CHAPTER 948
CRIMES AGAINST CHILDREN

948.01 Definitions.
948.015 Other offenses against children.
948.02 Sexual assault of a child.
948.025 Engaging in repeated acts of sexual assault of the same child.
948.03 Physical abuse of a child.
948.04 Causing mental harm to a child.
948.05 Sexual exploitation of a child.
948.051 Trafficking of a child.
948.055 Causing a child to view or listen to sexual activity.
948.06 Incest with a child.
948.07 Child enticement.
948.075 Use of a computer to facilitate a child sex crime.
948.08 Soliciting a child for prostitution.
948.081 Patronizing a child.
948.085 Sexual assault of a child placed in substitute care.
948.09 Sexual intercourse with a child age 16 or older.
948.093 Underage sexual activity.
948.095 Sexual assault of a child by a school staff person or a person who works or volunteers with children.
948.10 Exposing genitals, pubic area, or intimate parts.
948.11 Exposing a child to harmful material or harmful descriptions or narrations.
948.12 Possession of child pornography.
948.13 Child sex offender working with children.
948.14 Registered sex offender and photographing minors.
948.15 Other offenses against children.
948.16 Abandonment of a child.
948.17 Neglecting a child.
948.18 Chronic neglect; repeated acts of neglect.
948.19 Failure to support.
948.20 Concealing or not reporting death of a child; not reporting disappearance of a child.
948.21 Receiving stolen property from a child.
948.22 Unauthorized placement for adoption.
948.23 Unauthorized interstate placements of children.
948.24 Abduction of another's child; constructive custody.
948.25 Interference with custody by parent or others.
948.26 Incest with a child.
948.27 Engaging in repeated acts of sexual assault of the same child.
948.28 Receiving property from a child.
948.29 Sexual assault of a child placed in substitute care.
948.30 Sexual assault of a child by a school staff person or a person who works or volunteers with children.
948.31 Sexual assault of a child placed in substitute care.
948.32 Sexual assault of a child by a school staff person or a person who works or volunteers with children.
948.33 Sexual assault of a child placed in substitute care.
948.34 Sexual assault of a child by a school staff person or a person who works or volunteers with children.
948.35 Sexual assault of a child placed in substitute care.
948.36 Sexual assault of a child by a school staff person or a person who works or volunteers with children.
948.37 Sexual assault of a child placed in substitute care.
948.38 Sexual assault of a child by a school staff person or a person who works or volunteers with children.
948.39 Sexual assault of a child placed in substitute care.
948.40 Sexual assault of a child by a school staff person or a person who works or volunteers with children.
948.41 Sexual assault of a child placed in substitute care.
948.42 Sexual assault of a child by a school staff person or a person who works or volunteers with children.
948.43 Sexual assault of a child placed in substitute care.
948.44 Sexual assault of a child by a school staff person or a person who works or volunteers with children.
948.45 Sexual assault of a child placed in substitute care.
948.46 Sexual assault of a child by a school staff person or a person who works or volunteers with children.
948.47 Sexual assault of a child placed in substitute care.
948.48 Sexual assault of a child by a school staff person or a person who works or volunteers with children.
948.49 Sexual assault of a child placed in substitute care.
948.50 Sexual assault of a child by a school staff person or a person who works or volunteers with children.
948.51 Sexual assault of a child placed in substitute care.
948.52 Sexual assault of a child by a school staff person or a person who works or volunteers with children.
948.53 Sexual assault of a child placed in substitute care.
948.54 Sexual assault of a child by a school staff person or a person who works or volunteers with children.
948.55 Sexual assault of a child placed in substitute care.
948.56 Sexual assault of a child by a school staff person or a person who works or volunteers with children.
948.57 Sexual assault of a child placed in substitute care.
948.58 Sexual assault of a child by a school staff person or a person who works or volunteers with children.
948.59 Sexual assault of a child placed in substitute care.
948.60 Sexual assault of a child by a school staff person or a person who works or volunteers with children.
948.61 Sexual assault of a child placed in substitute care.
948.62 Sexual assault of a child by a school staff person or a person who works or volunteers with children.
948.63 Sexual assault of a child placed in substitute care.
948.64 Sexual assault of a child by a school staff person or a person who works or volunteers with children.
948.65 Sexual assault of a child placed in substitute care.
948.66 Sexual assault of a child by a school staff person or a person who works or volunteers with children.
948.67 Sexual assault of a child placed in substitute care.
948.68 Sexual assault of a child by a school staff person or a person who works or volunteers with children.
948.69 Sexual assault of a child placed in substitute care.
948.70 Sexual assault of a child by a school staff person or a person who works or volunteers with children.
948.71 Sexual assault of a child placed in substitute care.
948.72 Sexual assault of a child by a school staff person or a person who works or volunteers with children.
948.73 Sexual assault of a child placed in substitute care.
948.74 Sexual assault of a child by a school staff person or a person who works or volunteers with children.
948.75 Sexual assault of a child placed in substitute care.
948.76 Sexual assault of a child by a school staff person or a person who works or volunteers with children.
948.77 Sexual assault of a child placed in substitute care.
948.78 Sexual assault of a child by a school staff person or a person who works or volunteers with children.
948.79 Sexual assault of a child placed in substitute care.
948.80 Sexual assault of a child by a school staff person or a person who works or volunteers with children.
948.81 Sexual assault of a child placed in substitute care.
948.82 Sexual assault of a child by a school staff person or a person who works or volunteers with children.
948.83 Sexual assault of a child placed in substitute care.
948.84 Sexual assault of a child by a school staff person or a person who works or volunteers with children.
948.85 Sexual assault of a child placed in substitute care.
948.86 Sexual assault of a child by a school staff person or a person who works or volunteers with children.
948.87 Sexual assault of a child placed in substitute care.
948.88 Sexual assault of a child by a school staff person or a person who works or volunteers with children.
948.89 Sexual assault of a child placed in substitute care.
948.90 Sexual assault of a child by a school staff person or a person who works or volunteers with children.
948.91 Sexual assault of a child placed in substitute care.
948.92 Sexual assault of a child by a school staff person or a person who works or volunteers with children.
948.93 Sexual assault of a child placed in substitute care.
948.94 Sexual assault of a child by a school staff person or a person who works or volunteers with children.
948.95 Sexual assault of a child placed in substitute care.
948.96 Sexual assault of a child by a school staff person or a person who works or volunteers with children.
948.97 Sexual assault of a child placed in substitute care.
CRIMES AGAINST CHILDREN

(1) First degree sexual assault. (am) Whoever has sexual contact or sexual intercourse with a person who has not attained the age of 13 years and causes great bodily harm to the person is guilty of a Class A felony. (b) Whoever has sexual intercourse with a person who has not attained the age of 12 years is guilty of a Class B felony. (c) Whoever has sexual intercourse with a person who has not attained the age of 16 years by use or threat of force or violence is guilty of a Class B felony. (d) Whoever has sexual contact with a person who has not attained the age of 16 years by use or threat of force or violence is guilty of a Class B felony if the actor is at least 18 years of age when the sexual contact occurs. (e) 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. The subsection does not apply if s. 948.093 applies. (f) Felony if that person has knowledge that another person intends to have, is having or has had sexual intercourse or sexual contact with the child, is physically and emotionally capable of taking action which will prevent the intercourse or contact from taking place or being repeated, fails to take that action and the failure to act exposes the child to unreasonable risk that intercourse or contact may occur between the child and the other person or facilitates the intercourse or contact that does occur between the child and the other person.

(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.

(3) Failure to act. A person responsible for the welfare of a child who has not attained the age of 16 years is guilty of a Class C

948.025 Engaging in repeated acts of sexual assault of the same child. (1) Whoever commits 3 or more violations under s. 948.02 (1) or (2) within a specified period of time involving the same child is guilty of:

(a) A Class A felony if at least 3 of the violations were violations of s. 948.02 (1) (am).

(b) A Class B felony if at least 3 of the violations were violations of s. 948.02 (1) (am), (b), or (c).

(c) A Class B felony if at least 3 of the violations were violations of s. 948.02 (1) (am), (b), (c), or (d).

(d) A Class B felony if at least 3 of the violations were violations of s. 948.02 (1).
3  Updated 19–20 Wis. Stats.

CRIMES AGAINST CHILDREN 948.03

948.03 Physical abuse of a child. (1) Definitions. In this section, “recklessly” means conduct which creates a situation of unreasonable risk of harm to and demonstrates a conscious disregard for the safety of the child.

(2) Intentional causation of bodily harm. (a) Whoever intentionally causes great bodily harm to a child is guilty of a Class C felony.

(b) Whoever intentionally causes bodily harm to a child is guilty of a Class H felony.

(c) Whoever intentionally causes bodily harm to a child by conduct which creates a high probability of great bodily harm is guilty of a Class F felony.

(3) Reckless causation of bodily harm. (a) Whoever recklessly causes great bodily harm to a child is guilty of a Class E felony.

(b) Whoever recklessly causes bodily harm to a child is guilty of a Class F felony.

