

2017 DRAFTING REQUEST**Bill**

For: **Joel Kleefisch (608) 266-8551** Drafter: **chanaman**
 By: **Katie** Secondary Drafters:
 Date: **5/2/2017** May Contact:

Same as LRB:

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

Pre Topic:

No specific pre topic given

Topic:

Underage sexual activity

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	chanaman 5/2/2017	anienaja 5/2/2017			
/P1	chanaman 5/9/2017	anienaja 5/9/2017	rmilford 5/2/2017		State S&L
/P2		kfollett 6/5/2017	mbarman 5/9/2017		State S&L
/P3	chanaman 6/8/2017	kfollett 6/8/2017	hkohn 6/5/2017		State S&L
/1			hkohn	hkohn	State

Vers. Drafted

Reviewed

Submitted
6/8/2017

Jacketed
6/8/2017

Required
S&L

FE Sent For:

<END>

→ At Intro.



State of Wisconsin
2017 - 2018 LEGISLATURE

3261/P1
LRB-3301/1
CMH:kjf&amn

2017 BILL

SA✓

Regen.
with a child who is between 15 and 18, ~~and~~

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

Analysis by the Legislative Reference Bureau

This bill creates the offense of underage sexual activity. Under current law, a person who has sexual intercourse or sexual contact with a child who is at least 13 but under 16 is guilty of a Class C felony. Under this bill, a person who has sexual intercourse or sexual contact with a child who is 15, is guilty of a Class A misdemeanor if the person is less than 19 years old. Under current law, a person may be required to register as a sex offender for certain crimes that are sexually motivated if the judge determines that it would be in the interest of public protection to have the person register. Under this bill, the new offense of underage sexual activity would be subject to this provision. This bill does not affect crimes involving sexual contact or intercourse by use or threat of force or violence.

Current law provides exceptions to the requirement to register as a sex offender if the offender commits sexual assault of a child, repeated sexual assault of a child, or sexual assault of a child in substitute care and the court makes certain findings (commonly known as the Romeo and Juliet exceptions). For instance, the court must find that the person had not attained the age of 19 years and was within four years of the age of the victim, that it is not necessary in the interest of public safety to require registry, and that the violation did not involve sexual intercourse by the use

BILL

or threat of force or violence. This bill adds specific acts of third-degree sexual assault to the list of offenses eligible for the exception if the court makes the same findings.

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.** 301.45 (1m) (a) 1., 1g. and 2. of the statutes are amended to read:

2 301.45 **(1m)** (a) 1. The person meets the criteria under sub. (1g) (a) to (dd) based
3 on any violation, or on the solicitation, conspiracy or attempt to commit any violation,
4 of s. 940.225 (3) (a), 948.02 (1) or (2), 948.025, or 948.085 (2).

5 1g. The violation, or the solicitation, conspiracy or attempt to commit the
6 violation, of s. 940.225 (3) (a), 948.02 (1) or (2), 948.025, or 948.085 (2) did not involve
7 sexual intercourse, as defined in s. 948.01 (6), either by the use or threat of force or
8 violence or with a victim under the age of 12 years.

9 2. At the time of the violation, or of the solicitation, conspiracy or attempt to
10 commit the violation, of s. 940.225 (3) (a), 948.02 (1) or (2), 948.025, or 948.085 (2),
11 the person had not attained the age of 19 years and was not more than 4 years older
12 or not more than 4 years younger than the child.

13 **SECTION 2.** 301.45 (1m) (e) (intro.) of the statutes is amended to read:

14 301.45 **(1m)** (e) (intro.) At the hearing held under par. (bm), the person who
15 filed the motion under par. (b) or s. 51.20 (13) (ct) 2m., 938.34 (15m) (bm), 971.17 (1m)
16 (b) 2m. or 973.048 (2m) has the burden of proving by clear and convincing evidence
17 that he or she satisfies the criteria specified in par. (a). If the person filed the motion
18 under par. (b) for a violation of s. 940.225 (3) committed before the effective date of
19 this paragraph ... [LRB inserts date], the person has the burden of proving by clear

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1 and convincing evidence that the violation was not a violation of s. 940.225 (3) (b).

2 In deciding whether the person has satisfied the criterion specified in par. (a) 3., the
3 court may consider any of the following:

4 **SECTION 3.** 940.225 (3) of the statutes is renumbered 940.225 (3) (a) and
5 amended to read:

6 940.225 (3) (a) Whoever has sexual intercourse with a person without the
7 consent of that person is guilty of a Class G felony.

