

2015 DRAFTING REQUEST

Bill

Received: 12/1/2014 Received By: phurley
Wanted: As time permits Same as LRB:
For: Jill Billings (608) 266-5780 By/Representing: Christina
May Contact: Drafter: phurley
Subject: Criminal Law - sex offenses Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Rep.Billings@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Prohibit prosecution for prostitution of a person under the age of 18

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	phurley 4/16/2015	jdyer 4/23/2015	rschluet 12/12/2014	_____	sbasford 12/12/2014		
/P2	phurley 5/5/2015			_____	lparisi 4/23/2015		State S&L
/1		jdyer 5/6/2015		_____	mbarman 5/6/2015	mbarman 5/6/2015	State S&L

FE Sent For:

at
intro

<END>



State of Wisconsin
2015 - 2016 LEGISLATURE



LRB-0733/P1

PJH:.....

Jld

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Due
Mon, 12/15

12-1-14

Gen

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AN ACT ...; relating to: prosecuting a person under the age of eighteen with committing an act of prostitution.

Analysis by the Legislative Reference Bureau

* Under current law, a person who commits an act of prostitution is guilty of a Class A misdemeanor and may be fined not more than \$10,000, imprisoned for not longer than nine months, or both. Under current law, if the person has not attained the age of 18 when he or she commits an act of prostitution, a court may enter a consent decree under the juvenile justice code or a deferred prosecution under the juvenile justice code or adult criminal statutes, if the court determines that a consent decree or a deferred prosecution agreement will serve the best interests of the person and will not harm society.

Under this bill, a person who has not attained the age of 18 may not be prosecuted for committing an act of prostitution. The bill eliminates the option, for a person who is under the age of 18, of entering a consent decree or a deferred prosecution agreement.

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

3 SECTION 1. 944.30 (1m) (intro.) of the statutes is amended to read:

1 944.30 (1m) (intro.) Any Except as provided in sub. (2m),[✓] any person who
2 intentionally does any of the following is guilty of a Class A misdemeanor:

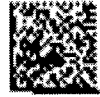
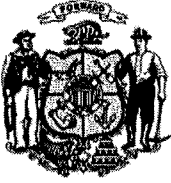
3 **History:** 1977 c. 173; 1979 c. 221; 1983 a. 17; 1993 a. 213; 20~~13~~¹⁴ a. 362.

3 **SECTION 2.** 944.30 (2m) of the statutes is amended to read:

4 944.30 (2m) ~~If the person~~ A person may not be prosecuted under sub. (1m) this
5 section if he or she[✓] has not attained the age of 18 years and if the court determines
6 that the best interests of the person are served and society will not be harmed, the
7 court may enter a consent decree under s. 938.32 or a deferred prosecution
8 agreement in accordance with s. 938.245, 971.39, or 971.40 at the time he or she
9 commits an offense under sub. (1m).[✓]

10 **History:** 1977 c. 173; 1979 c. 221; 1983 a. 17; 1993 a. 213; 2013 a. 362.

(END)



PWF

2013 ASSEMBLY BILL 192

May 3, 2013 - Introduced by Representatives JOHNSON, GOYKE and KESSLER.
Referred to Committee on Criminal Justice.

an individual who is suspected & the abuse cannot be identified ✓

Insert rel. clause

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1 AN ACT to amend 48.981 (3) (a) 2d. and 48.981 (3) (c) 1. a.; and to create 48.981
2 (3) (a) 2. bar. of the statutes; relating to: the investigation of a child abuse
3 report in which a person who is not a caregiver of the child is suspected of
4 permitting, allowing, or encouraging the child to engage in prostitution. ^{and prohibiting}

Analysis by the Legislative Reference Bureau

Insert analysis 1

Under current law, certain persons having reasonable cause to suspect that a child seen in the course of professional duties has been abused must report that suspected abuse to the sheriff or police department or to the county department of human services or social services or, in Milwaukee County, the Department of Children and Families (DCF) or a child welfare agency under contract with DCF (collectively "agency"). Current law also permits any other person having reason to suspect that a child has been abused to make such a report.

