



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-0733/1
GMM&PJH:jld

2015 ASSEMBLY BILL 267

June 18, 2015 - Introduced by Representatives BILLINGS, JOHNSON, KAHL, BROSTOFF, GENRICH, SUBECK, YOUNG, WACHS, MASON, SARGENT, THIESFELDT, KESSLER, DOYLE, RIEMER, GOYKE, BERCEAU, KOLSTE, POPE, QUINN, ZEPNICK, ZAMARRIPA, JORGENSEN, SPREITZER, MACCO, HEBL, BOWEN, SINICKI, BERNIER, CONSIDINE, NOVAK, OHNSTAD, C. TAYLOR, PETRYK, DANOU and BARNES, cosponsored by Senators HARSDORF, HARRIS DODD, L. TAYLOR, MOULTON, MILLER, VINEHOUT, RISSER, CARPENTER, C. LARSON, HANSEN, RINGHAND and LASSA. Referred to Committee on Children and Families.

1 **AN ACT** *to amend* 48.981 (3) (a) 2d., 48.981 (3) (c) 1. a., 165.76 (1) (am), 938.34
2 (15) (a) 1., 944.30 (1m) (intro.) and 944.30 (2m); and *to create* 48.981 (3) (a) 2.
3 bm. of the statutes; **relating to:** the investigation of a child abuse report in
4 which a person who is not a caregiver of the child is suspected of permitting,
5 allowing, or encouraging the child to engage in prostitution; and prohibiting
6 prosecuting a person under the age of 18 with committing an act of prostitution.

Analysis by the Legislative Reference Bureau

Under current law, certain persons having reasonable cause to suspect that a child seen in the course of professional duties has been abused must report that suspected abuse to the sheriff or police department or to the county department of human services or social services or, in Milwaukee County, the Department of Children and Families (DCF) or a child welfare agency under contract with DCF (collectively "agency"). Current law also permits any other person having reason to suspect that a child has been abused to make such a report.

Current law requires the sheriff or police department to refer to an agency all cases of child abuse reported to it in which a caregiver is suspected of the abuse or of facilitating or failing to take action to prevent the suspected abuse and all cases in which an individual who is suspected of the abuse cannot be identified. Then, within 24 hours after receiving the referral, the agency must initiate a diligent investigation to determine if the child is in need of protection or services. Current

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law, however, permits, rather than requires, the sheriff or police department to refer to an agency a case in which a person who is not a caregiver of a child is suspected of the abuse of the child and permits, rather than requires, the agency to initiate a diligent investigation to determine if the child is in need of protection or services.

Under current law, a person who commits an act of prostitution is guilty of a Class A misdemeanor and may be fined not more than \$10,000, imprisoned for not longer than nine months, or both. Under current law, if the person has not attained the age of 18 when he or she commits an act of prostitution, a court may enter a consent decree under the Juvenile Justice Code or a deferred prosecution under the Juvenile Justice Code or adult criminal statutes, if the court determines that a consent decree or a deferred prosecution agreement will serve the best interests of the person and will not harm society.

Under this bill, a person who has not attained the age of 18 may not be prosecuted for committing an act of prostitution. The bill eliminates the option, for a person who is under the age of 18, of entering a consent decree or a deferred prosecution agreement. The bill requires the sheriff or police department to refer to an agency, and the agency to investigate, a case of child abuse in which a person who is not a caregiver of the child is suspected of permitting, allowing, or encouraging the child to engage in prostitution.

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.** 48.981 (3) (a) 2. bm. of the statutes is created to read:

2 48.981 (3) (a) 2. bm. Cases in which a person who is not a caregiver is suspected
3 of abuse, as defined in s. 48.02 (1) (d), of a child.

4 **SECTION 2.** 48.981 (3) (a) 2d. of the statutes is amended to read:

5 48.981 (3) (a) 2d. The Except as provided in subd. 2. bm., the sheriff or police
6 department may refer to the county department or, in a county having a population
7 of 500,000 or more, the department or a licensed child welfare agency under contract
8 with the department a case reported to the sheriff or police department in which a
9 person who is not a caregiver is suspected of abuse or of threatened abuse of a child.

