrafted as a /1 to be introducible.

Cathlene Hanaman
Legislative Attorney
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HB1469 Enrolled

LRB094 09450 RLC 39698 b

1 AN ACT concerning criminal law.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Criminal Code of 1961 is amended by adding
5 Article 10A as follows:

6 (720 ILCS 5/Art. 10A heading new)

7 ARTICLE 10A.
TRAFFICKING OF PERSONS AND INVOLUNTARY SERVITUDE

8 (720 ILCS 5/10A-5 new)

9 Sec. 10A-5. Definitions. In this Article:

10 (1) "Intimidation" has the meaning prescribed in Section
11 12-6.

12 (2) "Commercial sexual activity" means any sex act on
13 account of which anything of value is given, promised to, or
14 received by any person.

15 (3) "Financial harm" includes intimidation that brings
16 about financial loss, criminal usury, or employment contracts
17 that violate the Frauds Act.

18 (4) "Forced labor or services" means labor or services that
19 are performed or provided by another person and are obtained or
20 maintained through:

21 (A) any scheme, plan, or pattern intending to cause or
22 threatening to cause serious harm to any person;

23 (B) an actor's physically restraining or threatening
24 to physically restrain another person;

25 (C) an actor's abusing or threatening to abuse the law
26 or legal process;

27 (D) an actor's knowingly destroying, concealing,
28 removing, confiscating, or possessing any actual or
29 purported passport or other immigration document, or any
30 other actual or purported government identification

31 document, of another person;

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1 (E) an actor's blackmail; or

2 (F) an actor's causing or threatening to cause

3 financial harm to or exerting financial control over any
4 person.

5 (5) "Labor" means work of economic or financial value.

6 (6) "Maintain" means, in relation to labor or services, to
7 secure continued performance thereof, regardless of any
8 initial agreement on the part of the victim to perform such
9 type of service.

10 (7) "Obtain" means, in relation to labor or services, to
11 secure performance thereof.

12 (8) "Services" means a relationship between a person and
13 the actor in which the person performs activities under the
14 supervision of or for the benefit of the actor. Commercial
15 sexual activity and sexually-explicit performances are forms
16 of "services" under this Section. Nothing in this provision
17 should be construed to legitimize or legalize prostitution.

18 (9) "Sexually-explicit performance" means a live,
19 recorded, broadcast (including over the Internet) or public act
20 or show intended to arouse or satisfy the sexual desires or
21 appeal to the prurient interests of patrons.

22 (10) "Trafficking victim" means a person subjected to the
23 practices set forth in subsection (a) of Section 10A-10
24 (involuntary servitude) or subsection (b) of Section 10A-10
25 (sexual servitude of a minor), or transported in violation of
26 subsection (c) of Section 10A-10 (trafficking of persons for
27 forced labor or services).

28 (720 ILCS 5/10A-10 new)

29 Sec. 10A-10. Criminal provisions.

30 (a) Involuntary servitude. Whoever knowingly subjects,
31 attempts to subject, or engages in a conspiracy to subject
32 another person to forced labor or services shall be punished as
33 follows, subject to subsection (d):

34 (1) by causing or threatening to cause physical harm to
35 any person, is guilty of a Class X felony;

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1 (2) by physically restraining or threatening to
2 physically restrain another person, is guilty of a Class 1
3 felony;

4 (3) by abusing or threatening to abuse the law or legal
5 process, is guilty of a Class 2 felony;

6 (4) by knowingly destroying, concealing, removing,
7 confiscating or possessing any actual or purported
8 passport or other immigration document, or any other actual
9 or purported government identification document, of
10 another person, is guilty of a Class 3 felony;

11 (5) by using intimidation, or using or threatening to
12 cause financial harm to or by exerting financial control
13 over any person, is guilty of a Class 4 felony.

14 (b) Involuntary servitude of a minor. Whoever knowingly
15 recruits, entices, harbors, transports, provides, or obtains
16 by any means, or attempts to recruit, entice, harbor, provide,
17 or obtain by any means, another person under 18 years of age,
18 knowing that the minor will engage in commercial sexual
19 activity, a sexually-explicit performance, or the production
20 of pornography, or causes or attempts to cause a minor to
21 engage in commercial sexual activity, a sexually-explicit
22 performance, or the production of pornography, shall be
23 punished as follows, subject to the provisions of subsection
24 (d):

25 (1) In cases involving a minor between the ages of 17
26 and 18 years, not involving overt force or threat, the
27 defendant is guilty of a Class 1 felony.