(c) Whoever recklessly causes bodily harm to a child by conduct which creates a high probability of great bodily harm is guilty of a Class H felony.

(4) Failing to act to prevent bodily harm. (a) A person responsible for the child’s welfare is guilty of a Class F felony if that person has knowledge that another person intends to cause, is causing or has intentionally or recklessly caused great bodily harm to the child and is physically and emotionally capable of taking action which will prevent the bodily harm from occurring or being repeated, fails to take that action and the failure to act exposes the child to an unreasonable risk of great bodily harm by the other person or facilitates the great bodily harm to the child that is caused by the other person.

(b) A person responsible for the child’s welfare is guilty of a Class H felony if that person has knowledge that another person intends to cause, is causing or has intentionally or recklessly caused bodily harm to the child and is physically and emotionally capable of taking action which will prevent the bodily harm from occurring or being repeated, fails to take that action and the failure to act exposes the child to an unreasonable risk of great bodily harm by the other person or facilitates the great bodily harm to the child that is caused by the other person.

(5) Engaging in repeated acts of physical abuse of the same child. (a) Whoever commits 3 or more violations under sub. (2), (3), or (4) within a specified period involving the same child is guilty of the following:

1. A Class A felony if at least one violation caused the death of the child.

2. A Class B felony if at least 2 violations were violations of sub. (2) (a).

3. A Class C felony if at least one violation resulted in great bodily harm to the child.

4. A Class D felony if at least one violation created a high probability of great bodily harm to the child.

5. A Class E felony.

(b) If an action under par. (a) is tried to a jury, in order to find the defendant guilty the members of the jury must unanimously agree that at least 3 violations of sub. (2), (3), or (4) occurred within the specified period but need not agree on which acts constitute the requisite number.

(c) The state may not charge in the same action a defendant with a violation of this subsection and with a violation involving the same child under s. 948.02 or 948.10, unless the other violation occurred outside of the time period applicable under sub. (1).

This subsection does not prohibit a conviction for an included crime under s. 939.66 when the defendant is charged with a violation of this section.


This section does not violate the right to the a unanimous verdict or to due process. State v. Cooper, 2003 WI App 227, 267 Wis. 2d 886, 672 N.W.2d 118, 02-2247.

The state may bring multiple prosecutions under sub. (1) when two or more episodes involving “3 or more violations under s. 948.02 (1) or (2) within a specified period involving the same child” are discrete as to time and venue. State v. Nommensen, 2007 WI App 224, 305 Wis. 2d 695, 741 N.W.2d 481, 06-2727.

The respondent, a 15-year-old’s assertion, that applying sub. (1) (e) to him violated his due process and equal protection rights, failed. While a juvenile under the age of 16 could be both a victim and an offender under sub. (1) (c), the respondent was not a victim under the facts in this case. Sub. (1) (e) prohibits a parent, or any other person, from engaging in sexual contact with another person who has not reached the age of 16. Sexual contact occurs when intentional touching is done “either for the purpose of sexually stimulating or sexually humiliating the complainant or sexually arousing or gratifying the defendant.” The statute provides an objective standard that makes clear that every person who engages in sexual contact with a child under the age of 16 for the purposes described is strictly liable. State v. Collom M., 2015 WI App 94, 360 Wis. 2d 119, 875 N.W.2d 642, 14-2419.

When the state alleged that the defendant engaged in repeated sexual assaults of the same child between 2007 and 2008, and during that time period involving the same child under 16 was repealed and recreated, the applicable law was the statute in effect when the last criminal action constituting a continuing offense occurred. Although the defendant should have been charged under the 2007-08 law, the defendant was mistakenly charged under the 2005-06 law. Nevertheless, the defendant was charged with a crime that existed at law. Class C criminal liability attached under the 2005-06 and 2007-08 laws to the same conduct as it pertained to the defendant. The wording difference was immaterial as the elements were the same. The technical charging error did not prejudice the defendant, nor did it affect the circuit court’s subject matter jurisdiction. State v. Scott, 2017 WI App 40, 730 Wis. 2d 430, 899 N.W.2d 728, 16-1411.

2019–20 Wisconsin Statutes updated through 2021 Wis. Act 267 and through all Supreme Court and Controlled Substances Board Orders filed before and in effect on October 5, 2022. Published and certified under s. 35.18. Changes effective after October 5, 2022, are designated by NOTES. (Published 10–5–22)
CRIMES AGAINST CHILDREN

with treatment by spiritual means through prayer alone for healing in accordance with the religious method of healing permitted under s. 48.981 (3) (c) 4, or 448.03 (6) in lieu of medical or surgical treatment.


To obtain a conviction for aiding and abetting a violation of sub. (2) or (3), the state must prove conduct that as a matter of objective fact aids another in executing the crime. State v. Rundle, 176 Wis. 2d 985, 500 N.W.2d 916 (Cl. App. 1993).

To overcome the privilege of parental discipline in s. 939.45 (5), the state must prove conduct that as a matter of objective fact aids another in executing the crime. State v. Williams, 723 N.W.2d 719 (Ct. App. 1999).

The majority of reasonable adults will objectively believe that the amount of force used was necessary and not excessive must be determined from the standpoint of the defendant at the time of the defendant’s acts. State v. Kimberly B., 2005 WI App 115, 283 Wis. 2d 731, 699 N.W.2d 641, 04–1424.

The instruction of mistake defense applies only to criminal charges with a state of mind element the defendant’s position under the circumstances that existed at the time of the alleged offense. State v. Kimberly B., 2005 WI App 115, 283 Wis. 2d 731, 699 N.W.2d 641, 04–1424.

The treatment–through–prayer provision under sub. (6) by its terms applies only to charges of criminal abuse under this section. On its face, the treatment–through–prayer provision does not immunize a parent from any criminal liability other than that created by the criminal child abuse statute. No one reading the treatment–through–prayer provision does not immunize a parent from any criminal liability other than the criminal child abuse statute. No one reading the treatment–through–prayer provision does not immunize a parent from any criminal liability other than the criminal child abuse statute.

The second–degree reckless homicide statute, s. 940.06, and this statute are sufficient to punish for that conduct which demonstrates substantial disregard for the mental well–being of the child is guilty of a Class F felony.

Whoever intentionally causes a child who has not attained the age of 18 years, or an individual who the actor believes has not attained the age of 18 years, to view, or listen to sexually explicit conduct may be penalized under sub. (2) if the defendant had reasonable cause to believe that the child had attained the age of 18 years. A defendant who raises this affirmative defense has the burden of proving this defense by a preponderance of the evidence.

Whoever benefits in any manner from a violation of sub. (1) (a) or (b) or (2) if the defendant had reasonable cause to believe that the child had attained the age of 18 years. A defendant who raises this affirmative defense has the burden of proving this defense by a preponderance of the evidence.

Whoever recruits, entices, provides, obtains, harbors, transports, patronizes, or solicits or knowingly attempts to recruit, entice, provide, obtain, harbor, transport, patronize, or solicit any child for the purpose of commercial sex acts, as defined in s. 940.302 (1) (a), is guilty of a Class C felony.

Whoever in any manner from a violation of sub. (1) is guilty of a Class C felony if the person knows that the benefits come from an act described in sub. (1).

Any person who incurs an injury or death as a result of a violation of sub. (1) or (2) may bring a civil action against the person who committed the violation. In addition to actual damages, the court may award punitive damages to the injured party, not to exceed ten times the amount of actual damages incurred, and reasonable attorney fees.

Whoever recruits, entices, provides, obtains, harbors, transports, patronizes, or solicits or knowingly attempts to recruit, entice, provide, obtain, harbor, transport, patronize, or solicit any child for the purpose of commercial sex acts, as defined in s. 940.302 (1) (a), is guilty of a Class C felony.

Whoever intentionally causes a child who has not attained 18 years of age, or an individual who the actor believes has not attained 18 years of age, to view or listen to sexually explicit conduct may be penalized as provided in sub. (2) if the viewing or listening is for the purpose of sexually arousing or gratifying the actor or humiliating or degrading the child or individual.

Whoever violates sub. (1) is guilty of:

(a) A Class F felony if any of the following applies:

1. The child has not attained the age of 13 years.

2. The actor believes or has reason to believe that the child has not attained the age of 13 years.

(b) A Class H felony if any of the following applies:

1. The child has attained the age of 13 years but has not attained the age of 18 years.

2. The actor believes or has reason to believe that the child has attained the age of 13 years but has not attained the age of 18 years.

948.055 Causing a child to view or listen to sexual activity. (1) Whoever intentionally causes a child who has not attained 18 years of age, or an individual who the actor believes has not attained 18 years of age, to view or listen to sexually explicit conduct may be penalized as provided in sub. (2) if the viewing or listening is for the purpose of sexually arousing or gratifying the actor or humiliating or degrading the child or individual.
Incest with a child.  Whoever does any of the following is guilty of a Class C felony:

(1) Marries or has sexual intercourse or sexual contact with a child he or she knows is related, either by blood or adoption, and the child is related in a degree of kinship closer than 2nd cousin.

