

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to amend* 48.355 (2d) (a) 2., 48.371 (3) (d), 48.415 (9m) (b) 2., 48.417 (1)
2 (d), 48.685 (1) (c), 50.065 (1) (e) 2., 51.20 (13) (ct) 2m., 301.048 (2) (bm) 1. a.,
3 301.45 (1d) (b), 302.045 (2) (c), 302.05 (3) (a) 1., 440.982 (2), 901.04 (3) (c),
4 939.615 (1) (b) 1., 939.62 (2m) (a) 1m. a., 939.632 (1) (e) 1., 946.82 (4), 948.13 (1)
5 (a), 949.03 (1) (b), 969.08 (10) (b), 970.03 (4) (a), 971.17 (1m) (b) 2m., 971.31 (11),
6 972.11 (2) (b) (intro.), 973.01 (3g), 973.01 (3m), 973.0135 (1) (b) 2., 973.017 (6)
7 (b), 973.048 (2m), 973.176 (3) and 973.20 (4m); and **to create** 16.964 (1) (gm),
8 343.12 (7) (c) 15m., 940.302, 948.051 and 973.20 (4o) of the statutes; **relating**
9 **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:

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

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

1. Numbers of investigations, arrests, prosecutions, and convictions of persons.
2. ~~Demographics of persons investigated, arrested, prosecuted, and convicted.~~
3. Demographics of victims, including nationality, age, method of recruitment, and country, state, or city of origin.

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

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

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

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

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

48.371 (3) (d) Any involvement of the child, whether as victim or perpetrator, in sexual intercourse or sexual contact in violation of s. 940.225, 948.02, 948.025, or 948.085, prostitution in violation of s. 944.30, sexual exploitation of a child in violation of s. 948.05, trafficking of a child in violation of s. 948.051, or causing a child

1 to view or listen to sexual activity in violation of s. 948.055, if the information is
2 necessary for the care of the child or for the protection of any person living in the
3 foster home, treatment foster home, group home, or residential care center for
4 children and youth.

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

6 48.415 **(9m)** (b) 2. The commission of a violation of s. 940.19 (3), 1999 stats.,
7 a violation of s. 940.19 (2), (4) or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025,
8 948.03 (2) (a) or (3) (a), 948.05, 948.051, 948.06 or 948.08 or a violation of the law of
9 any other state or federal law, if that violation would be a violation of s. 940.19 (2),
10 (4) or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (3) (a), 948.05,
11 948.051, 948.06 or 948.08 if committed in this state.

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

13 48.417 **(1)** (d) A court of competent jurisdiction has found that the parent has
14 committed a violation of s. 940.19 (3), 1999 stats., a violation of s. 940.19 (2), (4), or
15 (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (3) (a), 948.051, or
16 948.085 or a violation of the law of any other state or federal law, if that violation
17 would be a violation of s. 940.19 (2), (4), or (5), 940.225 (1) or (2), 948.02 (1) or (2),
18 948.025, 948.03 (2) (a) or (3) (a), 948.051, or 948.085 if committed in this state, and
19 that the violation resulted in great bodily harm, as defined in s. 939.22 (14), or in
20 substantial bodily harm, as defined in s. 939.22 (38), to the child or another child of
21 the parent. If the circumstances specified in this paragraph apply, the petition shall
22 be filed or joined in within 60 days after the date on which the court assigned to
23 exercise jurisdiction under this chapter determines, based on a finding that a
24 circumstance specified in this paragraph applies, that reasonable efforts to make it
25 possible for the child to return safely to his or her home are not required.

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

2 48.685 (1) (c) "Serious crime" means a violation of s. 940.19 (3), 1999 stats., a
3 violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19 (2), (4), (5) or (6), 940.22
4 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2), 940.29, 940.295, 948.02 (1) or (2), 948.025,
5 948.03 (2), 948.05, 948.051, 948.055, 948.06, 948.07, 948.08, 948.085, 948.11 (2) (a)
6 or (am), 948.12, 948.13, 948.21 (1), 948.30, or 948.53 or a violation of the law of any
7 other state or United States jurisdiction that would be a violation of s. 940.19 (3),
8 1999 stats., or a violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19 (2), (4),
9 (5) or (6), 940.22 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2), 940.29, 940.295, 948.02
10 (1) or (2), 948.025, 948.03 (2), 948.05, 948.051, 948.055, 948.06, 948.07, 948.08,
11 948.085, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21 (1), 948.30, or 948.53 if
12 committed in this state.

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

14 50.065 (1) (e) 2. For the purposes of an entity that serves persons under the age
15 of 18, "serious crime" includes a violation of s. 948.02 (2), 948.03 (2) (b) or (c), 948.05,
16 948.051, 948.055, 948.06, 948.07, 948.08, 948.085, 948.11 (2) (a) or (am), 948.12,
17 948.13, 948.21 (1), 948.30, or 948.53 or a violation of the law of any other state or
18 United States jurisdiction that would be a violation of s. 948.02 (2), 948.03 (2) (b) or
19 (c), 948.05, 948.051, 948.055, 948.06, 948.07, 948.08, 948.085, 948.11 (2) (a) or (am),
20 948.12, 948.13, 948.21 (1), 948.30, or 948.53 if committed in this state.