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

10 **SECTION 4.** 948.02 (2) of the statutes is amended to read:

11 948.02 (2) SECOND DEGREE SEXUAL ASSAULT. ~~Whoever~~ Except as provided in s.
12 948.093, whoever has sexual contact or sexual intercourse with a person who has not
13 attained the age of 16 years is guilty of a Class C felony.

14 **SECTION 5.** 948.093 of the statutes is created to read:

15 **948.093 Underage sexual activity.** Whoever has sexual contact or sexual
16 intercourse with a child who has attained the age of 15 years but has not attained
17 the age of 16 years is guilty of a Class A misdemeanor if the actor has not attained
18 the age of 19 years when the violation occurs. *INS 3-18*

19 (END)

INS 3-14

*or whoever has sexual
intercourse with a child
who has attained the age of
15 years,*

SA ✓
Xref ✓
PWF ✓

**2017-2018 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3361/p1ins
CMH:... *amm*

1 Insert 3-14

2 **SECTION 1.** 948.09 of the statutes is amended to read:

3 **948.09 Sexual intercourse with a child age 16 or older.** Whoever has
4 sexual intercourse with a child who is not the defendant's spouse and who has
5 attained the age of 16 years is guilty of a Class A misdemeanor if the defendant has
6 attained the age of 19 years when the violation occurs.

7 History: 1987 a. 332.

8 Insert 3-19

9 This section does not apply if the actor is the child's spouse.

Hanaman, Cathlene

From: Scott, Katie
Sent: Monday, May 08, 2017 1:42 PM
To: Hanaman, Cathlene
Subject: Romeo & Juliet bill
Attachments: 17-3361_P1.pdf

Hi Cathlene,

Thank you for drafting the Romeo & Juliet bill draft, LRB 3361! We just have 2 quick changes & 1 question.

2 changes:

-On page 3, line 17, can we add the word '*NOT*' at the end of the line, ~~so~~ so it reads: '*if the defendant has not attained the age of 19 years*'?

-Also, can we add in a part at the end giving it the possibility of making it retroactive, so it reads something like this: **SECTION #___ . Initial applicability.**

(1) The treatment of this new statute first applies to motions filed on the effective date of this subsection.

Question: Why does page 3, lines 20 and 21 read sexual contact with a child who is 15? Why not sexual contact with 16 and 17 year olds?

Thank you,

Katie Scott
Office of Representative Joel Kleefisch
38th Assembly District
(608) 266-8552



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-3361/P1
CMH:kjf&amn

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

JA✓

Reger✓

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

Analysis by the Legislative Reference Bureau

This bill creates the offense of underage sexual activity. Under current law, a person who has sexual intercourse or sexual contact with a child who is at least 13 but under 16 is guilty of a Class C felony. Under this bill, a person who has sexual intercourse with a child who is between 15 and 18, or sexual contact with a child who is 15, is guilty of a Class A misdemeanor if the person is less than 19 years old. Under current law, a person may be required to register as a sex offender for certain crimes that are sexually motivated if the judge determines that it would be in the interest of public protection to have the person register. Under this bill, the new offense of underage sexual activity would be subject to this provision. This bill does not affect crimes involving sexual contact or intercourse by use or threat of force or violence.

Current law provides exceptions to the requirement to register as a sex offender if the offender commits sexual assault of a child, repeated sexual assault of a child, or sexual assault of a child in substitute care and the court makes certain findings (commonly known as the Romeo and Juliet exceptions). For instance, the court must find that the person had not attained the age of 19 years and was within four years of the age of the victim, that it is not necessary in the interest of public safety to require registry, and that the violation did not involve sexual intercourse by the use

or threat of force or violence. This bill adds specific acts of third-degree sexual assault to the list of offenses eligible for the exception if the court makes the same findings.

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.** 301.45 (1m) (a) 1., 1g. and 2. of the statutes are amended to read:

2 301.45 **(1m)** (a) 1. The person meets the criteria under sub. (1g) (a) to (dd) based
3 on any violation, or on the solicitation, conspiracy or attempt to commit any violation,
4 of s. 940.225 (3) (a), 948.02 (1) or (2), 948.025, or 948.085 (2).

5 1g. The violation, or the solicitation, conspiracy or attempt to commit the
6 violation, of s. 940.225 (3) (a), 948.02 (1) or (2), 948.025, or 948.085 (2) did not involve
7 sexual intercourse, as defined in s. 948.01 (6), either by the use or threat of force or
8 violence or with a victim under the age of 12 years.