(1m) Has sexual contact or sexual intercourse with a child if the actor is the child’s stepparent.

(2) Is a person responsible for the child’s welfare and:

(a) Has knowledge that another person who is related to the child by blood or adoption in a degree of kinship closer than 2nd cousin or who is a child’s stepparent has had or intends to have sexual intercourse or sexual contact with the child;

(b) Is physically and emotionally capable of taking action that will prevent the intercourse or contact from occurring or being repeated;

(c) Fails to take that action; and

(d) The failure to act exposes the child to an unreasonable risk that intercourse or contact may occur between the child and the other person or facilitates the intercourse or contact that does occur between the child and the other person.


Child enticement.  Whoever, with intent to commit any of the following acts, causes or attempts to cause any child which the actor knows or reasonably should know is not the age of 18 years to go into any vehicle, building, room or secluded place is guilty of a Class D felony:

(1) Having sexual contact or sexual intercourse with the child in violation of s. 948.02, 948.085, or 948.095.

(2) Causing the child to engage in prostitution.

(3) Exposing genitals, pubic area, or intimate parts to the child or causing the child to expose genitals, pubic area, or intimate parts in violation of s. 948.10.

(4) Recording the child engaging in sexually explicit conduct.

(5) Causing bodily or mental harm to the child.

(6) Giving or selling to the child a controlled substance or controlled substance analog in violation of ch. 661.


The child enticement statute does not apply if the actor has reason to believe has not attained the age of 16 years with intent to have sexual contact or sexual intercourse with the individual in violation of s. 948.02 (1) or (2) is guilty of a Class C felony.


The penalty scheme of sub. (3) is not unconstitutionally irrational. That the statute, unlike the statute prohibiting distinguish between victims under 16 years of age or older and other children, is a matter for the legislature. State v. Hanson, 182 Wis. 2d 481, 513 N.W.2d 700 (Ct. App. 1994).

The element of meeting the child in an attempted crime, as well as the completed crime, and cannot be combined with the general attempt statute. State v. DeRango, 229 Wis. 2d 755, 599 N.W.2d 27 (Ct. App. 1999), 98-0642.

The purposes of s. 948.05, child exploitation, and this section, child enticement, are distinct, and two distinct crimes are envisioned by the statutes. Charging both for the alleged victim that he drove through her neighborhood for the specific purpose of meeting her, and his confession to the police that he went to the area so he could “get her interested in chatting with him again,” showed that the non–computer–assisted act of driving through the area was to effect his intent to have sex with the alleged victim and satisfied the requirement in sub. (3). State v. Schuplis, 2006 WI App 263, 298 Wis. 2d 155, 726 N.W.2d 706, 06-0263.

The element of meeting the individual, even if a transient video of himself was, under the circumstances of this case, nothing more than the use of his computer to communicate and thus not an act “other than us[ing] a computerized communication system to commu- nicate” required under sub. (3). State v. Olson, 2008 WI App 171, 314 Wis. 2d 630, 762 N.W.2d 393, 08-0587.

The element of a “computerized communication system” in sub. (1r) was satisfied when the defendant used his flip–style cellphone to exchange texts with, and receive picture messages from, the 14–year–old victim. There is no doubt that modem cellphones today are in fact computers. The defendant used his cellphone as a “ tool” to send communications to the victim over the computer system used by their cellphones so that he could have sexual contact with her. State v. McKeillop, 2016 WI 51, 369 Wis. 2d 437, 881 N.W.2d 258, 14-0827.

This section is not unconstitutionally vague because a person of ordinary intelligence would understand that using a cellphone to text or picture message with a child to entice sexual encounters violates the statute, and this section is capable of objective enforcement. State v. McKeillop, 2016 WI 51, 369 Wis. 2d 437, 881 N.W.2d 258, 14-0827.

The legislature had reasonable and practical grounds for making a conviction for using a computer to facilitate a child sex crime under sub. (1r) subject to a mandatory minimum sentence. Thus, there was no error in the trial court’s application of the residual enhancement in s. 939.617 (1) and s. 939.617 (1) was not unconstitutional as applied to the defendant. State v. Heidtke, 2016 WI App 55, 370 Wis. 2d 771, 883 N.W.2d 162, 15-1420.

Soliciting a child for prostitution.  Whoever intentionally solicits or causes any child to engage in an act of prostitution or establishes any place in a place of prostitution is guilty of a Class D felony.


Although colloquially referred to as prohibiting solicitation, this section also specifically, and alternatively, prohibits causing a child to practice prostitution. Cause is a substantial factor that need not be shown to the first or sole cause of infractions of s. 948.08. The habitual nature of the defendant’s trading cocaine for sex with the victim satisfied the requisite that the victim did “practice prostitution” with the

Like the child enticement statute in Robin’s, the child sexual assault statute regulates conduct, not speech. An attempt to have sexual contact or sexual intercourse with a child initiated or carried out in part by means of language does not make an attempt to commit child sexual assault charge susceptible of 1st degree enhanced scrutiny. State v. Brienzo, 2003 WI App 203, 267 Wis. 2d 349, 671 N.W.2d 700.

This section requires only that the defendant cause the child to go into any vehicle, building, room or secluded place. As such, the defendant need only place the child “in” the vehicle or building, room or secluded place. The place need not be entirely free of the likelihood of detection. All the statute requires is that the place provides a means by which to prevent the child and reduce the risk of detection. State v. Pask, 2010 WI App 175, 324 Wis. 2d 555, 781 N.W.2d 751, 09-0359.

Sexual contact is not an element of the crime of child enticement under this section. Rather, the six enumerated prohibited intents are modes of commission. At least one mode of commission must be referenced during a plea colloquy, but the terms comprising each mode need not be specifically defined. The crime of child enticement does not require proof of the actual, physical action contemplated by the mode of commission, only that the defendant acted to entice a child while intending to do one of the prohibited acts. The act of enticement is the crime, not the underlying intended sexual or other misconduct. State v. Hendricks, 2018 WI 15, 379 Wis. 2d 549, 906 N.W.2d 666, 15-2429.

948.081 Patronizing a child. An actor who enters or remains in any place of prostitution with intent to have nonmarital sexual intercourse or to commit an act of sexual gratification, in public or in private, involving the sex organ of one person and the mouth or anus of another, masturbation, or sexual contact with a person is guilty of a Class G felony if the person is a child. In a prosecution under this section, it need not be proven that the actor knew the age of the person and it is not a defense that the actor reasonably believed that the person was not a child.
History: 2017 a. 128.

948.085 Sexual assault of a child placed in substitute care. Whoever does any of the following is guilty of a Class C felony:
(1) Has sexual contact or sexual intercourse with a child for whom the actor is a foster parent.
(2) Has sexual contact or sexual intercourse with a child who is placed in any of the following facilities if the actor works or volunteers at the facility or is directly or indirectly responsible for managing it:
(a) A shelter care facility licensed under s. 48.66 (1) (a).
(b) A group home licensed under s. 48.625 or 48.66 (1).
(c) A facility described in s. 940.295 (2) (m).

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

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

948.095 Sexual assault of a child by a school staff person or a person who works or volunteers with children. (1) In this section:
(a) “School” means a public or private elementary or secondary school, or a tribal school, as defined in s. 115.001 (15m).
(b) “School staff” means any person who provides services to a school or a school board, including an employee of a school or a school board and a person who provides services to a school or a school board under a contract.
(2) Whoever has sexual contact or sexual intercourse with a child who has attained the age of 16 years and who is not the defendant’s spouse is guilty of a Class H felony if all of the following apply:
(a) The child is enrolled as a student in a school or a school district.
(b) The defendant is a member of the school staff of the school or school district in which the child is enrolled as a student.
(3) (a) A person who has attained the age of 21 years and who engages in an occupation or participates in a volunteer position that requires him or her to work or interact directly with children may not have sexual contact or sexual intercourse with a child who has attained the age of 16 years, who is not the person’s spouse, and with whom the person works or interacts through that occupation or volunteer position.
(b) Whoever violates par. (a) is guilty of a Class H felony.
(c) Paragraph (a) does not apply to an offense to which sub. (2) applies.
(d) Evidence that a person engages in an occupation or participates in a volunteer position relating to any of the following is prima facie evidence that the occupation or position requires him or her to work or interact directly with children:
1. Teaching children.
2. Child care.
3. Youth counseling.
4. Youth organization.
5. Coaching children.
6. Parks or playground recreation.
7. School bus driving.

948.10 Exposing genitals, pubic area, or intimate parts. (1) Whoever, for purposes of sexual arousal or sexual gratification, causes a child to expose genitals, pubic area, or intimate parts or exposes genitals, pubic area, or intimate parts to a child is guilty of the following:
(a) Except as provided in par. (b), a Class I felony.
(b) A Class A misdemeanor if any of the following applies:
1. The actor is a child when the violation occurs.
2. At the time of the violation, the actor had not attained the age of 19 years and was not more than 4 years older than the child.
(2) Subsection (1) does not apply under any of the following circumstances:
(a) The child is the defendant’s spouse.
(b) A mother’s breast-feeding of her child.