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

22 51.20 (13) (ct) 2m. If the subject individual is before the court on a petition filed
23 under a court order under s. 938.30 (5) (c) 1. and is found to have committed a
24 violation, or to have solicited, conspired, or attempted to commit a violation, of s.
25 940.22 (2), 940.225 (1), (2), or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.051,

1 948.055, 948.06, 948.07, 948.075, 948.08, 948.085, 948.095, 948.11 (2) (a) or (am),
2 948.12, 948.13, or 948.30, or of s. 940.30 or 940.31 if the victim was a minor and the
3 subject individual was not the victim's parent, the court shall require the individual
4 to comply with the reporting requirements under s. 301.45 unless the court
5 determines, after a hearing on a motion made by the individual, that the individual
6 is not required to comply under s. 301.45 (1m).

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

8 301.048 (2) (bm) 1. a. A crime specified in s. 940.19 (3), 1999 stats., s. 940.195
9 (3), 1999 stats., s. 943.23 (1m), 1999 stats., or s. 943.23 (1r), 1999 stats., or s. 940.01,
10 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (4) or (5), 940.195 (4)
11 or (5), 940.20, 940.201, 940.203, 940.21, 940.225 (1) to (3), 940.23, 940.285 (2) (a) 1.
12 or 2., 940.29, 940.295 (3) (b) 1g., 1m., 1r., 2., or 3., 940.31, 940.43 (1) to (3), 940.45 (1)
13 to (3), 941.20 (2) or (3), 941.26, 941.30, 941.327, 943.01 (2) (c), 943.011, 943.013,
14 943.02, 943.04, 943.06, 943.10 (2), 943.23 (1g), 943.30, 943.32, 946.43, 947.015,
15 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.051, 948.06, 948.07, 948.08,
16 948.085, or 948.30.

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

18 301.45 (1d) (b) "Sex offense" means a violation, or the solicitation, conspiracy,
19 or 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 person who committed the violation was not
23 the victim's parent.

24 **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.

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.

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.

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.

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
22 (1), 948.05 (1) or (1m), 948.051, 948.055 (1), 948.06, 948.07, 948.075, 948.08, 948.085,
23 948.11 (2) (a), 948.12, or 948.13.

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

*need regular trafficking stat.
940.302
if sexually
abused*

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

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

5 939.632 (1) (e) 1. Any felony under s. 940.01, 940.02, 940.03, 940.05, 940.09
6 (1c), 940.19 (2), (4) or (5), 940.21, 940.225 (1), (2) or (3), 940.305, 940.31, 941.20,
7 941.21, 943.02, 943.06, 943.10 (2), 943.23 (1g), 943.32 (2), 948.02 (1) or (2), 948.025,
8 948.03 (2) (a) or (c), 948.05, 948.051, 948.055, 948.07, 948.08, 948.085, or 948.30 (2).

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

10 940.302 Human trafficking. (1) In this section:

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

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

17 (c) "Trafficking" means recruiting, enticing, harboring, transporting,
18 providing, or obtaining, or attempting to recruit, entice, harbor, transport, provide,
19 or obtain, an individual ~~without the consent of the individual.~~ *for the purpose*
20 *of commercial sex acts or labor or services*

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

- 23 1. Causing or threatening to cause bodily harm to any individual.
- 24 2. Causing or threatening to cause financial harm to any individual.
- 25 3. Restraining or threatening to restrain any individual.

*Restructure
see Polaris*

*"person" ←
both individual / corp
commercial
sex act
"labor"*

1 4. Violating or threatening to violate a law.

2 5. Destroying, concealing, removing, confiscating, or possessing, or
3 threatening to destroy, conceal, remove, confiscate, or possess, any actual or
4 purported passport or any other actual or purported official identification document
5 of any individual.

6 6. Extortion.

7 7. Fraud or deception.

8 8. Debt bondage.

9 9. Controlling any individual's access to an addictive controlled substance.

10 10. Using any scheme or pattern to cause an individual to believe that any
11 individual would suffer bodily harm, financial harm, restraint, or other harm.

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

15 (3) Any person who incurs an injury or death as a result of a violation of sub.
16 (2) may bring a civil action against the person who committed the violation. In
17 addition to actual damages, the court may award punitive damages to the injured
18 party not to exceed treble the amount of actual damages incurred. Att'y fees?

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

20 946.82 (4) "Racketeering activity" means any activity specified in 18 USC 1961
21 (1) in effect as of April 27, 1982, or the attempt, conspiracy to commit, or commission
22 of any of the felonies specified in: chs. 945 and 961 and ss. 49.49, 134.05, 139.44 (1),
23 180.0129, 181.0129, 185.825, 201.09 (2), 215.12, 221.0625, 221.0636, 221.0637,
24 221.1004, 551.41, 551.42, 551.43, 551.44, 553.41 (3) and (4), 553.52 (2), 940.01,
25 940.19 (4) to (6), 940.20, 940.201, 940.203, 940.21, 940.30, 940.302, 940.305, 940.31,

1 941.20 (2) and (3), 941.26, 941.28, 941.298, 941.31, 941.32, 942.09, 943.01 (2), (2d),
 2 or (2g), 943.011, 943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06, 943.10,
 3 943.20 (3) (bf) to (e), 943.201, 943.203, 943.23 (1g), (2) and (3), 943.24 (2), 943.27,
 4 943.28, 943.30, 943.32, 943.34 (1) (bf), (bm), and (c), 943.38, 943.39, 943.40, 943.41
 5 (8) (b) and (c), 943.50 (4) (bf), (bm), and (c), 943.60, 943.70, 943.76, 943.81, 943.82,
 6 943.83, 943.84, 943.85, 943.86, 943.87, 943.88, 943.89, 943.90, 944.21 (5) (c) and (e),
 7 944.32, 944.33 (2), 944.34, 945.03 (1m), 945.04 (1m), 945.05 (1), 945.08, 946.10,
 8 946.11, 946.12, 946.13, 946.31, 946.32 (1), 946.48, 946.49, 946.61, 946.64, 946.65,
 9 946.72, 946.76, 946.79, 947.015, 948.05, 948.051, 948.08, 948.12, and 948.30.