9 2. At the time of the violation, or of the solicitation, conspiracy or attempt to
10 commit the violation, of s. 940.225 (3) (a), 948.02 (1) or (2), 948.025, or 948.085 (2),
11 the person had not attained the age of 19 years and was not more than 4 years older
12 or not more than 4 years younger than the child.

13 **SECTION 2.** 301.45 (1m) (e) (intro.) of the statutes is amended to read:

14 301.45 **(1m)** (e) (intro.) At the hearing held under par. (bm), the person who
15 filed the motion under par. (b) or s. 51.20 (13) (ct) 2m., 938.34 (15m) (bm), 971.17 (1m)
16 (b) 2m. or 973.048 (2m) has the burden of proving by clear and convincing evidence
17 that he or she satisfies the criteria specified in par. (a). If the person filed the motion
18 under par. (b) for a violation of s. 940.225 (3) committed before the effective date of
19 this paragraph [LRB inserts date], the person has the burden of proving by clear

2017-2018 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3361/p2ins
CMH... *am*

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SECTION 1. Initial applicability.

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(1) The treatment of sections 301.45 (1m) (a) 1., 1g., and 2. and (e) (intro) and 940.225 ²³(2) of the statutes first applies to motions filed on the effective date of this subsection.

1 and convincing evidence that the violation was not a violation of s. 940.225 (3) (b).

2 In deciding whether the person has satisfied the criterion specified in par. (a) 3., the
3 court may consider any of the following:

4 **SECTION 3.** 940.225 (3) of the statutes is renumbered 940.225 (3) (a) and
5 amended to read:

6 940.225 (3) (a) Whoever has sexual intercourse with a person without the
7 consent of that person is guilty of a Class G felony.

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

10 **SECTION 4.** 948.02 (2) of the statutes is amended to read:

11 948.02 (2) **SECOND DEGREE SEXUAL ASSAULT.** ~~Whoever~~ Except as provided in s.
12 948.093, whoever has sexual contact or sexual intercourse with a person who has not
13 attained the age of 16 years is guilty of a Class C felony.

14 **SECTION 5.** 948.09 of the statutes is amended to read:

15 **948.09 Sexual intercourse with a child age 16 or older.** Whoever has
16 sexual intercourse with a child who is not the defendant's spouse and who has
17 attained the age of 16 years is guilty of a Class A misdemeanor if the defendant has
18 attained the age of 19 years when the violation occurs.

19 **SECTION 6.** 948.093 of the statutes is created to read:

20 **948.093 Underage sexual activity.** Whoever has sexual contact with a child
21 who has attained the age of 15 years but has not attained the age of 16 years, or
22 whoever has sexual intercourse with a child who has attained the age of 15 years, is
23 guilty of a Class A misdemeanor if the actor has not attained the age of 19 years when
24 the violation occurs. This section does not apply if the actor is the child's spouse.

25

(END)

INS -3-25

Hanaman, Cathlene

From: Scott, Katie
Sent: Monday, June 05, 2017 11:06 AM
To: Hanaman, Cathlene
Subject: RE: Meeting today
Attachments: 17-3409_2.pdf; 17-3361_P2.pdf; 17-3301_1.pdf

Great! Do you want to come over? 216 North. How about 11:30 today?

We want to make some changes to Romeo & Juliet.

Pretty simple:
We like the 3rd degree stuff but change the wording,
Take out 948.09 and Do 948.02.

Basically, we're combining parts of drafts into 1 draft.

I've attached the 3 drafts.

Thanks, Cathlene!

From: Hanaman, Cathlene
Sent: Monday, June 05, 2017 10:43 AM
To: Scott, Katie <Katie.Scott@legis.wisconsin.gov>
Subject: RE: Meeting today

Yes of course—either time is fine. Except you need to tell me the question and the change. Otherwise I am unprepared :)

From: Scott, Katie
Sent: Monday, June 05, 2017 10:21 AM
To: Hanaman, Cathlene <Cathlene.Hanaman@legis.wisconsin.gov>
Subject: Meeting today

Hey Cathlene,

Do you have about 20 minutes today to meet in person about the Romeo & Juliet bill? We just have a quick question and a quick change.

We could do anytime today 10:30-12:30 or 2:30-5pm.