10 **SECTION 3.** 48.981 (3) (c) 1. a. of the statutes is amended to read:

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1 48.981 (3) (c) 1. a. Immediately after receiving a report under par. (a), the
2 agency shall evaluate the report to determine whether there is reason to suspect that
3 a caregiver has abused or neglected the child, has threatened the child with abuse
4 or neglect, or has facilitated or failed to take action to prevent the suspected or
5 threatened abuse or neglect of the child or that a person who is not a caregiver has
6 committed abuse, as defined in s. 48.02 (1) (d), of the child. Except as provided in sub.
7 (3m), if the agency determines that a caregiver is suspected of abuse or neglect ~~or,~~
8 ~~of threatened abuse or neglect of the child, determines that a caregiver is suspected,~~
9 or of facilitating or failing to take action to prevent the suspected or threatened abuse
10 or neglect of the child; determines that a person who is not a caregiver has
11 committed abuse, as defined in s. 48.02 (1) (d), of the child; or cannot identify an
12 individual who is suspected of abuse or neglect or of threatened abuse or neglect of
13 the child, within 24 hours after receiving the report the agency shall, in accordance
14 with the authority granted to the department under s. 48.48 (17) (a) 1. or the county
15 department under s. 48.57 (1) (a), initiate a diligent investigation to determine if the
16 child is in need of protection or services. If Except as provided in this subd. 1. a., if
17 the agency determines that a person who is not a caregiver is suspected of abuse or
18 of threatened abuse, the agency may, in accordance with that authority, initiate a
19 diligent investigation to determine if the child is in need or protection or services.
20 Within 24 hours after receiving a report under par. (a) of suspected unborn child
21 abuse, the agency, in accordance with that authority, shall initiate a diligent
22 investigation to determine if the unborn child is in need of protection or services. An
23 investigation under this subd. 1. a. shall be conducted in accordance with standards
24 established by the department for conducting child abuse and neglect investigations
25 or unborn child abuse investigations.

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1 **SECTION 4.** 165.76 (1) (am) of the statutes, as affected by 2013 Wisconsin Act
2 362, is amended to read:

3 165.76 (1) (am) Is or was adjudicated delinquent for an act that if committed
4 by an adult in this state would be a felony or for a violation of s. 944.30 (1m), 2013
5 stats., or s. 940.225 (3m), 941.20 (1), 944.20, 944.30 (1m), 944.31, 944.33, 946.52, or
6 948.10 (1) (b).

7 **SECTION 5.** 938.34 (15) (a) 1. of the statutes, as affected by 2013 Wisconsin Act
8 362, is amended to read:

9 938.34 (15) (a) 1. If the juvenile is adjudicated delinquent on the basis of a
10 violation that would be a felony if committed by an adult in this state or of a violation
11 of s. 944.30 (1m), 2013 stats., or s. 940.225 (3m), 941.20 (1), 944.20, 944.30 (1m),
12 944.31, 944.33, 946.52, or 948.10 (1) (b), the court shall require the juvenile to comply
13 with the requirement under s. 165.76 (1) (am) by providing a biological specimen to
14 the state crime laboratories for deoxyribonucleic acid analysis. The court shall
15 inform the juvenile that he or she may request expungement under s. 165.77 (4).

16 **SECTION 6.** 944.30 (1m) (intro.) of the statutes is amended to read:

17 944.30 (1m) (intro.) Any Except as provided in sub. (2m), any person who
18 intentionally does any of the following is guilty of a Class A misdemeanor:

19 **SECTION 7.** 944.30 (2m) of the statutes is amended to read:

20 944.30 (2m) ~~If the person~~ A person may not be prosecuted under sub. (1m) this
21 section if he or she has not attained the age of 18 years and if the court determines
22 ~~that the best interests of the person are served and society will not be harmed, the~~
23 ~~court may enter a consent decree under s. 938.32 or a deferred prosecution~~
24 ~~agreement in accordance with s. 938.245, 971.39, or 971.40~~ at the time he or she
25 commits an offense under sub. (1m).

