



2015 ASSEMBLY BILL 737

January 15, 2016 - Introduced by Representatives LOUDENBECK, BILLINGS, JOHNSON, BALLWEG, BERCEAU, CONSIDINE, DUCHOW, GOYKE, JACQUE, KLEEFISCH, KNODL, KOLSTE, KREMER, KULP, T. LARSON, NEYLON, POPE, SCHRAA, SUBECK, TRANEL, ROHRKASTE and PETRYK, cosponsored by Senators HARSDORF, OLSEN, RINGHAND, VINEHOUT, LASEE, WIRCH, HARRIS DODD, C. LARSON and HANSEN. Referred to Committee on Children and Families.

1 **AN ACT to amend** 48.981 (3) (a) 2d., 48.981 (3) (c) 1. a., 938.371 (3) (d) and 948.051
2 (1); and **to create** 48.02 (1) (cm), 48.355 (2d) (b) 3m., 48.981 (3) (a) 2. bm. and
3 938.355 (2d) (b) 3m. of the statutes; **relating to:** the crime of child sex
4 trafficking, the inclusion of child sex trafficking in the definition of child abuse,
5 the investigation of a child abuse report in which a person who is not a caregiver
6 of the child is suspected of permitting, allowing, or encouraging the child to
7 engage in prostitution or of child sex trafficking for purposes of a commercial
8 sex act, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill expands what constitutes the crime of child sex trafficking, includes child sex trafficking under the definition of abuse in the Children's Code, requires the reporting and investigation of certain suspected child abuse cases involving prostitution or child sex trafficking, and makes changes to the information required to be in a court order or provided to a care provider when a child is placed outside the home.

Under current law, a person is guilty of child sex trafficking if he or she knowingly recruits, entices, provides, obtains, or harbors, or knowingly attempts to recruit, entice, provide, obtain, or harbor, any child for the purpose of commercial sex

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acts. This bill adds transporting or knowingly attempting to transport any child for the purpose of commercial sex acts to this crime.

Under current law, certain sex crimes committed against a child are included in the definition of “abuse” in the Children’s Code. Those sex crimes are first-degree to fourth-degree sexual assault, sexual assault of a child, repeated sexual assault of a child, sexual assault of a child placed in substitute care, sexual exploitation of a child, causing a child to view or listen to sexual activity, and causing a child to expose his or her genitals or exposing one’s genitals to a child, and permitting, allowing, or encouraging a child to engage in prostitution.

This bill adds child sex trafficking to the definition of “abuse” in the Children’s Code. As such, a child who is the victim of child sex trafficking may be the subject of a child in need of protection or services petition alleging that the child is a victim of abuse.

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 it cannot be determined who abused the child. 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 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.

This 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 or of trafficking a child for purposes of a commercial sex act.

Under current law, if the court assigned to exercise jurisdiction under the Children’s Code or Juvenile Justice Code (juvenile court) finds that a child or juvenile is in need of protection or services, the judge must enter an order deciding one or more of the dispositions of the case under a care and treatment plan, including placement and treatment. If the child or juvenile is placed outside the home, the order must include a finding as to whether the agency has made reasonable efforts to prevent the removal of the child or juvenile from the home, while assuring that the health and safety of the child or juvenile are the paramount concerns. However, the juvenile court is not required to include this finding if the juvenile court finds, among other things, that the parent has been convicted of certain crimes, such as homicide or attempted homicide, battery, sexual assault, or physical abuse and that the victim

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is a child of the parent. This bill includes among these crimes child sex trafficking if the victim is a child of the parent.

Under current law, under the Children's Code and Juvenile Justice Code, when a child is placed in a foster home, group home, or residential care center for children and youth or in the home of a relative other than a parent (substitute care provider), the agency must provide to the substitute care provider certain information contained in the court report or permanency plan. This bill includes information on any involvement of the child, whether as victim or perpetrator, in certain sex crimes if the information is necessary for the care of the child or for the protection of any person under the care of the substitute care provider. In the Children's Code, these sex crimes include sex trafficking and child sex trafficking. This bill adds the same requirement under the Juvenile Justice Code for when a juvenile who has been involved in sex trafficking or child sex trafficking is placed in the care of a substitute care provider.

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.** 48.02 (1) (cm) of the statutes is created to read:

2 48.02 (1) (cm) A violation of s. 948.051.

3 **SECTION 2.** 48.355 (2d) (b) 3m. of the statutes is created to read:

4 48.355 (2d) (b) 3m. That the parent has committed a violation of s. 948.051 or
5 a violation of the law of any other state or federal law, if that violation would be a
6 violation of s. 948.051 if committed in this state, as evidenced by a final judgment of
7 conviction, and that the victim of that violation is a child of the parent.