Thanks,

Katie Scott
Policy Advisor
Office of Representative Joel Kleefisch
38th Assembly District
(608) 237-9308



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-3361/P2
CMH:kjf&amn

P 3

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Today

Region

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

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Current law provides exceptions to the requirement to register as a sex offender if the offender commits sexual assault of a child, repeated sexual assault of a child, or sexual assault of a child in substitute care and the court makes certain findings (commonly known as the Romeo and Juliet exceptions). For instance, the court must find that the person had not attained the age of 19 years and was within four years of the age of the victim, that it is not necessary in the interest of public safety to require registry, and that the violation did not involve sexual intercourse by the use

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or threat of force or violence. This bill adds specific acts of third-degree sexual assault to the list of offenses eligible for the exception if the court makes the same findings.

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.** 301.45 (1m) (a) 1., 1g. and 2. of the statutes are amended to read:

2 301.45 (1m) (a) 1. The person meets the criteria under sub. (1g) (a) to (dd) based
3 on any violation, or on the solicitation, conspiracy or attempt to commit any violation,
4 of s. 940.225 (3) (a), 948.02 (1) or (2), 948.025, or 948.085 (2).

5 1g. The violation, or the solicitation, conspiracy or attempt to commit the
6 violation, of s. 940.225 (3) (a), 948.02 (1) or (2), 948.025, or 948.085 (2) did not involve
7 sexual intercourse, as defined in s. 948.01 (6), either by the use or threat of force or
8 violence or with a victim under the age of 12 years.

9 2. At the time of the violation, or of the solicitation, conspiracy or attempt to
10 commit the violation, of s. 940.225 (3) (a), 948.02 (1) or (2), 948.025, or 948.085 (2),
11 the person had not attained the age of 19 years and was not more than 4 years older
12 or not more than 4 years younger than the child.

13 **SECTION 2.** 301.45 (1m) (e) (intro.) of the statutes is amended to read:

14 301.45 (1m) (e) (intro.) At the hearing held under par. (bm), the person who
15 filed the motion under par. (b) or s. 51.20 (13) (ct) 2m., 938.34 (15m) (bm), 971.17 (1m)
16 (b) 2m. or 973.048 (2m) has the burden of proving by clear and convincing evidence
17 that he or she satisfies the criteria specified in par. (a). If the person filed the motion
18 under par. (b) for a violation of s. 940.225 (3) committed before the effective date of
19 this paragraph [LRB inserts date], the person has the burden of proving by clear

1 and convincing evidence that the violation was not a violation of s. 940.225 (3) (b).
2 In deciding whether the person has satisfied the criterion specified in par. (a) 3., the
3 court may consider any of the following:

4 **SECTION 3.** 940.225 (3) of the statutes is renumbered 940.225 (3) (a) and
5 amended to read:

6 940.225 (3) (a) Whoever has sexual intercourse with a person without the
7 consent of that person is guilty of a Class G felony.

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

10 **SECTION 4.** 948.02 (2) of the statutes is amended to read:
11 948.02 (2) SECOND DEGREE SEXUAL ASSAULT. ~~Whoever~~ Except as provided in s.
12 948.093, whoever has sexual contact or sexual intercourse with a person who has not
13 attained the age of 16 years is guilty of a Class C felony.

14 **SECTION 5.** 948.09 of the statutes is amended to read:
15 **948.09 Sexual intercourse with a child age 16 or older.** Whoever has
16 sexual intercourse with a child who is not the defendant's spouse and who has
17 attained the age of 16 years is guilty of a Class A misdemeanor if the defendant has
18 attained the age of 19 years when the violation occurs.

19 **SECTION 6.** 948.093 of the statutes is created to read:
20 **948.093 Underage sexual activity.** Whoever has sexual contact with a child
21 who has attained the age of 15 years but has not attained the age of 16 years, or
22 whoever has sexual intercourse with a child who has attained the age of 15 years, is
23 guilty of a Class A misdemeanor if the actor has not attained the age of 19 years when
24 the violation occurs. This section does not apply if the actor is the child's spouse.

25 **SECTION 7. Initial applicability.**

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(Intro.) ✓
Im. (Intro.)
LRB-3361/P2
CMH:kjf&amn
SECTION 7
and 3.

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

4 (END)



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-3409/2
CMH:kjf&amn

2017 BILL

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.) and
3 948.02 (2); and **to create** 301.45 (1m) (a) 1m. (intro.), 301.45 (1m) (a) 2m. and
4 948.093 of the statutes; **relating to:** underage sexual activity and providing a
5 criminal penalty.