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

11 *sexual servitude of a*
 12 **948.051 ~~Trafficking of a child.~~** (1) Whoever knowingly engages in
 13 trafficking, as defined in s. ~~940.302 (1) (c)~~, any child if the trafficking is done for the
 14 purpose of commercial sex acts or sexually explicit performance is guilty of a Class

15 A felony. *Definitions.*

16 (2) Whoever benefits in any manner from a violation of sub. (1) is guilty of a
 17 Class A felony if the person knows *or should know* that the benefits come from an act
 18 described in sub. (1).

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

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

24 948.13 (1) (a) A crime under s. 940.22 (2) or 940.225 (2) (c) or (cm), if the victim
 is under 18 years of age at the time of the offense, or a crime under s. 948.02 (1) or

Follow Model

1 (2), 948.025 (1), 948.05 (1) or (1m), 948.051, 948.06, 948.07 (1), (2), (3), or (4), 948.075,
2 or 948.085.

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

4 949.03 (1) (b) The commission or the attempt to commit any crime specified in
5 s. 346.62 (4), 346.63 (2) or (6), 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08,
6 940.09, 940.10, 940.19, 940.20, 940.201, 940.21, 940.22 (2), 940.225, 940.23, 940.24,
7 *Good* 940.25, 940.285, 940.29, 940.30, 940.302, 940.305, 940.31, 940.32, 941.327, 943.02,
8 943.03, 943.04, 943.10, 943.20, 943.23 (1g), 943.32, 943.81, 943.86, 943.87, 948.02,
9 948.025, 948.03, 948.04, 948.051, 948.07, 948.085, 948.095, 948.20, 948.30 or 948.51.

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

11 969.08 (10) (b) "Serious crime" means any crime specified in s. 943.23 (1m), *need*
12 1999 stats., or s. 943.23 (1r), 1999 stats., or s. 346.62 (4), 940.01, 940.02, 940.03, *Trafficking*
13 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (5), 940.195 (5), 940.20, 940.201,
14 940.203, 940.21, 940.225 (1) to (3), 940.23, 940.24, 940.25, 940.29, 940.295 (3) (b) 1g.,
15 1m., 1r., 2. or 3., 940.31, 941.20 (2) or (3), 941.26, 941.30, 941.327, 943.01 (2) (c),
16 943.011, 943.013, 943.02, 943.03, 943.04, 943.06, 943.10, 943.23 (1g), 943.30, 943.32,
17 943.81, 943.82, 943.83, 943.85, 943.86, 943.87, 943.88, 943.89, 943.90, 946.01,
18 946.02, 946.43, 947.015, 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.051,
19 948.06, 948.07, 948.085, or 948.30 or, if the victim is a financial institution, as defined
20 in s. 943.80 (2), a crime under s. 943.84 (1) or (2).

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

22 970.03 (4) (a) If the defendant is accused of a crime under s. 940.225, 948.02,
23 948.025, 948.05, 948.051, 948.06, 948.085, or 948.095, the court may exclude from
24 the hearing all persons who are not officers of the court, members of the
25 complainant's or defendant's families or others considered by the court to be

↑
940.302 if sexually molested

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

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

8 971.17 **(1m)** (b) 2m. If the defendant under sub. (1) is found not guilty by reason
9 of mental disease or defect for a violation, or for the solicitation, conspiracy, or
10 attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2), or (3), 944.06, 948.02
11 (1) or (2), 948.025, 948.05, 948.051, 948.055, 948.06, 948.07, 948.075, 948.08,
12 948.085, 948.095, 948.11 (2) (a) or (am), 948.12, 948.13, or 948.30, or of s. 940.30 or
13 940.31 if the victim was a minor and the defendant was not the victim's parent, the
14 court shall require the defendant to comply with the reporting requirements under
15 s. 301.45 unless the court determines, after a hearing on a motion made by the
16 defendant, that the defendant is not required to comply under s. 301.45 (1m).

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

18 971.31 **(11)** In actions under s. 940.225, 948.02, 948.025, 948.051, 948.085, or
19 948.095, evidence which is admissible under s. 972.11 (2) must be determined by the
20 court upon pretrial motion to be material to a fact at issue in the case and of sufficient
21 probative value to outweigh its inflammatory and prejudicial nature before it may
22 be introduced at trial.

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

24 972.11 **(2)** (b) (intro.) If the defendant is accused of a crime under s. 940.225,
25 948.02, 948.025, 948.05, 948.051, 948.06, 948.085, or 948.095, any evidence

*940.302 if sexually
motivated*

*940.302 if sexually
motivated*

1 concerning the complaining witness's prior sexual conduct or opinions of the
2 witness's prior sexual conduct and reputation as to prior sexual conduct shall not be
3 admitted into evidence during the course of the hearing or trial, nor shall any
4 reference to such conduct be made in the presence of the jury, except the following,
5 subject to s. 971.31 (11):

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

7 973.01 **(3g)** EARNED RELEASE PROGRAM ELIGIBILITY. When imposing a bifurcated
8 sentence under this section on a person convicted of a crime other than a crime
9 specified in ch. 940 or s. 948.02, 948.025, 948.03, 948.05, 948.051, 948.055, 948.06,
10 948.07, 948.075, 948.08, 948.085, or 948.095, the court shall, as part of the exercise
11 of its sentencing discretion, decide whether the person being sentenced is eligible or
12 ineligible to participate in the earned release program under s. 302.05 (3) during the
13 term of confinement in prison portion of the bifurcated sentence.