948.11 Exposing a child to harmful material or harmful descriptions or narrations. (1) Definitions. In this section:
(ag) “Harmful description or narrative account” means any explicit and detailed description or narrative account of sexual excitement, sexually explicit conduct, sadomasochistic abuse, physical torture or brutality that, taken as a whole, is harmful to children.
(ar) “Harmful material” means:
1. Any picture, photograph, drawing, sculpture, motion picture film or similar visual representation or image of a person or portion of the human body that depicts nudity, sexually explicit conduct, sadomasochistic abuse, physical torture or brutality that, taken as a whole, is harmful to children;
2. Any book, pamphlet, magazine, printed matter however reproduced or recording that contains any matter enumerated in sub. (1), or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexually explicit conduct, sadomasochistic abuse, physical torture or brutality and that, taken as a whole, is harmful to children.
(b) “Harmful to children” means that quality of any description, narrative account or representation, in whatever form, of nudity, sexually explicit conduct, sexual excitement, sadomasochistic abuse, physical torture or brutality, when it:
1. Predominantly appeals to the prurient, shameful or morbid interest of children;
2. Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for children; and
3. Lacks serious literary, artistic, political, scientific or educational value for children, when taken as a whole.

(d) “Nudity” means the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

(e) “Person” means any individual, partnership, firm, association, corporation or other legal entity.

(f) “Sexual excitement” means the condition of human male or female genitals that is produced when a person is sexually excited.

CRIMINAL PENALTIES. (a) Whoever, with knowledge of the character and content of the material, sells, rents, exhibits, plays, distributes, or loans to a child any harmful material, with or without monetary consideration, is guilty of a Class I felony if any of the following applies:

1. The person knows or reasonably should know that the child has not attained the age of 18 years.

2. The person has face-to-face contact with the child before or during the sale, rental, exhibit, playing, distribution, or loan.

3. Any school offering vocational, technical or adult education that:

a. Is a technical college, is a school approved by the department of education.

b. Is exempt from taxation under section 501 (c) (3) of the internal revenue code, as defined in s. 71.01 (6).

3. Any school offering vocational, technical or adult education that:

a. Is a technical college, is a school approved by the department of education.

b. Is exempt from taxation under section 501 (c) (3) of the internal revenue code, as defined in s. 71.01 (6).

5. A library that receives funding from any unit of government.

SPECIAL FACTORS. The provisions of this section, including the provisions of sub. (4), are severable, as provided in s. 990.001 (11).

(a) 2.

(b) 2.

(c) It is an affirmative defense to a prosecution for a violation of par. (a) 2., (am) 2., and (b) 2. if the defendant had reasonable cause to believe that the child had attained the age of 18 years, and the child exhibited to the defendant a draft card, driver’s license, birth certificate or other official or apparently official document purporting to establish that the child had attained the age of 18 years. A defendant who raises this affirmative defense has the burden of proving this defense by a preponderance of the evidence.

Extradition. If any person is convicted under sub. (2) and cannot be found in this state, the governor or any person performing the functions of governor by authority of the law shall, unless the convicted person has appealed from the judgment of contempt or conviction and the appeal has not been finally determined, demand his or her extradition from the executive authority of the state in which the person is found.

LIBRARIES AND EDUCATIONAL INSTITUTIONS. (a) The legislature finds that the libraries and educational institutions under par. (b) carry out the essential purpose of making available to all citizens a current, balanced collection of books, reference materials, periodicals, sound recordings and audiovisual materials that reflect the cultural diversity and pluralistic nature of American society. The legislature further finds that it is in the interest of the state to protect the financial resources of libraries and educational institutions from being expended in litigation and to permit these resources to be used to the greatest extent possible for fulfilling the essential purpose of libraries and educational institutions.

(b) No person who is an employee, a member of the board of directors or a trustee of any of the following is liable to prosecution for violation of this section for acts or omissions while in his or her capacity as an employee, a member of the board of directors or a trustee:

(1) A public elementary or secondary school.

(2) A private school, as defined in s. 115.001 (3r), or a tribal school, as defined in s. 115.001 (15m).

3. Any school offering vocational, technical or adult education that:

a. Is a technical college, is a school approved by the department of education.

b. Is exempt from taxation under section 501 (c) (3) of the internal revenue code, as defined in s. 71.01 (6).

4. Any institution of higher education that is accredited, as described in s. 39.30 (1) (d), and is exempt from taxation under section 501 (c) (3) of the internal revenue code, as defined in s. 71.01 (6).

5. A library that receives funding from any unit of government.
(b) A person who violates sub. (1m) or (2m) is guilty of a Class I felony if the person is under 18 years of age when the offense occurs.


948.10 CRIMES AGAINST CHILDREN

(b) A person who violates sub. (1m) or (2m) is guilty of a Class I felony if the person is under 18 years of age when the offense occurs.


948.12 CRIMES AGAINST CHILDREN

(b) A person who violates sub. (1m) or (2m) is guilty of a Class I felony if the person is under 18 years of age when the offense occurs.


A violation of this section must be based on the content of the photograph and how it was obtained. Evidence of the location and manner of storing the photograph is not properly considered. State v. A.H., 211 Wis. 2d 561, 566 N.W.2d 858 (Cl. App. 1997), 96–2311.

For purposes of multiplicity analysis, each image possessed can be prosecuted separately. Prosecution is not based upon the medium of reproduction. Multiple punishment is appropriate for a defendant who compiled and stored multiple images over time. State v. Muller, 2002 WI 35, 252 Wis. 2d 54, 643 N.W.2d 437, 00–1846.

Criminalizing child pornography presents the risk of self-censorship of constitutionally protected material. Criminal responsibility may not be imposed without some element of knowledge. The degree of knowledge that makes a person legally responsible for the consequences of his or her act or omission. In this section, “reasonably should know” is less than actual knowledge but still requires more than the standard used in civil negligence actions, which is constitutionally sufficient. State v. Schafer, 2003 WI App 164, 266 Wis. 2d 719, 668 N.W.2d 760, 01–2691.

There was sufficient evidence in the record to demonstrate that the defendant knowingly possessed child pornography images on his computer because he repeatedly visited child pornography Web sites, clicked on thumbnail images to create larger pictures for viewing, accessed five images twice, and saved at least one image to his personal folder. State v. Lindgren, 2004 WI App 159, 275 Wis. 2d 851, 687 N.W.2d 60, 03–1868.

Sub. (1m) forbids only depictions of real children engaged in sexually explicit activity. Sub. (1m)(c) specifies that to be convicted under the statute, the person possessing the pornography must know or have reason to know that the child engaged in sexually explicit conduct has not attained the age of 18 years. This element does not speak of depictions at all, but rather of a child who has not attained the age of 18 years. State v. Van Buren, 2008 WI App 26, 307 Wis. 2d 447, 746 N.W.2d 545, 06–3025.

Sub. (1m) criminalizes the knowing possession of any photograph of a child engaging in sexually explicit conduct. Expert testimony or other evidence to establish the reality of apparently real photographs is not required. When there has been no attempt to pretend that the photographs are anything other than what they appear to be, the photographs themselves are sufficient evidence of the reality of what they depict. State v. Van Buren, 2008 WI App 26, 307 Wis. 2d 447, 746 N.W.2d 545, 06–3025.

Individuals who purposely view digital images of child pornography on the Internet, even though the images are not found in the person’s computer hard drive, nonetheless knowingly possess those images in violation of sub. (1m). An individual knowingly possesses child pornography when he or she affirmatively pulls up images of child pornography on the Internet and views those images knowing that they contain child pornography. Whether the proof is hard drive evidence or something else should not matter. State v. Mercer, 2010 WI App 47, 324 Wis. 2d 506, 782 N.W.2d 125, 08–1763.

948.13 Child sex offender working with children. (1) In this section, “serious child sex offender” means any of the following:

(a) A crime under s. 940.22 (2) or 940.225 (2) (c) or (cm), if the victim is under 18 years of age at the time of the offense, a crime under s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies, or a crime under s. 948.02 (1) or (2), 948.025 (1), 948.05 (1) or (1m), 948.051, 948.06, 948.07 (1), (2), (3), or (4), 948.075, or 948.085.

(b) A crime under federal law or the law of any other state or, prior to May 7, 1996, under the law of this state that is comparable to a crime specified in par. (a).

(2) (a) Except as provided in pars. (b) and (c), whoever has been convicted of a serious child sex offense and subsequently engages in an occupation or participates in a volunteer position that requires him or her to work or interact primarily and directly with children under 16 years of age is guilty of a Class F felony.

(b) If all of the following apply, the prohibition under par. (a) does not apply to a person who has been convicted of a serious child sex offense until 90 days after the date on which the person receives actual written notice from a law enforcement agency, as defined in s. 165.77 (1) (b), of the prohibition under par. (a):

1. The only serious child sex offense for which the person has been convicted is a crime under s. 948.02 (2). 2.

2. The person was convicted of the serious child sex offense before May 7, 2002.

3. The person is eligible to petition for an exemption from the prohibition under sub. (2m) because he or she meets the criteria specified in sub. (2m) (a) 1. and 1m.