Current law requires the sheriff or police department to refer to an agency all cases of child abuse reported to it in which a caregiver is suspected of the abuse or of facilitating or failing to take action to prevent the suspected abuse and all cases in which ~~it cannot be determined who abused the child~~. Then, within 24 hours after receiving the referral, the agency must initiate a diligent investigation to determine if the child is in need of protection or services. Current law, however, permits, rather than requires, the sheriff or police department to refer to an agency a case in which a person who is not a caregiver of a child is suspected of the abuse of the child and permits, rather than requires, the agency to initiate a diligent investigation to determine if the child is in need of protection or services.

(end insert analysis 1)

ASSEMBLY BILL 192

Insert
analysis

~~NO~~ ~~of~~ ~~The~~
This bill requires the sheriff or police department to refer to an agency, and the agency to investigate, a case of child abuse in which a person who is not a caregiver of the child is suspected of permitting, allowing, or encouraging the child to engage in prostitution.

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

Insert
GMM

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

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SECTION 1. 48.981 (3) (a) 2. ~~bm.~~^x of the statutes is created to read:

48.981 (3) (a) 2. ~~bm.~~ Cases in which a person who is not a caregiver is suspected of abuse, as defined in s. 48.02 (1) (d), of a child.[✓]

SECTION 2. 48.981 (3) (a) 2d. of the statutes is amended to read:

48.981 (3) (a) 2d. The Except as provided in subd. 2. ~~bm.~~[✓], the sheriff or police department may refer to the county department or, in a county having a population of 500,000 or more, the department or a licensed child welfare agency under contract with the department a case reported to the sheriff or police department in which a person who is not a caregiver is suspected of abuse or of threatened abuse of a child.

SECTION 3. 48.981 (3) (c) 1. ~~a.~~^x of the statutes is amended to read:

48.981 (3) (c) 1. a. Immediately after receiving a report under par. (a), the agency shall evaluate the report to determine whether there is reason to suspect that a caregiver has abused or neglected the child, has threatened the child with abuse or neglect, or has facilitated or failed to take action to prevent the suspected or threatened abuse or neglect of the child or that a person who is not a caregiver has committed abuse, as defined in s. 48.02 (1) (d), of the child. Except as provided in sub. (3m), if the agency determines that a caregiver is suspected of abuse or neglect or, of threatened abuse or neglect of the child, ~~determines that a caregiver is suspected,~~ or of facilitating or failing to take action to prevent the suspected or threatened abuse

identify an individual who is
- 3 -
suspected of abuse or neglect or of
threatened abuse or neglect of the child

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or neglect of the child; determines that a person who is not a caregiver has committed abuse, as defined in s. 48.02 (1) (d), of the child; or cannot determine who abused or neglected the child, within 24 hours after receiving the report the agency shall, in accordance with the authority granted to the department under s. 48.48 (17) (a) 1. or the county department under s. 48.57 (1) (a), initiate a diligent investigation to determine if the child is in need of protection or services. If Except as provided in this subd. 1. a., if the agency determines that a person who is not a caregiver is suspected of abuse or of threatened abuse, the agency may, in accordance with that authority, initiate a diligent investigation to determine if the child is in need or protection or services. Within 24 hours after receiving a report under par. (a) of suspected unborn child abuse, the agency, in accordance with that authority, shall initiate a diligent investigation to determine if the unborn child is in need of protection or services. An investigation under this subd. 1. a. shall be conducted in accordance with standards established by the department for conducting child abuse and neglect investigations or unborn child abuse investigations.

(end ins GMM) (use twice)

SECTION 4. Initial applicability.

The treatment of section 48.981 (3) (a) 2. b.m. and 2d. and (c) 1. a. of the statutes

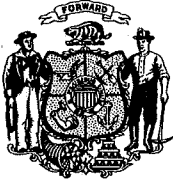
(1) REPORTS OF SUSPECTED CHILD PROSTITUTION. This act first applies to a report of suspected child abuse received under section 48.981 (3) (a) 1. of the statutes on the effective date of this subsection.

This act takes effect on the day after publication, except as follows:

SECTION 5. Effective date.

(1) REPORTS OF SUSPECTED CHILD PROSTITUTION. This act takes effect on the first day of the 2nd month beginning after publication.

END



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-0733/P1

PJH:jld:rs

GMMB

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

4-23

insert rel. clause

-regen

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AN ACT to amend 944.30 (1m) (intro.) and 944.30 (2m) of the statutes; relating

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to: prosecuting a person under the age of 18 with committing an act of prostitution.

