



1997 SENATE BILL 515

March 19, 1998 - Introduced by Senators DARLING and ROSENZWEIG, cosponsored by Representatives GREEN, VRAKAS, FREESE, KELSO, SCHAFER, F. LASEE, JESKEWITZ, ALBERS, WALKER, NASS, MUSSER and LADWIG. Referred to Committee on Judiciary, Campaign Finance Reform and Consumer Affairs.

1 **AN ACT** *to amend* 971.17 (1); and *to create* 939.622 and 946.51 of the statutes;
2 **relating to:** fleeing to this state to avoid prosecution for a serious sex offense
3 in another jurisdiction, committing a serious sex offense in this state after
4 fleeing prosecution in another jurisdiction and providing penalties.

Analysis by the Legislative Reference Bureau

Current law provides various penalties for serious sex offenses as well as various penalty enhancers for committing a serious sex offense after having been convicted previously of such an offense. This bill creates a new penalty and a new penalty enhancer that applies to persons who flee to this state from other jurisdictions to avoid prosecution for serious sex offenses. Specifically, the bill does the following:

1. Prohibits a person from entering or remaining in this state with the intent to avoid prosecution, sentencing or incarceration in another jurisdiction for a crime in that jurisdiction that is comparable to a serious sex offense in this state. A person who violates this prohibition may be fined not more than \$10,000 or imprisoned for not more than 9 months or both. The bill provides that a person may be prosecuted for this new offense only if the jurisdiction from which he or she fled refuses to have the person returned to the jurisdiction for prosecution, sentencing or incarceration.

2. Provides that the maximum term of imprisonment for a serious sex offense committed in this state may be increased by not more than 2 years if the person committed the offense in this state after fleeing prosecution, sentencing or incarceration in another jurisdiction for a crime in that jurisdiction that is comparable to a serious sex offense in this state.

The serious sex offenses covered by the bill include sexual exploitation by a therapist, serious sexual assault (nonconsensual sexual intercourse or sexual contact), incest, sexual assault of a child, sexual exploitation of a child, causing a child to view or listen to sexual activity, child enticement, soliciting a child for

prostitution, exposing a child to harmful material and false imprisonment, kidnapping or abduction of a child.

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

1 **SECTION 1.** 939.622 of the statutes is created to read:

2 **939.622 Increased penalty; committing a serious sex offense after**
3 **fleeing prosecution elsewhere. (1)** In this section, “serious sex offense” means
4 a violation, or the solicitation, conspiracy or attempt to commit a violation, of s.
5 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055,
6 948.06, 948.07, 948.08, 948.11 or 948.30 or, if the victim was a minor and the person
7 was not the victim’s parent, of s. 940.30 or 940.31.

8 **(2)** The maximum term of imprisonment for a serious sex offense may be
9 increased by not more than 2 years if all of the following apply:

10 (a) Before committing the serious sex offense for which he or she is being
11 sentenced, the person entered this state with the intent to avoid being prosecuted in
12 another jurisdiction for an alleged violation of a law of the other jurisdiction that is
13 comparable to a serious sex offense or with the intent to avoid being sentenced or
14 incarcerated in another jurisdiction for a conviction of an offense in the other
15 jurisdiction that is comparable to a serious sex offense.

16 (b) At the time the person committed the serious sex offense for which he or she
17 is being sentenced, the person had not returned to the jurisdiction from which he or
18 she fled under par. (a) to face prosecution, sentencing or incarceration in that
19 jurisdiction.

20 **SECTION 2.** 946.51 of the statutes is created to read:

1 **946.51 Avoiding prosecution for serious sex offense in another**
2 **jurisdiction. (1)** In this section, “serious sex offense” means a violation, or the
3 solicitation, conspiracy or attempt to commit a violation, of s. 940.22 (2), 940.225 (1),
4 (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08,
5 948.11 or 948.30 or, if the victim was a minor and the person was not the victim’s
6 parent, of s. 940.30 or 940.31.

7 **(2)** Subject to sub. (3), whoever does any of the following is guilty of a Class A
8 misdemeanor:

9 (a) Enters or remains in this state with the intent to avoid being prosecuted in
10 another jurisdiction for an alleged violation of a law of the other jurisdiction that is
11 comparable to a serious sex offense.

12 (b) Enters or remains in this state with the intent to avoid being sentenced or
13 incarcerated in another jurisdiction for a conviction of an offense in the other
14 jurisdiction that is comparable to a serious sex offense.

15 **(3)** No person may be charged with and prosecuted for a violation of sub. (2)
16 unless the prosecutor has requested the jurisdiction from which the person fled to
17 extradite the person under s. 976.03 and the jurisdiction has refused to do so.

18 **SECTION 3.** 971.17 (1) of the statutes, as affected by 1997 Wisconsin Act 35, is
19 amended to read:

20 971.17 **(1) COMMITMENT PERIOD.** When a defendant is found not guilty by reason
21 of mental disease or mental defect, the court shall commit the person to the
22 department of health and family services for a specified period not exceeding
23 two-thirds of the maximum term of imprisonment that could be imposed under s.
24 973.15 (2) (a) against an offender convicted of the same crime or crimes, including
25 imprisonment authorized by ss. 346.65 (2) (f), (2j) (d) or (3m), 939.62, 939.621,

1 939.622, 939.63, 939.635, 939.64, 939.641, 939.645, 940.09 (1b), 940.25 (1b) and
2 961.48 and other penalty enhancement statutes, as applicable, subject to the credit
3 provisions of s. 973.155. If the maximum term of imprisonment is life, the
4 commitment period specified by the court may be life, subject to termination under
5 sub. (5).

6 **SECTION 4. Initial applicability.**

7 (1) This act first applies to offenses committed in this state on the effective date
8 of this subsection.

9 (END)