(c) The prohibition under par. (a) does not apply to a person who is exempt under a court order issued under sub. (2m).

(2m) (a) A person who has been convicted of a crime under s. 948.02 (2), 948.025 (1), or 948.085 may petition the court in which he or she was convicted to order that the person be exempt from sub. (2) (a) and permitted to engage in an occupation or participate in a volunteer position that requires the person to work or interact primarily and directly with children under 16 years of age. The court may grant a petition filed under this paragraph if the court finds that all of the following apply:

1. At the time of the commission of the crime under s. 948.02 (2), 948.025 (1), or 948.085 the person had not attained the age of 19 years and was not more than 4 years older or not more than 4 years younger than the child with whom the person had sexual contact or sexual intercourse.

2. The child with whom the person had sexual contact or sexual intercourse had attained the age of 13 but had not attained the age of 16.

3. It is not necessary, in the interest of public protection, to require the person to comply with sub. (2) (a).

(b) A person filing a petition under par. (a) shall send a copy of the petition to the district attorney who prosecuted the person. The district attorney shall make a reasonable attempt to contact the victim of the crime that is the subject of the person’s petition to inform the victim of his or her right to make or provide a statement under par. (d).

(c) A court may hold a hearing on a petition filed under par. (a) and the district attorney who prosecuted the person may appear at the hearing. Any hearing that a court decides to hold under this paragraph shall be held no later than 30 days after the petition is filed if the petition specifies that the person filing the petition is covered under sub. (2) (b), that he or she has received actual written notice from a law enforcement agency of the prohibition under sub. (2) (a), and that he or she is seeking an exemption under this subsection before the expiration of the 90–day period under sub. (2) (b).

(d) Before deciding a petition under par. (a), the court shall allow the victim of the crime that is the subject of the petition to make a statement in court at any hearing held on the petition or to submit a written statement to the court. A statement under this paragraph must be relevant to the issues specified in par. (a) 1., 1m. and 2.

(e) 1. Before deciding a petition filed under par. (a), the court may request the person filing the petition to be examined by a physician, psychologist or other expert approved by the court. If the person refuses to undergo an examination requested by the court under this subdivision, the court shall deny the person’s petition without prejudice.

2. If a person is examined by a physician, psychologist or other expert under subd. 1., the physician, psychologist or other expert shall file a report of his or her examination with the court, and the court shall provide copies of the report to the person and, if he or she requests a copy, to the district attorney. The contents of the report shall be confidential until the physician, psychologist or other expert has testified at a hearing held under par. (c). The report shall contain an opinion regarding whether it would be in the interest of public protection to require the person to comply with sub. (2) (a) and the basis for that opinion.

3. A person who is examined by a physician, psychologist or other expert under subd. 1. is responsible for paying the cost of the services provided by the physician, psychologist or other expert, except that if the person is indigent the cost of the services provided by the physician, psychologist or other expert shall be paid by the county. If the person claims or appears to be indigent, the court may grant a petition filed under this paragraph if the person is covered under sub. (2) (b), that he or she has received actual written notice from a law enforcement agency of the prohibition under sub. (2) (a), and that he or she is seeking an exemption under this subsection before the expiration of the 90–day period under sub. (2) (b).
CRIMES AGAINST CHILDREN

948.214 Registered sex offender and photographing minors. (1) DEFINITIONS. In this section:
(a) “Captures a representation” has the meaning given in s. 942.09 (1) (a).
(b) “Minor” means an individual who is under 17 years of age.
(c) “Representation” has the meaning giving in s. 942.09 (1) (c).
(d) “Sex offender” means a person who is required to register under s. 942.12.

(2) PROHIBITION. (a) A sex offender may not intentionally capture a representation of any minor without the written consent of the minor’s parent, legal custodian, or guardian. The written consent required under this paragraph shall state that the person seeking the consent is required to register as a sex offender with the department of corrections.

(b) Paragraph (a) does not apply to a sex offender who is capturing a representation of a minor if the sex offender is the minor’s parent, legal custodian, or guardian.

(3) PENALTY. Whoever violates sub. (2) is guilty of a Class I felony.


948.20 Abandonment of a child. Whoever, with intent to abandon the child, leaves any child in a place where the child may suffer because of neglect is guilty of a Class G felony.


948.21 Neglecting a child. (1) DEFINITIONS. In this section:
(a) “Child sex offense” means an offense under s. 948.02, 948.025, 948.05, 948.051, 948.055, 948.06, 948.07, 948.08, 948.10, 948.11, or 948.12.

(b) “Emotional damage” has the meaning given in s. 48.02 (5j).

(c) “Necessary care” means care that is vital to the needs of a child’s physical, emotional, or mental health based on all of the facts and circumstances bearing on the child’s need for care, including the child’s age; the child’s physical, mental, or emotional condition; and any special needs of the child.

(d) “Negligently” means acting, or failing to act, in such a way that a reasonable person would know or should know seriously endangers the physical, mental, or emotional health of a child.

(2) NEGLECT. Any person who is responsible for a child’s welfare who, through his or her action or failure to take action, for reasons other than poverty, negligently fails to provide any of the following, so as to seriously endanger the physical, mental, or emotional health of the child, is guilty of neglect and may be penalized as provided in sub. (3):
(a) Necessary care.
(b) Necessary food.
(c) Necessary clothing.
(d) Necessary medical care.
(e) Necessary shelter.
(f) Education in compliance with s. 118.15.

(g) The protection from exposure to the distribution or manufacture of controlled substances, as defined in s. 961.01 (4), or controlled substance analogs, as defined in s. 961.01 (4m), or to drug abuse, as defined in s. 46.973 (1) (b).

(3) PENALTIES. A person who violates sub. (2) is guilty of the following:
(a) A Class D felony if the child suffers death as a consequence.
(b) A Class F felony if any of the following applies:
   1. The child suffers great bodily harm as a consequence.
   2. The child becomes a victim of a child sex offense as a consequence.
   (c) A Class G felony if the child suffers emotional damage as a consequence.
   (d) A Class H felony if the child suffers bodily harm as a consequence.
   (e) A Class I felony if the natural and probable consequences of the violation would be a harm under par. (a), (b), (c), or (d) although the harm did not actually occur if one of the following applies:
      1. The child had not attained the age of 6 years when the violation was committed.
      2. The child has a physical, cognitive, or developmental disability that was known or should have been known by the actor.
   (f) A Class A misdemeanor if the natural and probable consequences of the violation would be a harm under par. (a), (b), (c), or (d) although the harm did not actually occur.


948.215 Chronic neglect; repeated acts of neglect. (1) Whoever violates s. 948.21 (2) is guilty of chronic neglect and may be penalized as provided in sub. (2) if one of the following applies:
(a) The person commits 3 or more violations under s. 948.21 (2) within a specified period of time involving the same child.

Updated 2019–20 Wisconsin Statutes. Published and certified under s. 35.18. October 5, 2022.
(b) The person has at least one previous conviction for a violation of s. 948.21 (2) involving the same child as the current violation.

(2) A person who is guilty of chronic neglect under sub. (1) is guilty of the following:

(a) A Class B felony if the child suffers death as a consequence.

(b) A Class D felony if any of the following applies:

1. The child suffers great bodily harm as a consequence.

2. The child becomes a victim of a child sex offense, as defined in s. 948.21 (1) (a), as a consequence.

(c) A Class E felony if the child suffers emotional damage, as defined in s. 948.21 (1) (b), as a consequence.

(d) A Class F felony if the child suffers bodily harm as a consequence.

(e) A Class H felony if the natural and probable consequences of the violation would be a harm under par. (a), (b), (c), or (d) although the harm did not actually occur.

(3) If an action under sub. (1) (a) is tried to a jury, in order to find the defendant guilty the members of the jury must unanimously agree that at least 3 violations of s. 948.21 (2) involving the same child occurred within the specified period but need not agree on which acts constitute the requisite number or which acts resulted in any requisite consequence.

(4) The state may not charge a person in the same action with a violation under sub. (1) (a) and a violation involving the same child under s. 948.21 (2), unless the violation of s. 948.21 (2) occurred outside of the period applicable under sub. (1) (a).

History: 2017 c. 283.

948.22 Failure to support. (1) In this section:

(a) “Child support” means an amount which a person is ordered to provide for support of a child by a court of competent jurisdiction in this state or in another state, territory or possession of the United States, or, if not ordered, an amount that a person is legally obligated to provide under s. 49.90.

(b) “Grandchild support” means an amount which a person is legally obligated to provide under s. 49.90 (1) (a) 2. and (11).

(c) “Spousal support” means an amount which a person is ordered to provide for support of a spouse or former spouse by a court of competent jurisdiction in this state or in another state, territory or possession of the United States, or, if not ordered, an amount that a person is legally obligated to provide under s. 49.90.