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insert analysis 1

Analysis by the Legislative Reference Bureau

Under current law, a person who commits an act of prostitution is guilty of a Class A misdemeanor and may be fined not more than \$10,000, imprisoned for not longer than nine months, or both. Under current law, if the person has not attained the age of 18 when he or she commits an act of prostitution, a court may enter a consent decree under the Juvenile Justice Code or a deferred prosecution under the Juvenile Justice Code or adult criminal statutes, if the court determines that a consent decree or a deferred prosecution agreement will serve the best interests of the person and will not harm society.

Under this bill, a person who has not attained the age of 18 may not be prosecuted for committing an act of prostitution. The bill eliminates the option, for a person who is under the age of 18, of entering a consent decree or a deferred prosecution agreement.

insert analysis 2

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

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SECTION 1. 944.30 (1m) (intro.) of the statutes is amended to read:

insert GMMB if
insert PJH

1 944.30 (1m) (intro.) Any Except as provided in sub. (2m), any person who
2 intentionally does any of the following is guilty of a Class A misdemeanor:

3 **SECTION 2.** 944.30 (2m) of the statutes is amended to read:

4 944.30 (2m) If the person A person may not be prosecuted under sub. (1m) this
5 section if he or she has not attained the age of 18 years and if the court determines
6 that the best interests of the person are served and society will not be harmed, the
7 court may enter a consent decree under s. 938.32 or a deferred prosecution
8 agreement in accordance with s. 938.245, 971.39, or 971.40 at the time he or she
9 commits an offense under sub. (1m).

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(END)

2015-2016 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0733/P2ins
PJH:jld:rs

by

as affected 2013
Wisconsin Act 362,

INSERT PJH

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SECTION 1. 165.76 (1) (am) of the statutes is amended to read:

165.76 (1) (am) Is or was adjudicated delinquent for an act that if committed
944.30 (1m), 2013 stats., or s.
by an adult in this state would be a felony or for a violation of s. 940.225 (3m), 941.20
(1), 944.20, ~~944.30 (1m), 2013 stats.~~, 944.31, 944.33, 946.52, or 948.10 (1) (b).

History: 1993 a. 16, 98, 227; 1995 a. 27 s. 9126 (19); 1995 a. 77, 440; 1997 a. 35, 283; 1999 a. 9; 2001 a. 96; 2005 a. 277, 344; 2007 a. 20 s. 9121 (6) (a); 2007 a. 97; 2009 a. 261; 2011 a. 257; 2011 a. 260 s. 81; 2013 a. 20, 166, 214, 362; s. 13.92 (2) (i).

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SECTION 2. 938.34 (15) (a) 1. of the statutes is amended to read:

938.34 (15) (a) 1. If the juvenile is adjudicated delinquent on the basis of a
violation that would be a felony if committed by an adult in this state or of a violation
944.30 (1m), 2013 stats., or s.
of s. 940.225 (3m), 941.20 (1), 944.20, ~~944.30 (1m), 2013 stats.~~, 944.31, 944.33, 946.52,
or 948.10 (1) (b), the court shall require the juvenile to comply with the requirement
under s. 165.76 (1) (am) by providing a biological specimen to the state crime
laboratories for deoxyribonucleic acid analysis. The court shall inform the juvenile
that he or she may request expungement under s. 165.77 (4).

History: 1995 a. 77, 352, 440, 448; 1997 a. 27, 35, 36, 84, 130, 164, 183, 205; 1999 a. 9, 32, 57, 89, 185; 2001 a. 16, 59, 69, 109; 2003 a. 33, 50, 200, 321; 2005 a. 14, 253, 277, 344; 2007 a. 97, 116; 2009 a. 8, 28, 103, 137, 185, 302, 334; 2011 a. 32, 258; 2013 a. 20; 2013 a. 165 s. 115; 2013 a. 362.

(end insert PJH)



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-0733/P2
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~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

5-6

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Gen

1 AN ACT *to amend* 48.981 (3) (a) 2d., 48.981 (3) (c) 1. a., 165.76 (1) (am), 938.34
2 (15) (a) 1., 944.30 (1m) (intro.) and 944.30 (2m); and *to create* 48.981 (3) (a) 2.
3 bm. of the statutes; **relating to:** the investigation of a child abuse report in
4 which a person who is not a caregiver of the child is suspected of permitting,
5 allowing, or encouraging the child to engage in prostitution; and prohibiting
6 prosecuting a person under the age of 18 with committing an act of prostitution.