Analysis by the Legislative Reference Bureau

This bill creates the offense of underage sexual activity. Under current law, a person who has sexual intercourse or sexual contact with a child who is at least 13 but under 16 is guilty of a Class C felony. Under this bill, a person who has sexual intercourse or sexual contact with a child who is 15 is guilty of a Class A misdemeanor if the person is less than 19 years old. Under current law, a person may be required to register as a sex offender for certain crimes that are sexually motivated if the judge determines that it would be in the interest of public protection to have the person register. Under this bill, the new offense of underage sexual activity would be subject to this provision. This bill does not affect crimes involving sexual contact or intercourse by use or threat of force or violence.

Current law provides exceptions to the requirement to register as a sex offender if the offender commits sexual assault of a child, repeated sexual assault of a child, or sexual assault of a child in substitute care and the court makes certain findings (commonly known as the Romeo and Juliet exceptions). For instance, the court must find that the person had not attained the age of 19 years and was within four years

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of the age of the victim. This bill adds specific acts of third-degree sexual assault to the list of offenses eligible for the exception if the actor is under the age of 19 and the victim is at least 15.

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:

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

301.45 (1m) (a) (intro.) A person is not required to comply with the reporting requirements under this section if ~~all~~ any of the following ~~apply~~ applies:

SECTION 2. 301.45 (1m) (a) 1., 1g., 2. and 3. of the statutes are renumbered 301.45 (1m) (a) 1m. a., b., c. and d.

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

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

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

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

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

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

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

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

301.45 (1m) (e) (intro.) At the hearing held under par. (bm), the person who filed the motion under par. (b) or s. 51.20 (13) (ct) 2m., 938.34 (15m) (bm), 971.17 (1m)

END
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(b) 2m. or 973.048 (2m) has the burden of proving by clear and convincing evidence that he or she satisfies the criteria specified in par. (a). In deciding whether the person has satisfied the criterion specified in par. (a) ~~3. 1m. d. or 2m. c.~~, the court may consider any of the following:

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

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

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

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

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

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SECTION 8. 948.093 of the statutes is created to read:

948.093 Underage sexual activity. Whoever has sexual contact or sexual intercourse with a child who has attained the age of 15 years but has not attained the age of 16 years is guilty of a Class A misdemeanor if the actor has not attained the age of 19 years when the violation occurs.

(END)

Hanaman, Cathlene

From: Scott, Katie
Sent: Thursday, June 08, 2017 3:09 PM
To: Hanaman, Cathlene
Subject: RE: Romeo & Juliet - DRAFT TO BE INTRODUCED

Hi Cathlene,

This looks great! Can we get it as a /1?

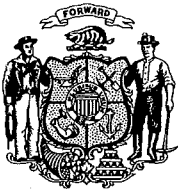
Thank you,

Katie Scott
Policy Advisor
Office of Representative Joel Kleefisch
38th Assembly District
(608) 237-9308

From: LRB.Legal
Sent: Monday, June 05, 2017 1:59 PM
To: Scott, Katie <Katie.Scott@legis.wisconsin.gov>
Subject: Romeo & Juliet - DRAFT TO BE INTRODUCED

Draft Requester: Rep. Joel Kleefisch

Following is the PDF version of draft LRB -3361/P3.



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

no changes

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

This bill creates the offense of underage sexual activity. Under current law, a person who has sexual intercourse or sexual contact with a child who is at least 13 but under 16 is guilty of a Class C felony. Under this bill, a person who has sexual intercourse with a child who is between 15 and 18, or sexual contact with a child who is 15, is guilty of a Class A misdemeanor if the person is less than 19 years old. Under current law, a person may be required to register as a sex offender for certain crimes that are sexually motivated if the judge determines that it would be in the interest of public protection to have the person register. Under this bill, the new offense of underage sexual activity would be subject to this provision. This bill does not affect crimes involving sexual contact or intercourse by use or threat of force or violence.

Current law provides exceptions to the requirement to register as a sex offender if the offender commits sexual assault of a child, repeated sexual assault of a child, or sexual assault of a child in substitute care and the court makes certain findings (commonly known as the Romeo and Juliet exceptions). For instance, the court must find that the person had not attained the age of 19 years and was within four years

of the age of the victim. This bill adds specific acts of third-degree sexual assault to the list of offenses eligible for the exception if the actor is under the age of 19 and the victim is at least 15.

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

2 301.45 (**1m**) (a) (intro.) A person is not required to comply with the reporting
3 requirements under this section if all any of the following apply applies:

4 **SECTION 2.** 301.45 (1m) (a) 1., 1g., 2. and 3. of the statutes are renumbered
5 301.45 (1m) (a) 1m. a., b., c. and d.