(2) Any person who intentionally fails for 120 or more consecutive days to provide spousal, grandchild or child support which the person knows or reasonably should know the person is legally obligated to provide is guilty of a Class I felony. A prosecutor may charge a person with multiple counts for a violation under this subsection if each count covers a period of at least 120 consecutive days and there is no overlap between periods.

(3) Any person who intentionally fails for less than 120 consecutive days to provide spousal, grandchild or child support which the person knows or reasonably should know the person is legally obligated to provide is guilty of a Class A misdemeanor.

(4) Under this section, the following is prima facie evidence of intentional failure to provide child, grandchild or spousal support:

(a) For a person subject to a court order requiring child, grandchild or spousal support payments, when the person knows or reasonably should have known that he or she is required to pay support under an order, failure to pay the child, grandchild or spousal support payment required under the order.

(b) For a person not subject to a court order requiring child, grandchild or spousal support payments, when the person knows or reasonably should have known that he or she has a dependent, failure to provide support equal to at least the amount established by rule of the department of children and families under s. 49.22 (9) or causing a spouse, grandchild or child to become a dependent person, or continue to be a dependent person, as defined in s. 49.01 (2).

(5) Under this section, it is not a defense that child, grandchild or spousal support is provided wholly or partially by any other person or entity.

(6) Under this section, affirmative defenses include but are not limited to inability to provide child, grandchild or spousal support. A person may not demonstrate inability to provide child, grandchild or spousal support if the person is employable but, without reasonable excuse, either fails to diligently seek employment, terminates employment or reduces his or her earnings or assets. A person who raises an affirmative defense has the burden of proving the defense by a preponderance of the evidence.

(7) (a) Before trial, upon petition by the complainant and notice to the defendant, the court may enter a temporary order regarding payment of child, grandchild or spousal support.

(b) In addition to or instead of imposing a penalty authorized for a Class I felony or a Class A misdemeanor, whichever is appropriate, the court shall:

1. If a court order requiring the defendant to pay child, grandchild or spousal support exists, order the defendant to pay the amount required including any amount necessary to meet a past legal obligation for support.

2. If no court order described under sub. 1. exists, enter such an order. For orders for child or spousal support, the court shall determine the amount of support in the manner required under s. 767.511 or 767.89, regardless of the fact that the action is not one for a determination of paternity or an action specified in s. 767.511 (1).

(bm) Upon request, the court may modify the amount of child or spousal support payments determined under par. (b) if, after considering the factors listed in s. 767.511 (1m), regardless of the fact that the action is not one for a determination of paternity or an action specified in s. 767.511 (1).

(8) If an action under sub. (3) is tried to a jury, in order to find the defendant guilty the members of the jury must unanimously agree that at least 3 violations of s. 948.21 (2) involving the same child occurred within the specified period but need not agree on which acts constitute the requisite number or which acts resulted in any requisite consequence.

(9) If a court order requiring the defendant to pay child, grandchild or spousal support exists, order the defendant to pay the amount required including any amount necessary to meet a past legal obligation for support.

(10) If no court order described under sub. 1. exists, enter such an order. For orders for child or spousal support, the court shall make the determination of support in the manner required under s. 767.57. Each court order required to pay child, grandchild or spousal support shall be made in the manner provided under s. 767.57.


Under s. 940.27 (2) [now sub. (2)], the state must prove that the defendant had an obligation to provide support and failed to do so for 120 days. The state need not prove that the defendant was required to pay a specific amount. Sub. (6) does not unconstitutionally shift the burden of proof. State v. Duprey, 149 Wis. 2d 635, 439 N.W.2d 837 (Ct. App. 1989).

Multiple prosecutions for a continuous failure to pay child support are allowed. State v. Grayson, 172 Wis. 2d 156, 493 N.W.2d 23 (1992).

Jurisdiction in a criminal nonsupport action under this section does not require that the child be supported by a resident of Wisconsin during the charged period. State v. Gantt, 201 Wis. 2d 206, 548 N.W.2d 134 (Ct. App. 1996), 95–2469.

Evidence of incarceration to prove inability to pay is not excluded under sub. (6), and there was no basis to find the evidence irrelevant. State v. Stutesman, 221 Wis. 2d 178, 585 N.W.2d 181 (Ct. App. 1998), 99–2291.

This section does not distinguish between support and arrearages. It criminalizes failure to pay arrearages even after the child for whom support is ordered attains majority. Incarceration for violation of this section is not unconstitutional imprisonment for debt. State v. Lenz, 230 Wis. 2d 529, 602 N.W.2d 172 (Ct. App. 1999), 99–0860.

If nonsupport is charged as a continuing offense, the statute of limitations runs from the last date the defendant intentionally fails to provide support. If charges are brought for each 120 day period that a person does not pay, the statute of limitations bars charging for those 120 periods that are more than 6 years old. The running of the statute of limitations does not prevent inclusion of all unpaid amounts in a later arrearage order. State v. Monarch, 230 Wis. 2d 542, 602 N.W.2d 179 (Ct. App. 1999), 99–0961.

A father, who intentionally refused to pay child support could, as a condition of probation, be required to avoid having another child unless he showed that he could support the child and his current children. In light of the defendant’s ongoing victimization of his children and record manifesting his disregard for the law, the condition was not overly broad and was reasonably related to the defendant’s rehabilitation. State v. Oakley, 2001 WI 103, 248 Wis. 2d 447, 629 N.W.2d 209, 99–3328.

Whether a court of competent jurisdiction ordered a defendant to pay child support is not an element of failure to pay child support. A question in that regard need not be submitted to the jury. Because the defendant father did not identify a historical fact
inconsistent with an incident of the Maine court's jurisdiction, whether a court of competent jurisdiction ordered him to pay child support was a purely legal question. State v. Smith, 2005 WI 104, 283 Wis. 2d 57, 699 N.W.2d 508, 10–1698.

948.23 Concealing or not reporting death of a child; not reporting disappearance of a child. (1) Whoever does any of the following is guilty of a Class I felony:

(a) Conceals the corpse of any issue of a woman's body with intent to prevent a determination of whether it was born dead or alive.

(b) Unless a physician or an authority of a hospital, sanatorium, public or private institution, convalescent home, or any institution of a like nature is required to report the death under s. 979.01 (1) or unless a report conflicts with religious tenets or practices, fails to report to law enforcement the death of a child immediately after discovering the death, or as soon as practically possible if immediate reporting is impossible, if the actor is the parent, stepparent, guardian, or legal custodian of the child and if any of the following applies:

1. The death involves unexplained, unusual, or suspicious circumstances.
2. The death is or appears to be a homicide or suicide.
3. The death is due to poisoning.
4. The death follows an accident, whether the injury is or is not the primary cause of the death.

(2) Whoever, without authorization under s. 69.18 or other legal authority to move a corpse, hides or buries the corpse of a child is guilty of a Class F felony.

(3) (ag) In this subsection, “missing” means absent without a reasonable explanation if the absence would raise concern in a reasonable person for the child’s well-being.

(am) Within the period under par. (b), an individual must report to law enforcement a child as missing if the individual is the parent, stepparent, guardian, or legal custodian of the child.

(b) 1. The report under par. (am) must be made within 24 hours after the child is discovered to be missing if the child is under 13 years of age when the discovery is made.

2. The report under par. (am) must be made within 48 hours after the child is discovered to be missing if the child is at least 13 years of age but under 16 years of age when the discovery is made.

3. The report under par. (am) must be made within 72 hours after the child is discovered to be missing if the child is at least 16 years of age when the discovery is made.

(c) Whoever violates par. (am) is guilty of the following:

1. Except as provided in subs. 2. to 4., a Class A misdemeanor.
2. If the child suffers bodily harm or substantial bodily harm while he or she is missing, a Class H felony.
3. If the child suffers great bodily harm while he or she is missing, a Class F felony.
4. If the child dies while he or she is missing or as a result of an injury he or she suffered while missing, a Class D felony.


948.24 Unauthorized placement for adoption. (1) Whoever does any of the following is guilty of a Class H felony:

(a) Places or agrees to place his or her child for adoption for anything exceeding the actual cost of the items listed in s. 48.913 (1) (a) to (m) and the payments authorized under s. 48.913 (2).

(b) For anything of value, solicits, negotiates or arranges the placement of a child for adoption except under s. 48.833.

(c) In order to receive a child for adoption, gives anything exceeding the actual cost of the legal and other services rendered in connection with the adoption and the adoption listed in s. 48.913 (1) (a) to (m) and the payments authorized under s. 48.913 (2).

(2) This section does not apply to placements under s. 48.839.


948.25 Unauthorized interstate placements of children. (1) Any person who sends a child out of this state, brings a child into this state, or causes a child to be sent out of this state or brought into this state for the purpose of permanently transferring physical custody of the child to a person who is not a relative, as defined in s. 48.02 (15), of the child is guilty of a Class A misdemeanor.

(2) Subsection (1) does not apply to any of the following:

(a) A placement of a child that is authorized under s. 48.98, 48.988, or 48.99.