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

15 973.01 **(3m)** CHALLENGE INCARCERATION PROGRAM ELIGIBILITY. When imposing
16 a bifurcated sentence under this section on a person convicted of a crime other than
17 a crime specified in ch. 940 or s. 948.02, 948.025, 948.03, 948.05, 948.051, 948.055,
18 948.06, 948.07, 948.075, 948.08, 948.085, or 948.095, the court shall, as part of the
19 exercise of its sentencing discretion, decide whether the person being sentenced is
20 eligible or ineligible for the challenge incarceration program under s. 302.045 during
21 the term of confinement in prison portion of the bifurcated sentence.

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

23 973.0135 **(1)** (b) 2. Any felony under s. 940.09 (1), 1999 stats., s. 943.23 (1m)
24 or (1r), 1999 stats., s. 948.35 (1) (b) or (c), 1999 stats., or s. 948.36, 1999 stats., s.
25 940.01, 940.02, 940.03, 940.05, 940.09 (1c), 940.16, 940.19 (5), 940.195 (5), 940.21,

1 940.225 (1) or (2), 940.305, 940.31, 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (1g),
2 943.32 (2), 946.43 (1m), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c), 948.05,
3 948.051, 948.06, 948.07, 948.075, 948.08, or 948.30 (2).

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

5 973.017 **(6)** (b) When making a sentencing decision concerning a person
6 convicted of a violation of s. 948.02 (1) or (2), 948.025 (1), ~~or~~ 948.03 (2) or (3), or
7 948.051, the court shall consider as an aggravating factor the fact that the person
8 was a person responsible for the welfare of the child who was the victim of the
9 violation.

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

11 973.048 **(2m)** If a court imposes a sentence or places a person on probation for
12 a violation, or for the solicitation, conspiracy or attempt to commit a violation, of s.
13 940.22 (2), 940.225 (1), (2), or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.051,
14 948.055, 948.06, 948.07, 948.075, 948.08, 948.085, 948.095, 948.11 (2) (a) or (am),
15 948.12, 948.13, or 948.30, or of s. 940.30 or 940.31 if the victim was a minor and the
16 person was not the victim's parent, the court shall require the person to comply with
17 the reporting requirements under s. 301.45 unless the court determines, after a
18 hearing on a motion made by the person, that the person is not required to comply
19 under s. 301.45 (1m).

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

21 973.176 **(3)** CHILD SEX OFFENDER WORKING WITH CHILDREN. Whenever a court
22 imposes a sentence or places a defendant on probation regarding a conviction under
23 s. 940.22 (2) or 940.225 (2) (c) or (cm), if the victim is under 18 years of age at the time
24 of the offense, or a conviction under s. 948.02 (1) or (2), 948.025 (1), 948.05 (1) or (1m),

1 948.051, 948.06, 948.07 (1), (2), (3), or (4), 948.075, or 948.085, the court shall inform
2 the defendant of the requirements and penalties under s. 948.13.

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

4 973.20 (4m) If the defendant violated s. 940.225, 948.02, 948.025, 948.05,
5 948.051, 948.06, 948.07, 948.08, or 948.085 and sub. (3) (a) does not apply, the
6 restitution order may require that the defendant pay an amount, not to exceed
7 \$10,000, equal to the cost of necessary professional services relating to psychiatric
8 and psychological care and treatment. The \$10,000 limit under this subsection does
9 not apply to the amount of any restitution ordered under sub. (3) or (5) for the cost
10 of necessary professional services relating to psychiatric and psychological care and
11 treatment.

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

13 973.20 (4o) If the defendant violated s. 940.302 or 948.051, and sub. (2) or (3)
14 does not apply, the restitution order may require that the defendant pay an amount
15 equal to any of the following:

- 16 (a) The costs of necessary transportation, housing, and child care for the victim.
- 17 (b) The greater of the following:
 - 18 1. The gross income gained by the defendant due to the services of the victim.
 - 19 2. The value of the victim's services as provided under the state minimum wage.

good

20 (c) Any expenses incurred by the victim if relocation for personal safety is
21 determined to be necessary by the district attorney ~~or if relocation is determined to~~
22 ~~be necessary for emotional well being as determined by a mental health treatment~~
23 ~~provider.~~

(d) country of origin return

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

1 SECTION 37. Initial applicability.

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

4 (END)

- ① SOL for child trafficking - tolling 4/1/18
- ② lesser included offenses for st. kidnapping, etc.
- ③ immunity from prosecution for crimes as result of trafficking hold off - maybe parallel to involuntary intoxication
- ④ public benefits - OK / some sort of limit pros + 60 days
- ⑤ possibly create different trafficking evidentiary standards - OK
- ⑥ need specific stat. for punishing ~~businesses~~ businesses - OK
- ⑦ applicability of labor standards -
- ⑧ No involuntary servitude section
- ⑨ ~~forfeiture~~

child = "e"