Analysis by the Legislative Reference Bureau

Under current law, certain persons having reasonable cause to suspect that a child seen in the course of professional duties has been abused must report that suspected abuse to the sheriff or police department or to the county department of human services or social services or, in Milwaukee County, the Department of Children and Families (DCF) or a child welfare agency under contract with DCF (collectively "agency"). Current law also permits any other person having reason to suspect that a child has been abused to make such a report.

Current law requires the sheriff or police department to refer to an agency all cases of child abuse reported to it in which a caregiver is suspected of the abuse or of facilitating or failing to take action to prevent the suspected abuse and all cases in which an individual who is suspected of the abuse cannot be identified. Then, within 24 hours after receiving the referral, the agency must initiate a diligent investigation to determine if the child is in need of protection or services. Current

law, however, permits, rather than requires, the sheriff or police department to refer to an agency a case in which a person who is not a caregiver of a child is suspected of the abuse of the child and permits, rather than requires, the agency to initiate a diligent investigation to determine if the child is in need of protection or services.

Under current law, a person who commits an act of prostitution is guilty of a Class A misdemeanor and may be fined not more than \$10,000, imprisoned for not longer than nine months, or both. Under current law, if the person has not attained the age of 18 when he or she commits an act of prostitution, a court may enter a consent decree under the Juvenile Justice Code or a deferred prosecution under the Juvenile Justice Code or adult criminal statutes, if the court determines that a consent decree or a deferred prosecution agreement will serve the best interests of the person and will not harm society.

Under this bill, a person who has not attained the age of 18 may not be prosecuted for committing an act of prostitution. The bill eliminates the option, for a person who is under the age of 18, of entering a consent decree or a deferred prosecution agreement. The bill requires the sheriff or police department to refer to an agency, and the agency to investigate, a case of child abuse in which a person who is not a caregiver of the child is suspected of permitting, allowing, or encouraging the child to engage in prostitution.

For further information see the *state and local* 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.** 48.981 (3) (a) 2. bm. of the statutes is created to read:

2 48.981 (3) (a) 2. bm. Cases in which a person who is not a caregiver is suspected
3 of abuse, as defined in s. 48.02 (1) (d), of a child.

4 **SECTION 2.** 48.981 (3) (a) 2d. of the statutes is amended to read:

5 48.981 (3) (a) 2d. The Except as provided in subd. 2. bm., the sheriff or police
6 department may refer to the county department or, in a county having a population
7 of 500,000 or more, the department or a licensed child welfare agency under contract
8 with the department a case reported to the sheriff or police department in which a
9 person who is not a caregiver is suspected of abuse or of threatened abuse of a child.

10 **SECTION 3.** 48.981 (3) (c) 1. a. of the statutes is amended to read:

1 48.981 (3) (c) 1. a. Immediately after receiving a report under par. (a), the
2 agency shall evaluate the report to determine whether there is reason to suspect that
3 a caregiver has abused or neglected the child, has threatened the child with abuse
4 or neglect, or has facilitated or failed to take action to prevent the suspected or
5 threatened abuse or neglect of the child or that a person who is not a caregiver has
6 committed abuse, as defined in s. 48.02 (1) (d), of the child. Except as provided in sub.
7 (3m), if the agency determines that a caregiver is suspected of abuse or neglect ~~or~~
8 ~~of threatened abuse or neglect of the child, determines that a caregiver is suspected,~~
9 or of facilitating or failing to take action to prevent the suspected or threatened abuse
10 or neglect of the child; determines that a person who is not a caregiver has
11 committed abuse, as defined in s. 48.02 (1) (d), of the child; or cannot identify an
12 individual who is suspected of abuse or neglect or of threatened abuse or neglect of
13 the child, within 24 hours after receiving the report the agency shall, in accordance
14 with the authority granted to the department under s. 48.48 (17) (a) 1. or the county
15 department under s. 48.57 (1) (a), initiate a diligent investigation to determine if the
16 child is in need of protection or services. ~~If~~ Except as provided in this subd. 1. a., if
17 the agency determines that a person who is not a caregiver is suspected of abuse or
18 of threatened abuse, the agency may, in accordance with that authority, initiate a
19 diligent investigation to determine if the child is in need or protection or services.
20 Within 24 hours after receiving a report under par. (a) of suspected unborn child
21 abuse, the agency, in accordance with that authority, shall initiate a diligent
22 investigation to determine if the unborn child is in need of protection or services. An
23 investigation under this subd. 1. a. shall be conducted in accordance with standards
24 established by the department for conducting child abuse and neglect investigations
25 or unborn child abuse investigations.