(b) A placement of a child that is approved by a court of competent jurisdiction of the sending state or receiving state.

History: 2013 a. 314.

948.30 Abduction of another's child; constructive custody. (1) Any person who, for any unlawful purpose, does any of the following is guilty of a Class C felony:

(a) Takes a child who is not his or her own by birth or adoption from the child’s home or the custody of his or her parent, guardian or legal custodian.

(b) Detains a child who is not his or her own by birth or adoption when the child is away from home or the custody of his or her parent, guardian or legal custodian.

(2) Any person who, for any unlawful purpose, does any of the following is guilty of a Class C felony:

(a) By force or threat of imminent force, takes a child who is not his or her own by birth or adoption from the child’s home or the custody of his or her parent, guardian or legal custodian.

(b) By force or threat of imminent force, detains a child who is not his or her own by birth or adoption when the child is away from home or the custody of his or her parent, guardian or legal custodian.

(3) For purposes of subs. (1) (a) and (2) (a), a child is in the custody of his or her parent, guardian or legal custodian if:

(a) The child is in the actual physical custody of the parent, guardian or legal custodian; or

(b) The child is not in the actual physical custody of his or her parent, guardian or legal custodian, but the parent, guardian or legal custodian continues to have control of the child.


948.31 Interference with custody by parent or others. (1) In this subsection, “legal custodian of a child” means:

1. A parent or other person having legal custody of the child under an order or judgment in an action for divorce, legal separation, annulment, child custody, paternity, guardianship or habeas corpus.

2. The department of children and families or the department of corrections or any person, county department under s. 46.215, 46.22, or 46.23, or licensed child welfare agency, if custody or supervision of the child has been transferred under ch. 48 or 938 to that department, person, or agency.

(b) Except as provided under chs. 48 and 938, whoever intentionally causes a child to leave, takes a child away or withholds a child for more than 12 hours beyond the court-approved period of physical placement or visitation period from a legal custodian with intent to deprive the custodian of his or her custody rights without the consent of the custodian is guilty of a Class F felony. This paragraph is not applicable if the court has entered an order authorizing the person to take or withhold the child. The fact that joint legal custody has been awarded to both parents by a court does not preclude a court from finding that one parent has committed a violation of this paragraph.

(2) Whoever causes a child to leave, takes a child away or withholds a child for more than 12 hours from the child’s parents or, in the case of a nonmarital child whose parents do not subse-
CRIMES AGAINST CHILDREN

948.40 Contributing to the delinquency of a child.
(1) No person may intentionally encourage or contribute to the delinquency of a child. This subsection includes intentionally encouraging or contributing to an act by a child under the age of 10 which would be a delinquent act if committed by a child 10 years of age or older.

(2) No person responsible for the child’s welfare may, by disregard of the welfare of the child, contribute to the delinquency of the child. This subsection includes disregard that contributes to an act by a child under the age of 10 that would be a delinquent act if committed by a child 10 years of age or older.

(3) Under this section, a person encourages or contributes to the delinquency of a child although the child does not actually become delinquent if the natural and probable consequences of the person’s actions or failure to take action would be to cause the child to become delinquent.

(4) A person who violates this section is guilty of a Class A misdemeanor, except:
(a) If death is a consequence, the person is guilty of a Class D felony; or
(b) If the child’s act which is encouraged or contributed to is a violation of a state or federal criminal law which is punishable as a felony, the person is guilty of a Class H felony.


948.45 Contributing to truancy. (1) Except as provided in sub. (2), any person 17 years of age or older who, by any act or omission, knowingly encourages or contributes to the truancy, as defined under s. 118.16 (1) (c), of a person 17 years of age or under is guilty of a Class C misdemeanor.

(2) Subsection (1) does not apply to a person who has under his or her control a child who has been sanctioned under s. 49.26 (1) (b).

(3) An act or omission contributes to the truancy of a child, whether or not the child is adjudged to be in need of protection or services, if the natural and probable consequences of that act or omission would be to cause the child to be truant.


948.50 Strip search by school employee. (1) The legislature intends, by enacting this section, to protect pupils from being strip searched. By limiting the coverage of this section, the legislature is not condoning the use of strip searches under other circumstances.

(2) In this section:
(a) “School” means a public school, parochial or private school, or tribal school, as defined in s. 115.001 (15m), which provides an educational program for one or more grades between kindergarten and grade 12 and which is commonly known as a kindergarten, elementary school, middle school, junior high school, senior high school, or high school.

(b) “Strip search” means a search in which a person’s genitals, pubic area, buttock or anus, or a female person’s breast, is unclothed and either is exposed to view or is touched by a person conducting the search.

(3) Any official, employee or agent of any school or school district who conducts a strip search of any pupil is guilty of a Class B misdemeanor.

(4) This section does not apply to a search of any person who:
(a) Is serving a sentence, pursuant to a conviction, in a jail, state prison or house of correction.

2019–20 Wisconsin Statutes updated through 2021 Wis. Act 267 and through all Supreme Court and Controlled Substances Board Orders filed before and in effect on October 5, 2022. Published and certified under s. 35.18. Changes effective after October 5, 2022, are designated by NOTES. (Published 10–5–22)
(b) Is placed in or transferred to a juvenile correctional facility, as defined in s. 938.02 (10p), or a secured residential care center for children and youth, as defined in s. 938.02 (15g).

(c) Is committed, transferred or admitted under ch. 51, 971 or 975.

(5) This section does not apply to any law enforcement officer conducting a strip search under s. 968.255.

948.51 Hazing. (1) In this section “forced activity” means any activity which is a condition of initiation or admission into or affiliation with an organization, regardless of a student’s willingness to participate in the activity.

(2) No person may intentionally or recklessly engage in acts which endanger the physical health or safety of a student for the purpose of initiation or admission into or affiliation with any organization operating in connection with a school, college or university. Under those circumstances, prohibited acts may include any brutality of a physical nature, such as whipping, beating, branding, forced consumption of any food, liquor, drug or other substance, forced confinement or any other forced activity which endangers the physical health or safety of the student.

(3) Whoever violates sub. (2) is guilty of:

(a) A Class A misdemeanor if the act results in or is likely to result in bodily harm to another.

(b) A Class H felony if the act results in great bodily harm to another.

(c) A Class G felony if the act results in the death of another.


948.53 Child unattended in child care vehicle. (1) Definitions. In this section:

(a) “Child care provider” means a child care center that is licensed under s. 48.65 (1), a child care provider that is certified under s. 48.651, or a child care program that is established or contracted for under s. 120.13 (14).

(b) “Child care vehicle” means a vehicle that is owned or leased by a child care provider or a contractor of a child care provider and that is used to transport children to and from the child care provider.

(2) No child left unattended. (a) No person responsible for a child’s welfare while the child is being transported in a child care vehicle may leave the child unattended at any time from the time the child is placed in the care of that person to the time the child is placed in the care of another person responsible for the child’s welfare.

(b) Any person who violates par. (a) is guilty of one of the following:

1. A Class A misdemeanor.

2. A Class I felony if bodily harm is a consequence.

3. A Class H felony if great bodily harm is a consequence.

4. A Class G felony if death is a consequence.


948.55 Leaving or storing a loaded firearm within the reach or easy access of a child. (1) In this section, “child” means a person who has not attained the age of 14 years.

(2) Whoever recklessly stores or leaves a loaded firearm within the reach or easy access of a child is guilty of a Class C misdemeanor if all of the following occur:

(a) A child obtains the firearm without the lawful permission of his or her parent or guardian or the person having charge of the child.

(b) The child under par. (a) discharges the firearm and the discharge causes bodily harm or death to himself, herself or another.

CRIMES AGAINST CHILDREN 948.60

(3) Whoever recklessly stores or leaves a loaded firearm within the reach or easy access of a child is guilty of a Class C misdemeanor if all of the following occur:

(a) A child obtains the firearm without the lawful permission of his or her parent or guardian or the person having charge of the child.

(b) The child under par. (a) possesses or exhibits the firearm in a public place or in violation of s. 941.20.

(4) Subsections (2) and (3) do not apply under any of the following circumstances:

(a) The firearm is stored or left in a securely locked box or container or in a location that a reasonable person would believe to be secure.

(b) The firearm is securely locked with a trigger lock.

(c) The firearm is left on the person’s body or in such proximity to the person’s body that he or she could retrieve it as easily and quickly as if carried on his or her body.

(d) The person is a peace officer or a member of the armed forces or national guard and the child obtains the firearm during or incidental to the performance of the person’s duties. Notwithstanding s. 939.22 (22), for purposes of this paragraph, peace officer does not include a commission warden who is not a state-certified commission warden.

(e) The child obtains the firearm as a result of an illegal entry by any person.

(f) The child gains access to a loaded firearm and uses it in the lawful exercise of a privilege under s. 939.48.

(g) The person who stores or leaves a loaded firearm reasonably believes that a child is not likely to be present where the firearm is stored or left.