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-2066/P1

CMH:wlj:nwn

P2

note
wed. if possible

+ CTS → stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

repeal car

1 **AN ACT to amend** 48.355 (2d) (a) 2., 48.371 (3) (d), 48.415 (9m) (b) 2., 48.417 (1)
2 (d), 48.685 (1) (c), 50.065 (1) (e) 2., 51.20 (13) (ct) 2m., 301.048 (2) (bm) 1. a.,
3 301.45 (1d) (b), 302.045 (2) (c), 302.05 (3) (a) 1., 440.982 (2), 901.04 (3) (c),
4 939.615 (1) (b) 1., 939.62 (2m) (a) 1m. a., 939.632 (1) (e) 1., 946.82 (4), 948.13 (1)
5 (a), 949.03 (1) (b), 969.08 (10) (b), 970.03 (4) (a), 971.17 (1m) (b) 2m., 971.31 (11),
6 972.11 (2) (b) (intro.), 973.01 (3g), 973.01 (3m), 973.0135 (1) (b) 2., 973.017 (6)
7 (b), 973.048 (2m), 973.176 (3) and 973.20 (4m); and **to create** 16.964 (1) (gm),
8 343.12 (7) (c) 15m., 940.302, 948.051 and 973.20 (4o) of the statutes; **relating**
9 **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:

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

2 16.964 (1) (gm) Collect data relating to the number and nature of violations of
3 ss. 940.302 and 948.051 and publish statistics relating to the violations. The data
4 shall include all of the following:

5 1. Numbers of investigations, arrests, prosecutions, and convictions of persons.

6 ~~2. Demographics of persons investigated, arrested, prosecuted, and convicted.~~

7 20 ~~2.~~ 3. Demographics of victims, including nationality, age, method of recruitment,
8 and country, state, or city of origin.

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

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

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

12 48.355 (2d) (a) 2. "Sexual abuse" means a violation of s. 940.225, 944.30,
13 948.02, 948.025, 948.05, 948.051, 948.055, 948.06, 948.085, 948.09 or 948.10 or a
14 violation of the law of any other state or federal law if that violation would be a
15 violation of s. 940.225, 944.30, 948.02, 948.025, 948.05, 948.051, 948.055, 948.06,
16 948.085, 948.09 or 948.10 if committed in this state.

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

18 48.371 (3) (d) Any involvement of the child, whether as victim or perpetrator,
19 in sexual intercourse or sexual contact in violation of s. 940.225, 948.02, 948.025, or
20 948.085, prostitution in violation of s. 944.30, sexual exploitation of a child in
21 violation of s. 948.05, trafficking of a child in violation of s. 948.051, or causing a child

1 to view or listen to sexual activity in violation of s. 948.055, if the information is
2 necessary for the care of the child or for the protection of any person living in the
3 foster home, treatment foster home, group home, or residential care center for
4 children and youth.

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

6 48.415 (9m) (b) 2. The commission of a violation of s. 940.19 (3), 1999 stats.,
7 a violation of s. 940.19 (2), (4) or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025,
8 948.03 (2) (a) or (3) (a), 948.05, 948.051, 948.06 or 948.08 or a violation of the law of
9 any other state or federal law, if that violation would be a violation of s. 940.19 (2),
10 (4) or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (3) (a), 948.05,
11 948.051, 948.06 or 948.08 if committed in this state.

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

13 48.417 (1) (d) A court of competent jurisdiction has found that the parent has
14 committed a violation of s. 940.19 (3), 1999 stats., a violation of s. 940.19 (2), (4), or
15 (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (3) (a), 948.051, or
16 948.085 or a violation of the law of any other state or federal law, if that violation
17 would be a violation of s. 940.19 (2), (4), or (5), 940.225 (1) or (2), 948.02 (1) or (2),
18 948.025, 948.03 (2) (a) or (3) (a), 948.051, or 948.085 if committed in this state, and
19 that the violation resulted in great bodily harm, as defined in s. 939.22 (14), or in
20 substantial bodily harm, as defined in s. 939.22 (38), to the child or another child of
21 the parent. If the circumstances specified in this paragraph apply, the petition shall
22 be filed or joined in within 60 days after the date on which the court assigned to
23 exercise jurisdiction under this chapter determines, based on a finding that a
24 circumstance specified in this paragraph applies, that reasonable efforts to make it
25 possible for the child to return safely to his or her home are not required.

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

2 48.685 (1) (c) "Serious crime" means a violation of s. 940.19 (3), 1999 stats., a
3 violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19 (2), (4), (5) or (6), 940.22
4 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2), 940.29, 940.295, 948.02 (1) or (2), 948.025,
5 948.03 (2), 948.05, 948.051, 948.055, 948.06, 948.07, 948.08, 948.085, 948.11 (2) (a)
6 or (am), 948.12, 948.13, 948.21 (1), 948.30, or 948.53 or a violation of the law of any
7 other state or United States jurisdiction that would be a violation of s. 940.19 (3),
8 1999 stats., or a violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19 (2), (4),
9 (5) or (6), 940.22 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2), 940.29, 940.295, 948.02
10 (1) or (2), 948.025, 948.03 (2), 948.05, 948.051, 948.055, 948.06, 948.07, 948.08,
11 948.085, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21 (1), 948.30, or 948.53 if
12 committed in this state.

