



2017 ASSEMBLY BILL 414

1 **AN ACT** *to renumber* 301.45 (1m) (a) 1., 1g., 2. and 3.; *to renumber and amend*
2 940.225 (3); *to amend* 301.45 (1m) (a) (intro.), 301.45 (1m) (e) (intro.), 948.02
3 (2) and 948.09; and *to create* 301.45 (1m) (a) 1m. (intro.), 301.45 (1m) (a) 2m.
4 and 948.093 of the statutes; **relating to:** underage sexual activity and
5 providing a criminal penalty.

Analysis by the Legislative Reference Bureau

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

6 **SECTION 1.** 301.45 (1m) (a) (intro.) of the statutes is amended to read:
7 301.45 (**1m**) (a) (intro.) A person is not required to comply with the reporting
8 requirements under this section if ~~all~~ any of the following ~~apply~~ applies:
9 **SECTION 2.** 301.45 (1m) (a) 1., 1g., 2. and 3. of the statutes are renumbered
10 301.45 (1m) (a) 1m. a., b., c. and d.

ASSEMBLY BILL 414**SECTION 3**

1 **SECTION 3.** 301.45 (1m) (a) 1m. (intro.) of the statutes is created to read:

2 301.45 **(1m)** (a) 1m. (intro.) All of the following apply:

3 **SECTION 4.** 301.45 (1m) (a) 2m. of the statutes is created to read:

4 301.45 **(1m)** (a) 2m. All of the following apply:

5 a. The person meets the criteria under sub. (1g) (a) based on a violation, or on
6 the solicitation, conspiracy or attempt to commit a violation, of s. 940.225 (3) (a).

7 b. At the time of the violation, or of the solicitation, conspiracy or attempt to
8 commit the violation, of s. 940.225 (3) (a), the person had not attained the age of 19
9 years and the victim had attained the age of 15 years.

10 c. It is not necessary, in the interest of public protection, to require the person
11 to comply with the reporting requirements under this section.

12 **SECTION 5.** 301.45 (1m) (e) (intro.) of the statutes is amended to read:

13 301.45 **(1m)** (e) (intro.) At the hearing held under par. (bm), the person who
14 filed the motion under par. (b) or s. 51.20 (13) (ct) 2m., 938.34 (15m) (bm), 971.17 (1m)
15 (b) 2m. or 973.048 (2m) has the burden of proving by clear and convincing evidence
16 that he or she satisfies the criteria specified in par. (a). In deciding whether the
17 person has satisfied the criterion specified in par. (a) ~~3.~~ 1m. d. or 2m. c., the court may
18 consider any of the following:

19 **SECTION 6.** 940.225 (3) of the statutes is renumbered 940.225 (3) (a) and
20 amended to read:

21 940.225 **(3)** (a) Whoever has sexual intercourse with a person without the
22 consent of that person is guilty of a Class G felony.

23 (b) Whoever has sexual contact in the manner described in sub. (5) (b) 2. or 3.
24 with a person without the consent of that person is guilty of a Class G felony.

25 **SECTION 7.** 948.02 (2) of the statutes is amended to read:

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1 948.02 (2) SECOND DEGREE SEXUAL ASSAULT. Whoever has sexual contact or
2 sexual intercourse with a person who has not attained the age of 16 years is guilty
3 of a Class C felony. This subsection does not apply if s. 948.093 applies.

4 **SECTION 8.** 948.09 of the statutes is amended to read:

5 **948.09 Sexual intercourse with a child age 16 or older.** Whoever has
6 sexual intercourse with a child who is not the defendant's spouse and who has
7 attained the age of 16 years is guilty of a Class A misdemeanor if the defendant has
8 attained the age of 19 years when the violation occurs.

9 **SECTION 9.** 948.093 of the statutes is created to read:

10 **948.093 Underage sexual activity.** Whoever has sexual contact with a child
11 who has attained the age of 15 years but has not attained the age of 16 years, or
12 whoever has sexual intercourse with a child who has attained the age of 15 years, is
13 guilty of a Class A misdemeanor if the actor has not attained the age of 19 years when
14 the violation occurs. This section does not apply if the actor is the child's spouse.

15 **SECTION 10. Initial applicability.**

16 (1) The treatment of sections 301.45 (1m) (a) (intro.), 1., 1g., 1m. (intro.), 2., 2m.,
17 and 3. and (e) (intro.) and 940.225 (3) of the statutes first applies to motions filed on
18 the effective date of this subsection.

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(END)