(h) The firearm is rendered inoperable by the removal of an essential component of the firing mechanism such as the bolt in a breech-loading firearm.

(5) Subsection (2) does not apply if the bodily harm or death resulted from an accident that occurs while the child is using the firearm in accordance with s. 29.304 or 948.60 (3).


948.60 Possession of a dangerous weapon by a person under 18. (1) In this section, “dangerous weapon” means any firearm, loaded or unloaded; any electric weapon, as defined in s. 941.295 (1c) (a); metallic knuckles or knuckles of any substance which could be put to the same use with the same or similar effect as metallic knuckles; a nunchaku or any similar weapon consisting of 2 sticks of wood, plastic or metal connected at one end by a length of rope, chain, wire or leather; a cestus or similar material weighted with metal or other substance and worn on the hand; a shuriken or any similar pointed star-like object intended to injure a person when thrown; or a manriktuguisu or similar length of chain having weighted ends.

(2) (a) Any person under 18 years of age who possesses or goes armed with a dangerous weapon is guilty of a Class A misdemeanor.

(b) Except as provided in par. (c), any person who intentionally sells, loans or gives a dangerous weapon to a person under 18 years of age is guilty of a Class I felony.

(c) Whoever violates par. (b) is guilty of a Class H felony if the person under 18 years of age under par. (b) discharges the firearm and the discharge causes death to himself, herself or another.

(d) A person under 17 years of age who has violated this subsection is subject to the provisions of ch. 938 unless jurisdiction is waived under s. 938.18 or the person is subject to the jurisdiction of a court of criminal jurisdiction under s. 938.183.

(3) (a) This section does not apply to a person under 18 years of age who possesses or is armed with a dangerous weapon when the dangerous weapon is being used in target practice under the supervision of an adult or in a course of instruction in the tradi-
tional and proper use of the dangerous weapon under the supervision of an adult. This section does not apply to an adult who transfers a dangerous weapon to a person under 18 years of age for use only in target practice under the adult’s supervision or in a course of instruction in the traditional and proper use of the dangerous weapon under the adult’s supervision.

(b) This section does not apply to a person under 18 years of age who is a member of the armed forces or national guard and who possesses or is armed with a dangerous weapon in the line of duty. This section does not apply to an adult who is a member of the armed forces or national guard and who transfers a dangerous weapon to a person under 18 years of age in the line of duty.

(c) This section applies only to a person under 18 years of age who possesses or is armed with a rifle or a shotgun if the person is in violation of s. 941.28, or is not in compliance with ss. 29.304 and 29.593. This section applies only to an adult who transfers a firearm to a person under 18 years of age if the person under 18 years of age is not in compliance with ss. 29.304 and 29.593 or to an adult who is in violation of s. 941.28.


Sub. (2) (b) does not set a standard for civil liability, and a violation of sub. (2) (b) does not constitute negligence per se. Logante v. Gunalson, 998 F. Supp. 998 (1998).

948.605 Gun−free school zones. (1) DEFINITIONS. In this section:

(a) “Encased” has the meaning given in s. 167.31 (1) (b).

(ac) “Former officer” has the meaning given in s. 941.23 (1) (c).

(am) “Motor vehicle” has the meaning given in s. 340.01 (35).

(ar) “Qualified out−of−state law enforcement officer” has the meaning given in s. 941.23 (1) (g).

(b) “School” has the meaning given in s. 948.61 (1) (b).

(c) “School zone” means any of the following:

1. In or on the grounds of a school.
2. Within 1,000 feet from the grounds of a school.

(2) POSSESSION OF FIREARM IN SCHOOL ZONE. (a) Any individual who knowingly possesses a firearm at a place that the individual knows, or has reasonable cause to believe, is within 1,000 feet of the grounds of a school is subject to a Class B forfeiture.

(b) Paragraph (a) does not apply to the discharge of a firearm:

1m. A person who is legally hunting in a school forest if the school board has decided that hunting may be allowed in the school forest under s. 120.13 (38).

3m. A person who is legally hunting in a school forest if the school board has decided that hunting may be allowed in the school forest under s. 120.13 (38).

3. By a person who is a member of the armed forces or national guard and who possesses or is armed with a dangerous weapon in the line of duty.

(3) DISCHARGE OF FIREARM IN A SCHOOL ZONE. (a) Any individual who knowingly, or with reckless disregard for the safety of another, discharges or attempts to discharge a firearm at a place the individual knows is a school zone is guilty of a Class G felony.

(b) Paragraph (a) does not apply to the discharge of, or the attempt to discharge, a firearm:

1. On private property not part of school grounds.
2. As part of a program approved by a school in the school zone, by an individual who is participating in the program.
3. By an individual in accordance with a contract entered into between a school in a school zone and the individual or an employer of the individual.
4. By a law enforcement officer or state−certified commission warden acting in his or her official capacity.
5. By a person who is employed in this state by a public agency as a law enforcement officer and to whom s. 941.23 (1) (g) 2. to 5. and (2) (b) 1. to 3. applies.
6. By a qualified out−of−state law enforcement officer to whom s. 941.23 (2) (b) 1. to 3. applies.
7. By a former officer to whom s. 941.23 (2) (c) 1. to 7. applies.


948.61 Dangerous weapons other than firearms on school premises. (1) In this section:

(a) “Dangerous weapon” has the meaning specified in s. 939.22 (10), except “dangerous weapon” does not include any firearm and does include any beehive or pellet−firing gun that expels a projectile through the force of air pressure or any starter pistol.

(b) “School” means a public school, parochial or private school, or tribal school, as defined in s. 115.001 (15m), which provides an educational program for one or more grades between grades 1 and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school, or high school.

(c) “School premises” means any school building, grounds, recreation area or athletic field or any other property owned, used or operated for school administration.

(2) Any person who knowingly possesses or goes armed with a dangerous weapon on school premises is guilty of:

(a) A Class A misdemeanor.

(b) A Class I felony, if the violation is the person’s 2nd or subsequent violation of this section within a 5−year period, as measured from the dates the violations occurred.

(3) This section does not apply to any person who:

(a) Uses a weapon solely for school−sanctioned purposes.

(b) Engages in military activities, sponsored by the federal or state government, when acting in the discharge of his or her official duties.

(c) Is a law enforcement officer or state−certified commission warden in the discharge of his or her official duties.

(d) Participates in a convocation authorized by school authorities in which weapons of collectors or instructors are handled or displayed.

(e) Drives a motor vehicle in which a dangerous weapon is located onto school premises for school−sanctioned purposes or for the purpose of delivering or picking up passengers or property. The weapon may not be removed from the vehicle or be used in any manner.
CRIMES AGAINST CHILDREN

948.70

(f) Possesses or uses a bow and arrow or knife while legally hunting in a school forest if the school board has decided that hunting may be allowed in the school forest under s. 120.13 (38).

(4) A person under 17 years of age who has violated this section is subject to the provisions of ch. 938, unless jurisdiction is waived under s. 938.18 or the person is subject to the jurisdiction of a court of criminal jurisdiction under s. 938.183.


Pellet guns and BB guns are dangerous weapons under this section. Interest of Michelle A.D. 181 Wis. 2d 917, 512 N.W.2d 248 (Ct. App. 1994).

948.62 Receiving stolen property from a child.

(1) Whoever intentionally receives stolen property from a child or conceals stolen property received from a child is guilty of:

(a) A Class A misdemeanor, if the value of the property does not exceed $500.

(b) A Class I felony, if the value of the property exceeds $500 but does not exceed $2,500.

(bm) A Class H felony, if the property is a firearm or if the value of the property exceeds $2,500 but does not exceed $5,000.

(c) A Class G felony, if the value of the property exceeds $5,000.

(2) Under this section, proof of all of the following is prima facie evidence that property received from a child was stolen and that the person receiving the property knew it was stolen:

(a) That the value of the property received from the child exceeds $500.

(b) That there was no consent by a person responsible for the child’s welfare to the delivery of the property to the person.


948.63 Receiving property from a child. Whoever does either of the following is guilty of a Class A misdemeanor:

(1) As a dealer in secondhand articles or jewelry or junk, purchases any personal property, except old rags and waste paper, from any child, without the written consent of his or her parent or guardian; or

(2) As a pawnbroker or other person who loans money and takes personal property as security therefor, receives personal property as security for a loan from any child without the written consent of his or her parent or guardian.

History: 1971 c. 228; 1977 c. 173; 1987 a. 332 s. 40; Stats. 1987 s. 948.63; 1989 a. 257.

948.70 Tattooing of children. (1) In this section:

(a) “Physician” has the meaning given in s. 448.01 (5).

(b) “Tattoo” means to insert pigment under the surface of the skin of a person, by pricking with a needle or otherwise, so as to produce an indelible mark or figure through the skin.

(2) Subject to sub. (3), any person who tattoos or offers to tattoo a child is subject to a Class D forfeiture.

(3) Subsection (2) does not prohibit a physician from tattooing or offering to tattoo a child in the course of his or her professional practice.

History: 1991 a. 106.