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

9 48.981 (3) (a) 2. bm. Cases in which a person who is not a caregiver is suspected
10 of abuse, as defined in s. 48.02 (1) (cm) or (d), of a child.

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

12 48.981 (3) (a) 2d. The Except when referral is required under subd. 2. bm., the
13 sheriff or police department may refer to the county department or, in a county

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1 having a population of 500,000 or more, the department or a licensed child welfare
2 agency under contract with the department a case reported to the sheriff or police
3 department in which a person who is not a caregiver is suspected of abuse or of
4 threatened abuse of a child.

5 **SECTION 5.** 48.981 (3) (c) 1. a. of the statutes is amended to read:

6 48.981 (3) (c) 1. a. Immediately after receiving a report under par. (a), the
7 agency shall evaluate the report to determine whether there is reason to suspect that
8 a caregiver has abused or neglected the child, has threatened the child with abuse
9 or neglect, or has facilitated or failed to take action to prevent the suspected or
10 threatened abuse or neglect of the child or that a person who is not a caregiver has
11 committed or threatened abuse, as defined in s. 48.02 (1) (cm) or (d), of the child.

12 Except as provided in sub. (3m), if the agency determines that a caregiver is
13 suspected of abuse or neglect ~~or~~, of threatened abuse or neglect ~~of the child,~~
14 ~~determines that a caregiver is suspected,~~ or of facilitating or failing to take action to
15 prevent the suspected or threatened abuse or neglect of the child; determines that
16 a person who is not a caregiver has committed or threatened abuse, as defined in s.
17 48.02 (1) (cm) or (d), of the child; or cannot identify an individual who is suspected
18 of abuse or neglect or of threatened abuse or neglect of the child, within 24 hours after
19 receiving the report the agency shall, in accordance with the authority granted to the
20 department under s. 48.48 (17) (a) 1. or the county department under s. 48.57 (1) (a),
21 initiate a diligent investigation to determine if the child is in need of protection or
22 services. If Except when initiating an investigation is required under this subd. 1.
23 a., if the agency determines that a person who is not a caregiver is suspected of abuse
24 or of threatened abuse, the agency may, in accordance with that authority, initiate
25 a diligent investigation to determine if the child is in need ~~or~~ of protection or services.

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1 Within 24 hours after receiving a report under par. (a) of suspected unborn child
2 abuse, the agency, in accordance with that authority, shall initiate a diligent
3 investigation to determine if the unborn child is in need of protection or services. An
4 investigation under this subd. 1. a. shall be conducted in accordance with standards
5 established by the department for conducting child abuse and neglect investigations
6 or unborn child abuse investigations.

7 **SECTION 6.** 938.355 (2d) (b) 3m. of the statutes is created to read:

8 938.355 **(2d)** (b) 3m. That the parent has committed a violation of s. 948.051
9 or a violation of the law of any other state or federal law, if that violation would be
10 a violation of s. 948.051 if committed in this state, as evidenced by a final judgment
11 of conviction, and that the victim of that violation is a child of the parent.

12 **SECTION 7.** 938.371 (3) (d) of the statutes is amended to read:

13 938.371 **(3)** (d) Any involvement of the juvenile, whether as victim or
14 perpetrator, in sexual intercourse or sexual contact in violation of s. 940.225, 948.02,
15 948.025, or 948.085, prostitution in violation of s. 944.30 (1m), trafficking in violation
16 of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies, sexual exploitation of a child in
17 violation of s. 948.05, trafficking of a child in violation of s. 948.051, or causing a child
18 to view or listen to sexual activity in violation of s. 948.055, if the information is
19 necessary for the care of the juvenile or for the protection of any person living in the
20 foster home, group home, residential care center for children and youth, or juvenile
21 correctional facility.

22 **SECTION 8.** 948.051 (1) of the statutes is amended to read:

23 948.051 **(1)** Whoever knowingly recruits, entices, provides, obtains, transports,
24 or harbors, or knowingly attempts to recruit, entice, provide, obtain, transport, or

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SECTION 8

1 harbor, any child for the purpose of commercial sex acts, as defined in s. 940.302 (1)
2 (a), is guilty of a Class C felony.

3 **SECTION 9. Initial applicability.**

4 (1) REPORTS OF SUSPECTED CHILD PROSTITUTION OR SEX TRAFFICKING. The
5 treatment of section 48.981 (3) (a) 2. bm, 2d., and (c) 1. a. of the statutes first applies
6 to a report of suspected child abuse received under section 48.981 (3) (a) 1. of the
7 statutes on the effective date of this subsection.

8 **SECTION 10. Effective date.**

9 (1) This act takes effect on October 10, 2016.

10 (END)