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

7 301.45 (**1m**) (a) 1m. (intro.) All of the following apply:

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

9 301.45 (**1m**) (a) 2m. All of the following apply:

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

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

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

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

18 301.45 (**1m**) (e) (intro.) At the hearing held under par. (bm), the person who
19 filed the motion under par. (b) or s. 51.20 (13) (ct) 2m., 938.34 (15m) (bm), 971.17 (1m)

1 (b) 2m. or 973.048 (2m) has the burden of proving by clear and convincing evidence
2 that he or she satisfies the criteria specified in par. (a). In deciding whether the
3 person has satisfied the criterion specified in par. (a) ~~3. 1m. d. or 2m. c.~~, the court may
4 consider any of the following:

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

7 940.225 (3) (a) Whoever has sexual intercourse with a person without the
8 consent of that person is guilty of a Class G felony.

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

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

12 948.02 (2) SECOND DEGREE SEXUAL ASSAULT. Whoever has sexual contact or
13 sexual intercourse with a person who has not attained the age of 16 years is guilty
14 of a Class C felony. This subsection does not apply if s. 948.093 applies.

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

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

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

21 **948.093 Underage sexual activity.** Whoever has sexual contact with a child
22 who has attained the age of 15 years but has not attained the age of 16 years, or
23 whoever has sexual intercourse with a child who has attained the age of 15 years, is
24 guilty of a Class A misdemeanor if the actor has not attained the age of 19 years when
25 the violation occurs. This section does not apply if the actor is the child's spouse.



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-3361/1
CMH:kjf&amn

Before
Change

2017 ASSEMBLY BILL 414

June 29, 2017 - Introduced by Representatives KLEEFISCH, DUCHOW, FELZKOWSKI, BALLWEG, BERCEAU, BERNIER, BORN, BOWEN, BRANDTJEN, BROSTOFF, CROWLEY, EDMING, GOYKE, HEBL, HINTZ, HORLACHER, HUTTON, JAGLER, JARCHOW, KNODL, KOOYENGA, KRUG, KUGLITSCH, MILROY, NEYLON, NOVAK, OHNSTAD, PETERSEN, POPE, QUINN, SINICKI, SNYDER, SWEARINGEN, TAUCHEN, TITTL, TRANEL, VORPAGEL, WEATHERSTON and ZEPNICK, cosponsored by Senators WANGGAARD, L. TAYLOR, JOHNSON, HARSDORF and PETROWSKI. Referred to Committee on Criminal Justice and Public Safety.

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REVISION REPORT

INTRODUCTION, FIRST READING AND REFERENCE OF PROPOSALS

Under Assembly Rule 17d,

Friday, September 15, 2017 at 8:50 AM

is considered the official date and time of introduction for the proposals listed in this document.

ASSEMBLY BILL 414 (LRB -3361)

Relating to: underage sexual activity and providing a criminal penalty.

Introduced by Representatives Kleefisch, Kessler, Duchow, Felzkowski, Ballweg, Berceau, Bernier, Born, Bowen, Brandtjen, Brostoff, Crowley, Edming, Goyke, Hebl, Hintz, Horlacher, Hutton, Jagler, Jarchow, Knodl, Kooyenga, Krug, Kuglitsch, Milroy, Neylon, Novak, Ohnstad, Petersen, Pope, Quinn, Sinicki, Snyder, Swearingen, Tauchen, Tittl, Tranel, Vorpapel, Weatherston and Zepnick; cosponsored by Senators Wanggaard, L. Taylor, Johnson, Harsdorf and Petrowski.

Referred to Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY.**

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09-15-2017

2017 ASSEMBLY BILL 414

June 29, 2017 - Introduced by Representatives KLEEFISCH, KESSLER, DUCHOW, FELZKOWSKI, BALLWEG, BERCEAU, BERNIER, BORN, BOWEN, BRANDTJEN, BROSTOFF, CROWLEY, EDMING, GOYKE, HEBL, HINTZ, HORLACHER, HUTTON, JAGLER, JARCHOW, KNODL, KOOYENGA, KRUG, KUGLITSCH, MILROY, NEYLON, NOVAK, OHNSTAD, PETERSEN, POPE, QUINN, SINICKI, SNYDER, SWEARINGEN, TAUCHEN, TITTL, TRANEL, VORPAGEL, WEATHERSTON and ZEPNICK, cosponsored by Senators WANGGAARD, L. TAYLOR, JOHNSON, HARSDDORF and PETROWSKI. Referred to Committee on Criminal Justice and Public Safety.

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