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

14 50.065 (1) (e) 2. For the purposes of an entity that serves persons under the age
15 of 18, "serious crime" includes a violation of s. 948.02 (2), 948.03 (2) (b) or (c), 948.05,
16 948.051, 948.055, 948.06, 948.07, 948.08, 948.085, 948.11 (2) (a) or (am), 948.12,
17 948.13, 948.21 (1), 948.30, or 948.53 or a violation of the law of any other state or
18 United States jurisdiction that would be a violation of s. 948.02 (2), 948.03 (2) (b) or
19 (c), 948.05, 948.051, 948.055, 948.06, 948.07, 948.08, 948.085, 948.11 (2) (a) or (am),
20 948.12, 948.13, 948.21 (1), 948.30, or 948.53 if committed in this state.

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

22 51.20 (13) (ct) 2m. If the subject individual is before the court on a petition filed
23 under a court order under s. 938.30 (5) (c) 1. and is found to have committed a
24 violation, or to have solicited, conspired, or attempted to commit a violation, of s.
25 940.22 (2), 940.225 (1), (2), or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.051,

940.302 (2) (a) 10/60^Δ

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1 948.055, 948.06, 948.07, 948.075, 948.08, 948.085, 948.095, 948.11 (2) (a) or (am),
 2 948.12, 948.13, or 948.30, or of s. 940.30 or 940.31 if the victim was a minor and the
 3 subject individual was not the victim's parent, the court shall require the individual
 4 to comply with the reporting requirements under s. 301.45 unless the court
 5 determines, after a hearing on a motion made by the individual, that the individual
 6 is not required to comply under s. 301.45 (1m).

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

8 301.048 (2) (bm) 1. a. A crime specified in s. 940.19 (3), 1999 stats., s. 940.195
 9 (3), 1999 stats., s. 943.23 (1m), 1999 stats., or s. 943.23 (1r), 1999 stats., or s. 940.01,
 10 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (4) or (5), 940.195 (4)
 11 or (5), 940.20, 940.201, 940.203, 940.21, 940.225 (1) to (3), 940.23, 940.285 (2) (a) 1.
 12 or 2., 940.29, 940.295 (3) (b) 1g., 1m., 1r., 2., or 3., 940.31, 940.43 (1) to (3), 940.45 (1)
 13 to (3), 941.20 (2) or (3), 941.26, 941.30, 941.327, 943.01 (2) (c), 943.011, 943.013,
 14 943.02, 943.04, 943.06, 943.10 (2), 943.23 (1g), 943.30, 943.32, 946.43, 947.015,
 15 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.051, 948.06, 948.07, 948.08,
 16 948.085, or 948.30.

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

18 301.45 (1d) (b) "Sex offense" means a violation, or the solicitation, conspiracy,
 19 or 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 person who committed the violation was not
 23 the victim's parent.

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

948.0302 (2)(a)
10/20/07

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.

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.

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.

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. INS 6-17

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
22 (1), 948.05 (1) or (1m), 948.051, 948.055 (1), 948.06, 948.07, 948.075, 948.08, 948.085,
23 948.11 (2) (a), 948.12, or 948.13.

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

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

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

5 939.632 (1) (e) 1. Any felony under s. 940.01, 940.02, 940.03, 940.05, 940.09
6 (1c), 940.19 (2), (4) or (5), 940.21, 940.225 (1), (2) or (3), 940.305, 940.31, 941.20,
7 941.21, 943.02, 943.06, 943.10 (2), 943.23 (1g), 943.32 (2), 948.02 (1) or (2), 948.025,
8 948.03 (2) (a) or (c), 948.05, 948.051, 948.055, 948.07, 948.08, 948.085, or 948.30 (2).

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

10 **940.302 Human trafficking.** (1) In this section:

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

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

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

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

- 23 a ~~1~~ Causing or threatening to cause bodily harm to any individual.
- 24 b ~~2~~ Causing or threatening to cause financial harm to any individual.
- 25 c ~~3~~ Restraining or threatening to restrain any individual.

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1 ~~d 4~~ Violating or threatening to violate a law.

2 ~~e 5~~ Destroying, concealing, removing, confiscating, or possessing, or
3 threatening to destroy, conceal, remove, confiscate, or possess, any actual or
4 purported passport or any other actual or purported official identification document
5 of any individual.

6 ~~f 6~~ Extortion.

7 ~~g 7~~ Fraud or deception.

8 ~~h 8~~ Debt bondage.

9 ~~i 9~~ Controlling any individual's access to an addictive controlled substance.

10 ~~j 10~~ Using any scheme or pattern to cause an individual to believe that any
11 individual would suffer bodily harm, financial harm, restraint, or other harm.

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

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

and reasonable attorney fees

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

20 946.82 (4) "Racketeering activity" means any activity specified in 18 USC 1961
21 (1) in effect as of April 27, 1982, or the attempt, conspiracy to commit, or commission
22 of any of the felonies specified in: chs. 945 and 961 and ss. 49.49, 134.05, 139.44 (1),
23 180.0129, 181.0129, 185.825, 201.09 (2), 215.12, 221.0625, 221.0636, 221.0637,
24 221.1004, 551.41, 551.42, 551.43, 551.44, 553.41 (3) and (4), 553.52 (2), 940.01,
25 940.19 (4) to (6), 940.20, 940.201, 940.203, 940.21, 940.30, 940.302, 940.305, 940.31,