1 **SECTION 4.** 165.76 (1) (am) of the statutes, as affected by 2013 Wisconsin Act
2 362, is amended to read:

3 165.76 (1) (am) Is or was adjudicated delinquent for an act that if committed
4 by an adult in this state would be a felony or for a violation of s. 944.30 (1m), 2013
5 stats., or s. 940.225 (3m), 941.20 (1), 944.20, 944.30 (1m), 944.31, 944.33, 946.52, or
6 948.10 (1) (b).

7 **SECTION 5.** 938.34 (15) (a) 1. of the statutes, as affected by 2013 Wisconsin Act
8 362, is amended to read:

9 938.34 (15) (a) 1. If the juvenile is adjudicated delinquent on the basis of a
10 violation that would be a felony if committed by an adult in this state or of a violation
11 of s. 944.30 (1m), 2013 stats., or s. 940.225 (3m), 941.20 (1), 944.20, 944.30 (1m),
12 944.31, 944.33, 946.52, or 948.10 (1) (b), the court shall require the juvenile to comply
13 with the requirement under s. 165.76 (1) (am) by providing a biological specimen to
14 the state crime laboratories for deoxyribonucleic acid analysis. The court shall
15 inform the juvenile that he or she may request expungement under s. 165.77 (4).

16 **SECTION 6.** 944.30 (1m) (intro.) of the statutes is amended to read:

17 944.30 (1m) (intro.) Any Except as provided in sub. (2m), any person who
18 intentionally does any of the following is guilty of a Class A misdemeanor:

19 **SECTION 7.** 944.30 (2m) of the statutes is amended to read:

20 944.30 (2m) ~~If the person~~ A person may not be prosecuted under sub. (1m) this
21 section if he or she has not attained the age of 18 years and if the court determines
22 that the best interests of the person are served and society will not be harmed, the
23 court may enter a consent decree under s. 938.32 or a deferred prosecution
24 agreement in accordance with s. 938.245, 971.39, or 971.40 at the time he or she
25 commits an offense under sub. (1m).

1 **SECTION 8. Initial applicability.**

2 (1) REPORTS OF SUSPECTED CHILD PROSTITUTION. The treatment of section 48.981
3 (3) (a) 2. bm. and 2d. and (c) 1. a. of the statutes first applies to a report of suspected
4 child abuse received under section 48.981 (3) (a) 1. of the statutes on the effective date
5 of this subsection.

6 **SECTION 9. Effective dates.** This act takes effect on the day after publication,
7 except as follows:

8 (1) REPORTS OF SUSPECTED CHILD PROSTITUTION. The treatment of section 48.981
9 (3) (a) 2. bm. and 2d. and (c) 1. a. of the statutes takes effect on the first day of the
10 2nd month beginning after publication.

11 **(END)**

Basford, Sarah

From: Malaise, Gordon
Sent: Tuesday, May 05, 2015 4:17 PM
To: Barman, Mike
Cc: Hurley, Peggy
Subject: FW: Draft review: LRB -0733/P2 Topic: Prohibit prosecution for prostitution of a person under the age of 18

Mike:

Rep. Billings would like 15-0733/1 jacketed for introduction.

Gordon

From: Divine, Kathy
Sent: Tuesday, May 05, 2015 3:33 PM
To: Malaise, Gordon; Hurley, Peggy
Cc: Ullsvik, Christian
Subject: RE: Draft review: LRB -0733/P2 Topic: Prohibit prosecution for prostitution of a person under the age of 18

Hello,

We would like to have this draft be jacketed for introduction.

Thanks,

Kathy

From: LRB.Legal
Sent: Thursday, April 23, 2015 9:08 AM
To: Rep.Billings
Subject: Draft review: LRB -0733/P2 Topic: Prohibit prosecution for prostitution of a person under the age of 18

Following is the PDF version of draft LRB -0733/P2.