SENATE SUBSTITUTE AMENDMENT 2,

TO SENATE BILL 471

February 24, 2014 – Offered by Senator SHILLING.

1   AN ACT *to amend* 48.685 (1) (c) 2., 50.065 (1) (e) 2. and 103.34 (1) (b) 2.; and *to*

2   *repeal and recreate* 948.21 of the statutes; **relating to:** neglect of a child and

3   providing penalties.

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

4   **SECTION 1.** 48.685 (1) (c) 2. of the statutes is amended to read:

5   48.685 **(1)** (c) 2. A violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19

6 (2), (4), (5) or (6), 940.22 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2), 940.29, 940.295,

7 942.09 (2), 948.02 (1) or (2), 948.025, 948.03 (2), 948.05, 948.051, 948.055, 948.06,

8 948.07, 948.08, 948.085, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21 (1) (2), 948.30,

9 or 948.53.

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

11   50.065 **(1)** (e) 2. For the purposes of an entity that serves persons under the age

12 of 18, "serious crime" includes a violation of s. 948.02 (2), 948.03 (2) (b) or (c), 948.05,

1   948.051, 948.055, 948.06, 948.07, 948.08, 948.085, 948.11 (2) (a) or (am), 948.12,

2   948.13, 948.21 (1) (2), 948.30, or 948.53 or a violation of the law of any other state or

3   United States jurisdiction that would be a violation of s. 948.02 (2), 948.03 (2) (b) or

4   (c), 948.05, 948.051, 948.055, 948.06, 948.07, 948.08, 948.085, 948.11 (2) (a) or (am),

5   948.12, 948.13, 948.21 (1) (2), 948.30, or 948.53 if committed in this state.

6   SECTION 3. 103.34 (1) (b) 2. of the statutes is amended to read:

7   103.34 **(1)** (b) 2. A violation of s. 940.01, 940.02, 940.03, 940.05, 940.06, 940.07,

8   940.08, 940.09, 940.10, 940.19 (2), (4), (5), or (6), 940.21, 940.225 (1), (2), or (3),

9   940.23, 940.235, 940.24, 940.25, 940.30, 940.302, 940.305, 940.31, 943.02, 943.03,

10   943.04, 943.10, 943.30, 943.31, 943.32, 944.32, 944.33 (2), 944.34, 946.10, 948.02 (1)

11   or (2), 948.025, 948.03 (2) or (3), 948.04, 948.05, 948.051, 948.055, 948.06, 948.07,

12   948.075, 948.08, 948.085, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21 (1) (2), or

13   948.30 or of a substantially similar federal law or law of another state.

14   SECTION 4. 948.21 of the statutes is repealed and recreated to read:

15   **948.21 Neglecting a child. (1)** DEFINITIONS. In this section:

16   (a) "Child sex offense" means an offense under s. 948.02, 948.025, 948.05,

17   948.051, 948.055, 948.06, 948.07, 948.10, 948.11, or 948.12.

18   (am) "Contributes to the neglect" includes the act of contributing to neglect

19   even if the child does not actually suffer from neglect if the natural and probable

20   consequences of the act or failure to act would be that the child suffers from neglect.

21   (ar) "Course of conduct" means a pattern of conduct composed of a series of

22   actions or inactions over a period of time, however short.

23   (b) "Emotional damage" has the meaning given in s. 48.02 (5j).

24   (c) "Necessary care" means the care that is critical to a child's physical or

25   emotional health, safety, welfare, or development, based on all of the facts and

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1   circumstances, such as the child's age, physical or emotional condition, and any

2   special needs of the child. "Necessary care" includes any of the following:

3   1. Appropriate food.

4   2. Appropriate clothing.

5   3. Appropriate medical care.

6   4. Appropriate dental care.

7   5. The opportunity for education.

8   6. Appropriate shelter.

9   7. Appropriate supervision.

10   8. The protection from the exposure to the distribution, manufacture, or use of

11   controlled substances, as defined in s. 961.01 (4).

12   (d) "Neglect" means to fail, for reasons other than poverty, to provide a child

13   necessary care as provided in par. (c) 1. to 7., or to fail to provide a child necessary

14   care as provided in par. (c) 8.

15   **(2)** NEGLECT. Any person who is responsible for a child's welfare who neglects,

16   or contributes to the neglect of, the child for whom he or she is responsible is guilty

17   of the following:

18   (a) A Class D felony if the child suffers death as a consequence.

19   (b) A Class E felony if the person engages in a course of conduct that the person

20   knows or should know creates an unreasonable and substantial risk of death.

21   (c) A Class F felony if any of the following applies:

22   1. The child suffers great bodily harm as a consequence.

23   2. The child becomes a victim of a child sex offense as a consequence.

24   (d) A Class G felony if any of the following applies:

1   1. The person engages in a course of conduct that the person knows or should

2   know creates an unreasonable and substantial risk of great bodily harm to the child.

3   2. The person engages in a course of conduct that the person knows or should

4   know creates an unreasonable and substantial risk that the child could become a

5   victim of a child sex offense.

6   3. The child suffers emotional damage as a consequence.

7   (e) A Class H felony if any of the following applies:

8   1. The child suffers bodily harm as a consequence.

9   2. The person engages in a course of conduct that the person knows or should

10   know creates an unreasonable and substantial risk of emotional damage to the child.

11   (f) A Class I felony if the person engages in a course of conduct that the person

12   knows or should know creates an unreasonable and substantial risk of bodily harm

13   to the child.

14   (g) A Class A misdemeanor.

15   **(2m)** REBUTTABLE PRESUMPTION. A rebuttable presumption of a course of

16   conduct creating an unreasonable and substantial risk of the harm described under

17   sub. (2) (b), (d) 1. or 2., (e) 2., or (f), whichever is applicable, exists under any of the

18   following circumstances:

19   (a) The child had not attained the age of 6 years at the start of the conduct or

20   course of conduct.

21   (b) The child has a physical, cognitive, or developmental disability that is

22   discernible by an ordinary person viewing the child or that is actually known by the

23   actor.

24   **(END)**