1 941.20 (2) and (3), 941.26, 941.28, 941.298, 941.31, 941.32, 942.09, 943.01 (2), (2d),
 2 or (2g), 943.011, 943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06, 943.10,
 3 943.20 (3) (bf) to (e), 943.201, 943.203, 943.23 (1g), (2) and (3), 943.24 (2), 943.27,
 4 943.28, 943.30, 943.32, 943.34 (1) (bf), (bm), and (c), 943.38, 943.39, 943.40, 943.41
 5 (8) (b) and (c), 943.50 (4) (bf), (bm), and (c), 943.60, 943.70, 943.76, 943.81, 943.82,
 6 943.83, 943.84, 943.85, 943.86, 943.87, 943.88, 943.89, 943.90, 944.21 (5) (c) and (e),
 7 944.32, 944.33 (2), 944.34, 945.03 (1m), 945.04 (1m), 945.05 (1), 945.08, 946.10,
 8 946.11, 946.12, 946.13, 946.31, 946.32 (1), 946.48, 946.49, 946.61, 946.64, 946.65,
 9 946.72, 946.76, 946.79, 947.015, 948.05, 948.051, 948.08, 948.12, and 948.30.

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

11 **948.051 Trafficking of a child.** (1) Whoever knowingly engages in

12 trafficking, as defined in s. 940.302 (1) (c), any child if the trafficking is done for the
 13 purpose of commercial sex acts ^{add ✓} or sexually explicit performance is guilty of a Class
 14 ~~A~~ felony. ^{as defined in s. 940.302 (1) (c) ↑}

15 (2) Whoever benefits in any manner from a violation of sub. (1) is guilty of a
 16 Class ~~A~~ felony if the person knows or ~~should know~~ that the benefits come from an act
 17 described in sub. (1).

18 (3) Any person who incurs an injury or death as a result of a violation of sub.
 19 (1) or (2) may bring a civil action against the person who committed the violation.

20 In addition to actual damages, the court may award punitive damages to the injured
 21 party not to exceed treble the amount of actual damages incurred ^{and reasonable attorney fees}

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

23 948.13 (1) (a) A crime under s. 940.22 (2) or 940.225 (2) (c) or (cm), if the victim
 24 is under 18 years of age at the time of the offense, or a crime under s. 948.02 (1) or

1 (2), 948.025 (1), 948.05 (1) or (1m), 948.051, 948.06, 948.07 (1), (2), (3), or (4), 948.075,
2 or 948.085.

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

4 949.03 (1) (b) The commission or the attempt to commit any crime specified in
5 s. 346.62 (4), 346.63 (2) or (6), 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08,
6 940.09, 940.10, 940.19, 940.20, 940.201, 940.21, 940.22 (2), 940.225, 940.23, 940.24,
7 940.25, 940.285, 940.29, 940.30, 940.302, 940.305, 940.31, 940.32, 941.327, 943.02,
8 943.03, 943.04, 943.10, 943.20, 943.23 (1g), 943.32, 943.81, 943.86, 943.87, 948.02,
9 948.025, 948.03, 948.04, 948.051, 948.07, 948.085, 948.095, 948.20, 948.30 or 948.51.

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

11 969.08 (10) (b) "Serious crime" means any crime specified in s. 943.23 (1m),
12 1999 stats., or s. 943.23 (1r), 1999 stats., or s. 346.62 (4), 940.01, 940.02, 940.03,
13 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (5), 940.195 (5), 940.20, 940.201,
14 940.203, 940.21, 940.225 (1) to (3), 940.23, 940.24, 940.25, 940.29, 940.295 (3) (b) 1g.,
15 1m., 1r., 2. or 3., 940.31, 941.20 (2) or (3), 941.26, 941.30, 941.327, 943.01 (2) (c),
16 943.011, 943.013, 943.02, 943.03, 943.04, 943.06, 943.10, 943.23 (1g), 943.30, 943.32,
17 943.81, 943.82, 943.83, 943.85, 943.86, 943.87, 943.88, 943.89, 943.90, 946.01,
18 946.02, 946.43, 947.015, 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.051,
19 948.06, 948.07, 948.085, or 948.30 or, if the victim is a financial institution, as defined
20 in s. 943.80 (2), a crime under s. 943.84 (1) or (2).

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

22 970.03 (4) (a) If the defendant is accused of a crime under s. 940.225, 948.02,
23 948.025, 948.05, 948.051, 948.06, 948.085, or 948.095, the court may exclude from
24 the hearing all persons who are not officers of the court, members of the
25 complainant's or defendant's families or others considered by the court to be

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

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

8 971.17 (1m) (b) 2m. If the defendant under sub. (1) is found not guilty by reason
 9 of mental disease or defect for a violation, or for the solicitation, conspiracy, or
 10 attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2), or (3), 944.06, 948.02
 11 (1) or (2), 948.025, 948.05, 948.051, 948.055, 948.06, 948.07, 948.075, 948.08,
 12 948.085, 948.095, 948.11 (2) (a) or (am), 948.12, 948.13, or 948.30, or of s. 940.30 or
 13 940.31 if the victim was a minor and the defendant was not the victim's parent, the
 14 court shall require the defendant to comply with the reporting requirements under
 15 s. 301.45 unless the court determines, after a hearing on a motion made by the
 16 defendant, that the defendant is not required to comply under s. 301.45 (1m).

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

18 971.31 (11) In actions under s. 940.225, 948.02, 948.025, 948.051, 948.085, or
 19 948.095, evidence which is admissible under s. 972.11 (2) must be determined by the
 20 court upon pretrial motion to be material to a fact at issue in the case and of sufficient
 21 probative value to outweigh its inflammatory and prejudicial nature before it may
 22 be introduced at trial.