28 (2) In cases in which the minor had not attained the
29 age of 17 years, not involving overt force or threat, the
30 defendant is guilty of a Class X felony.

31 (3) In cases in which the violation involved overt
32 force or threat, the defendant is guilty of a Class X
33

felony.

34 (c) Trafficking of persons for forced labor or services.
35 Whoever knowingly: (1) recruits, entices, harbors, transports,
36 provides, or obtains by any means, or attempts to recruit,

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1 entice, harbor, transport, provide, or obtain by any means,
2 another person, intending or knowing that the person will be
3 subjected to forced labor or services; or (2) benefits,
4 financially or by receiving anything of value, from
5 participation in a venture which has engaged in an act
6 described in violation of paragraphs (a) or (b) of this
7 Section, subject to the provisions of subsection (d), is guilty
8 of a Class 1 felony.

9 (d) Sentencing enhancements.

10 (1) Statutory maximum; sexual assault and extreme
11 violence. If the violation of this Article involves
12 kidnapping or an attempt to kidnap, aggravated criminal
13 sexual assault or the attempt to commit aggravated criminal
14 sexual assault, or an attempt to commit first degree
15 murder, the defendant is guilty of a Class X felony.

16 (2) Sentencing considerations within statutory
17 maximums.

18 (A) Bodily injury. If, pursuant to a violation of
19 this Article, a victim suffered bodily injury, the
20 defendant may be sentenced to an extended term sentence
21 under Section 5-8-2 of the Unified Code of Corrections.
22 The sentencing court must take into account the time in
23 which the victim was held in servitude, with increased
24 penalties for cases in which the victim was held for
25 between 180 days and one year, and increased penalties
26 for cases in which the victim was held for more than
27 one year.

28 (B) Number of victims. In determining sentences
29 within statutory maximums, the sentencing court should
30 take into account the number of victims, and may
31

32 provide for substantially-increased sentences in cases
33 involving more than 10 victims.

34 (e) Restitution. Restitution is mandatory under this
35 Article. In addition to any other amount of loss identified,
36 the court shall order restitution including the greater of (1)
the gross income or value to the defendant of the victim's

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1 labor or services or (2) the value of the victim's labor as
2 guaranteed under the Minimum Wage Law and overtime provisions
3 of the Fair Labor Standards Act (FLSA) or the Minimum Wage Law,
4 whichever is greater.

5 (f) Trafficking victim services. Subject to the
6 availability of funds, the Department of Human Services may
7 provide or fund emergency services and assistance to
8 individuals who are victims of one or more offenses defined in
9 this Article 10A.

10 (720 ILCS 5/10A-15 new)

11 Sec. 10A-15. Forfeitures.

12 (a) A person who commits the offense of involuntary
13 servitude, involuntary servitude of a minor, or trafficking of
14 persons for forced labor or services under Section 10A-10 of
15 this Code shall forfeit to the State of Illinois any profits or
16 proceeds and any interest or property he or she has acquired or
17 maintained in violation of Section 10A-10 of this Code that the
18 sentencing court determines, after a forfeiture hearing, to
19 have been acquired or maintained as a result of maintaining a
20 person in involuntary servitude or participating in
21 trafficking in persons for forced labor or services.

22 (b) The court shall, upon petition by the Attorney General
23 or State's Attorney at any time following sentencing, conduct a
24 hearing to determine whether any property or property interest
25 is subject to forfeiture under this Section. At the forfeiture
26 hearing the people shall have the burden of establishing, by a
27 preponderance of the evidence, that property or property
28 interests are subject to forfeiture under this Section.

