



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-0051/1
CMH:nwn:rs

2011 ASSEMBLY BILL 136

May 17, 2011 - Introduced by Representatives MASON, TURNER and FIELDS. Referred to Committee on Criminal Justice and Corrections.

1 **AN ACT to amend** 302.114 (1), 303.065 (1) (b) 2., 304.02 (5), 304.071 (2), 939.616
2 (1g), 939.616 (1r), 939.617 (1), 939.617 (2), 948.02 (1) (b), 948.025 (1) (a),
3 948.025 (2) (a), 973.014 (2) and 973.15 (2m) (a) 2. b.; and **to create** 939.6155 of
4 the statutes; **relating to:** mandatory minimum sentences and extended
5 supervision eligibility for persons who commit certain crimes against children
6 and providing penalties.

Analysis by the Legislative Reference Bureau

Under current law, a person who is convicted of the crime of having sexual intercourse with a person under the age of 12 is guilty of a Class B felony, is subject to a term of imprisonment (which generally includes a term of confinement in prison followed by a term of extended supervision) of up to 60 years, and must be sentenced to a mandatory minimum term of confinement in prison of at least 25 years. Also under current law, a person who is convicted of the crime of having sexual intercourse or sexual contact with a person under the age of 13 that results in great bodily harm is guilty of a Class A felony, which has a penalty of life imprisonment, and must be sentenced to a mandatory minimum term of confinement in prison of at least 25 years. This bill changes the classification of the first crime to a Class A felony and changes the sentence for both sexual assaults to lifetime confinement in prison without the possibility of extended supervision.

Under current law, a person who is convicted of the crime of intentional homicide is guilty of a Class A felony, which has a penalty of life imprisonment.

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Under this bill, if the victim was under the age of 18 years old, the sentence is lifetime confinement in prison without the possibility of extended supervision.

Also, under current law, a person over the age of 18 who is convicted of the crime of possessing child pornography must serve a mandatory minimum term of confinement in prison of at least three years. This bill increases the mandatory minimum term of confinement to 12 years.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 302.114 (1) of the statutes is amended to read:

2 302.114 (1) An inmate is subject to this section if he or she is serving a life
3 sentence imposed under s. 973.014 (1g) (a) 1. or 2. An inmate serving a life sentence
4 under s. 939.6155, 939.616 (1g), 939.62 (2m), or 973.014 (1g) (a) 3. is not eligible for
5 release to extended supervision under this section.

6 **SECTION 2.** 303.065 (1) (b) 2. of the statutes is amended to read:

7 303.065 (1) (b) 2. A person serving a life sentence under s. 939.6155, 939.616
8 (1g), 939.62 (2m) (c), or 973.014 (1) (c) or (1g) (a) 3. may not be considered for work
9 release.

10 **SECTION 3.** 304.02 (5) of the statutes is amended to read:

11 304.02 (5) Notwithstanding subs. (1) to (3), a prisoner who is serving a life
12 sentence under s. 939.6155, 939.616 (1g), 939.62 (2m) (c), or 973.014 (1) (c) or (1g) is
13 not eligible for release to parole supervision under this section.

14 **SECTION 4.** 304.071 (2) of the statutes is amended to read:

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1 304.071 (2) If a prisoner is not eligible for parole under s. 961.49 (2), 1999 stats.,
2 or s. 939.6155, 939.616 (1g), 939.62 (2m) (c), 973.01 (6), 973.014 (1) (c) or (1g), or
3 973.032 (5), he or she is not eligible for parole under this section.

4 **SECTION 5.** 939.6155 of the statutes is created to read:

5 **939.6155 Lifetime confinement for intentional homicide of a child.** If
6 a person is convicted of a violation of s. 940.01 (1) and the victim of the violation is
7 a person who had not attained the age of 18 years, the term of imprisonment is life
8 imprisonment without the possibility of parole or extended supervision.

9 **SECTION 6.** 939.616 (1g) of the statutes is amended to read:

10 939.616 (1g) If a person is convicted of a violation of s. 948.02 (1) (am) or (b)
11 or 948.025 (1) (a), ~~notwithstanding s. 973.014 (1g) (a) 1. and 2., the court may not~~
12 ~~make an extended supervision eligibility date determination on a date that will occur~~
13 ~~before the person has served a 25-year term of confinement in prison term of~~
14 imprisonment is life imprisonment without the possibility of parole or extended
15 supervision.

16 **SECTION 7.** 939.616 (1r) of the statutes is amended to read:

17 939.616 (1r) If a person is convicted of a violation of s. 948.02 (1) ~~(b) or~~ (c) or
18 948.025 (1) (b), the court shall impose a bifurcated sentence under s. 973.01. The
19 term of confinement in prison portion of the bifurcated sentence shall be at least 25
20 years. Otherwise the penalties for the crime apply, subject to any applicable penalty
21 enhancement.

22 **SECTION 8.** 939.617 (1) of the statutes is amended to read:

23 939.617 (1) Except as provided in subs. (2) and (3), if a person is convicted of
24 a violation of s. 948.05, 948.075, or 948.12, the court shall impose a bifurcated
25 sentence under s. 973.01. The term of confinement in prison portion of the bifurcated

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1 sentence shall be at least 5 years for violations of s. 948.05 or 948.075 and 3 at least
2 12 years for violations of s. 948.12. Otherwise the penalties for the crime apply,
3 subject to any applicable penalty enhancement.

4 **SECTION 9.** 939.617 (2) of the statutes is amended to read:

5 939.617 (2) If a person is convicted of a violation of s. 948.05, or 948.075, ~~or~~
6 ~~948.12~~, the court may impose a sentence that is less than the sentence required
7 under sub. (1), or may place the person on probation, only if the court finds that the
8 best interests of the community will be served and the public will not be harmed and
9 if the court places its reasons on the record.

10 **SECTION 10.** 948.02 (1) (b) of the statutes is amended to read:

11 948.02 (1) (b) Whoever has sexual intercourse with a person who has not
12 attained the age of 12 years is guilty of a Class B A felony.

13 **SECTION 11.** 948.025 (1) (a) of the statutes is amended to read:

14 948.025 (1) (a) A Class A felony if at least 3 of the violations were violations of
15 s. 948.02 (1) (am) or (b).

16 **SECTION 12.** 948.025 (2) (a) of the statutes is amended to read:

17 948.025 (2) (a) If an action under sub. (1) (a) is tried to a jury, in order to find
18 the defendant guilty the members of the jury must unanimously agree that at least
19 3 violations of s. 948.02 (1) (am) or (b) occurred within the specified period of time but
20 need not agree on which acts constitute the requisite number.

21 **SECTION 13.** 973.014 (2) of the statutes is amended to read:

22 973.014 (2) When a court sentences a person to life imprisonment under s.
23 939.6155, 939.616 (1g), or 939.62 (2m) (c), the court shall provide that the sentence
24 is without the possibility of parole or extended supervision.

25 **SECTION 14.** 973.15 (2m) (a) 2. b. of the statutes is amended to read:

