



## 2019 SENATE BILL 261

June 6, 2019 – Introduced by Senators WANGGAARD, FITZGERALD, L. TAYLOR, RISSER and CARPENTER, cosponsored by Representatives DITTRICH, THIESFELDT, BRANDTJEN, KULP, PLUMER, RAMTHUN, SKOWRONSKI, SPIROS and TUSLER. Referred to Committee on Judiciary and Public Safety.

1     **AN ACT to renumber** 948.093; and **to create** 948.093 (2) of the statutes; **relating**  
2     **to:** underage sexual activity.

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### *Analysis by the Legislative Reference Bureau*

2017 Wisconsin Act 174 created the offense of underage sexual activity. Before Act 174, a person who was convicted of sexual intercourse or sexual contact with a child who was at least 13 but under 16 was guilty of a felony. Under Act 174, the offense of underage sexual activity changed the classification of the crime so that 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 under 19 years old.

This bill allows persons who were convicted of a sex offense against a child that occurred before the effective date of 2017 Wisconsin Act 174 (March 30, 2018) to petition a court to vacate that conviction and enter a conviction for the lesser offense of underage sexual activity if the person could have been convicted of the lesser offense if the violation had occurred after March 30, 2018.

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

3     **SECTION 1.** 948.093 of the statutes is renumbered 948.093 (1).

4     **SECTION 2.** 948.093 (2) of the statutes is created to read:

**SENATE BILL 261****SECTION 2**

1           948.093 (2) A person who was convicted of a violation of s. 940.225 (3) or 948.02  
2           (2) that was committed before March 30, 2018, may petition a court to vacate the  
3           conviction and enter a conviction for a violation of sub. (1) if all of the following apply:

4           (a) The violation involved sexual contact or sexual intercourse with a child and  
5           one of the following applies:

6           1. If the violation involved sexual contact with a child, at the time of the  
7           violation the child had attained the age of 15 years but had not attained the age of  
8           16 years.

9           2. If the violation involved sexual intercourse with a child, at the time of the  
10          violation the child had attained the age of 15 years.

11          (b) At the time of the violation, the actor had not attained the age of 19 years.

12          (c) The violation did not involve use or threat of force or violence.

13   (END)