1910

29 (c) In any action brought by the People of the State of
30 Illinois under this Section, wherein any restraining order,
31 injunction, or prohibition or any other action in connection
32 with any property or interest subject to forfeiture under this
33 Section is sought, the circuit court presiding over the trial
34 of the person or persons charged with involuntary servitude,
35 involuntary servitude of a minor, or trafficking in persons for

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1 forced labor or services shall first determine whether there is
2 probable cause to believe that the person or persons so charged
3 have committed the offense of involuntary servitude,
4 involuntary servitude of a minor, or trafficking in persons for
5 forced labor or services and whether the property or interest
6 is subject to forfeiture pursuant to this Section. In order to
7 make such a determination, prior to entering any such order,
8 the court shall conduct a hearing without a jury, wherein the
9 People shall establish that there is: (i) probable cause that
10 the person or persons so charged have committed the offense of
11 involuntary servitude, involuntary servitude of a minor, or
12 trafficking in persons for forced labor or services and (ii)
13 probable cause that any property or interest may be subject to
14 forfeiture pursuant to this Section. The hearing may be
15 conducted simultaneously with a preliminary hearing, if the
16 prosecution is commenced by information or complaint, or by
17 motion of the People, at any stage in the proceedings. The
18 court may accept a finding of probable cause at a preliminary
19 hearing following the filing of an information charging the
20 offense of involuntary servitude, involuntary servitude of a
21 minor, or trafficking in persons for forced labor or services
22 or the return of an indictment by a grand jury charging the
23 offense of involuntary servitude, involuntary servitude of a
24 minor, or trafficking in persons for forced labor or services
25 as sufficient evidence of probable cause as provided in item
26 (i) of this subsection (c). Upon such a finding, the circuit
27 court shall enter such restraining order, injunction or
28

29 prohibition, or shall take such other action in connection with
30 any such property or other interest subject to forfeiture, as
31 is necessary to insure that such property is not removed from
32 the jurisdiction of the court, concealed, destroyed, or
33 otherwise disposed of by the owner of that property or interest
34 prior to a forfeiture hearing under this Section. The Attorney
35 General or State's Attorney shall file a certified copy of the
36 restraining order, injunction, or other prohibition with the
recorder of deeds or registrar of titles of each county where

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1 any such property of the defendant may be located. No such
2 injunction, restraining order, or other prohibition shall
3 affect the rights of any bona fide purchaser, mortgagee,
4 judgment creditor, or other lien holder arising prior to the
5 date of such filing. The court may, at any time, upon verified
6 petition by the defendant or an innocent owner or innocent bona
7 fide third party lien holder who neither had knowledge of, nor
8 consented to, the illegal act or omission, conduct a hearing to
9 release all or portions of any such property or interest that
10 the court previously determined to be subject to forfeiture or
11 subject to any restraining order, injunction, or prohibition or
12 other action. The court may release such property to the
13 defendant or innocent owner or innocent bona fide third party
14 lien holder who neither had knowledge of, nor consented to, the
15 illegal act or omission for good cause shown and within the
16 sound discretion of the court.

17 (d) Upon conviction of a person of involuntary servitude,
18 involuntary servitude of a minor, or trafficking in persons for
19 forced labor or services, the court shall authorize the
20 Attorney General to seize all property or other interest
21 declared forfeited under this Section upon such terms and
22 conditions as the court shall deem proper.

23 (e) All monies forfeited and the sale proceeds of all other
24 property forfeited and seized under this Section shall be
25 distributed as follows:
26

27 (1) one-half shall be divided equally among all State
28 agencies and units of local government whose officers or
29 employees conducted the investigation that resulted in the
30 forfeiture; and

31 (2) one-half shall be deposited into the Violent Crime
32 Victims Assistance Fund and targeted to services for
33 victims of the offenses of involuntary servitude,
34 involuntary servitude of a minor, and trafficking of
35 persons for forced labor or services.

(720 ILCS 5/10A-20 new)

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1 Sec. 10A-20. Certification. The Attorney General, State's
2 Attorneys, or any law enforcement official shall certify in
3 writing to the United States Department of Justice or other
4 federal agency, such as the United States Department of
5 Homeland Security, that an investigation or prosecution under
6 this Article 10A has begun and the individual who is a likely
7 victim of a crime described in this Article 10A is willing to
8 cooperate or is cooperating with the investigation to enable
9 the individual, if eligible under federal law, to qualify for
10 an appropriate special immigrant visa and to access available
11 federal benefits. Cooperation with law enforcement shall not be
12 required of victims of a crime described in this Article 10A
13 who are under 18 years of age. This certification shall be made
14 available to the victim and his or her designated legal
15 representative.