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

24 972.11 (2) (b) (intro.) If the defendant is accused of a crime under s. 940.225,
 25 948.02, 948.025, 948.05, 948.051, 948.06, 948.085, or 948.095, any evidence

940302 (2) (a)
6/8/00

940302 (2) ^

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1 concerning the complaining witness's prior sexual conduct or opinions of the
2 witness's prior sexual conduct and reputation as to prior sexual conduct shall not be
3 admitted into evidence during the course of the hearing or trial, nor shall any
4 reference to such conduct be made in the presence of the jury, except the following,
5 subject to s. 971.31 (11):

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

7 973.01 (3g) EARNED RELEASE PROGRAM ELIGIBILITY. When imposing a bifurcated
8 sentence under this section on a person convicted of a crime other than a crime
9 specified in ch. 940 or s. 948.02, 948.025, 948.03, 948.05, 948.051, 948.055, 948.06,
10 948.07, 948.075, 948.08, 948.085, or 948.095, the court shall, as part of the exercise
11 of its sentencing discretion, decide whether the person being sentenced is eligible or
12 ineligible to participate in the earned release program under s. 302.05 (3) during the
13 term of confinement in prison portion of the bifurcated sentence.

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

15 973.01 (3m) CHALLENGE INCARCERATION PROGRAM ELIGIBILITY. When imposing
16 a bifurcated sentence under this section on a person convicted of a crime other than
17 a crime specified in ch. 940 or s. 948.02, 948.025, 948.03, 948.05, 948.051, 948.055,
18 948.06, 948.07, 948.075, 948.08, 948.085, or 948.095, the court shall, as part of the
19 exercise of its sentencing discretion, decide whether the person being sentenced is
20 eligible or ineligible for the challenge incarceration program under s. 302.045 during
21 the term of confinement in prison portion of the bifurcated sentence.

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

23 973.0135 (1) (b) 2. Any felony under s. 940.09 (1), 1999 stats., s. 943.23 (1m)
24 or (1r), 1999 stats., s. 948.35 (1) (b) or (c), 1999 stats., or s. 948.36, 1999 stats., s.
25 940.01, 940.02, 940.03, 940.05, 940.09 (1c), 940.16, 940.19 (5), 940.195 (5), 940.21,

1 940.225 (1) or (2), 940.305, 940.31, 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (1g),
2 943.32 (2), 946.43 (1m), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c), 948.05,
3 948.051, 948.06, 948.07, 948.075, 948.08, or 948.30 (2).

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

5 973.017 (6) (b) When making a sentencing decision concerning a person
6 convicted of a violation of s. 948.02 (1) or (2), 948.025 (1), ~~or~~ 948.03 (2) or (3), or
7 948.051, the court shall consider as an aggravating factor the fact that the person
8 was a person responsible for the welfare of the child who was the victim of the
9 violation.

940.302 (2)(a) b/b0¹

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

11 973.048 (2m) If a court imposes a sentence or places a person on probation for
12 a violation, or for the solicitation, conspiracy or attempt to commit a violation, of s.
13 940.22 (2), 940.225 (1), (2), or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.051,
14 948.055, 948.06, 948.07, 948.075, 948.08, 948.085, 948.095, 948.11 (2) (a) or (am),
15 948.12, 948.13, or 948.30, or of s. 940.30 or 940.31 if the victim was a minor and the
16 person was not the victim's parent, the court shall require the person to comply with
17 the reporting requirements under s. 301.45 unless the court determines, after a
18 hearing on a motion made by the person, that the person is not required to comply
19 under s. 301.45 (1m).

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

21 973.176 (3) CHILD SEX OFFENDER WORKING WITH CHILDREN. Whenever a court
22 imposes a sentence or places a defendant on probation regarding a conviction under
23 s. 940.22 (2) or 940.225 (2) (c) or (cm), if the victim is under 18 years of age at the time
24 of the offense, or a conviction under s. 948.02 (1) or (2), 948.025 (1), 948.05 (1) or (1m),

1 948.051, 948.06, 948.07 (1), (2), (3), or (4), 948.075, or 948.085, the court shall inform
2 the defendant of the requirements and penalties under s. 948.13.

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

*add
add
sex
notified
↓*

4 973.20 (4m) If the defendant violated s. 940.225, 948.02, 948.025, 948.05,
5 948.051, 948.06, 948.07, 948.08, or 948.085 and sub. (3) (a) does not apply, the
6 restitution order may require that the defendant pay an amount, not to exceed
7 \$10,000, equal to the cost of necessary professional services relating to psychiatric
8 and psychological care and treatment. The \$10,000 limit under this subsection does
9 not apply to the amount of any restitution ordered under sub. (3) or (5) for the cost
10 of necessary professional services relating to psychiatric and psychological care and
11 treatment.

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

13 973.20 (4o) If the defendant violated s. 940.302 or 948.051, and sub. (2) or (3)
14 does not apply, the restitution order may require that the defendant pay an amount
15 equal to any of the following:

16 (a) The costs of necessary transportation, housing, and child care for the victim.

17 (b) The greater of the following:

18 1. The gross income gained by the defendant due to the services of the victim.

19 2. The value of the victim's services as provided under the state minimum wage.

20 (c) Any expenses incurred by the victim if relocation for personal safety is
21 determined to be necessary by the district attorney or if relocation is determined to
22 be necessary for emotional well being as determined by a mental health treatment
23 provider.

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

[Handwritten signatures and notes at the bottom of the page]

