



2013 ASSEMBLY BILL 776

February 18, 2014 – Introduced by Representatives KLEEFISCH, JOHNSON, SPIROS, A. OTT, RICHARDS, GOYKE, BIES, JACQUE, SARGENT, BILLINGS, LEMAHIEU, WACHS, KNODL, POPE, ZAMARRIPA, KOOYENGA, OHNSTAD, NYGREN, ENDSLEY, JORGENSEN, CLARK, CZAJA, HULSEY, VRUWINK, MILROY, TITTL, SINICKI, ZEPNICK, WRIGHT, BARNES, DOYLE, BERCEAU, PASCH, YOUNG and PETRYK, cosponsored by Senators HARRIS, L. TAYLOR, LASSA, SCHULTZ and LEHMAN. Referred to Committee on Criminal Justice.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to renumber** 944.30; **to amend** 48.02 (1) (d), 48.355 (2d) (a) 2. a., 48.371
2 (3) (d), 48.57 (3p) (g) 3., 48.981 (2) (c), 48.981 (3) (a) 2d., 48.981 (3) (c) 1. a., 51.20
3 (13) (cr), 103.10 (1m) (b) 6., 165.60, 165.70 (1) (b), 165.76 (1) (am), 440.312 (2),
4 440.982 (2), 460.05 (1) (h) 1., 460.14 (2m) (a), 938.34 (15) (a) 1., 938.355 (2d) (a)
5 2., 938.371 (3) (d) and 971.17 (1m) (a) 1.; and **to create** 48.981 (2) (br), 48.981
6 (3) (a) 2. e. and 944.30 (2m) of the statutes; **relating to:** child abuse
7 investigations when a court suspects a person of permitting, allowing, or
8 encouraging a child to engage in prostitution and consent decrees or deferred
9 prosecution agreements for such a child.

Analysis by the Legislative Reference Bureau

Under current law, any person who is convicted of prostitution is guilty of a Class A misdemeanor, which is punishable by a fine not to exceed \$10,000 or imprisonment not to exceed nine months, or both. In addition, current law defines “abuse” for purposes of reporting and investigation under the child abuse reporting law to include permitting, allowing, or encouraging a child to engage in prostitution.

This bill permits a court, in lieu of convicting a child for prostitution, to enter into a consent decree or a deferred prosecution agreement placing the child under

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supervision and requiring the child to comply with the conditions of the decree or agreement, if the court determines that the best interests of the child would be served and society would not be harmed by entering into the decree or agreement.

The bill also provides that in a case in which the court enters into a consent decree or a deferred prosecution agreement in lieu of convicting a child for prostitution, if the court has reason to suspect that any person has permitted, allowed, or encouraged the child to engage in prostitution, the court must report that suspicion under the child abuse reporting law and the agency receiving that report must immediately evaluate the report to determine whether there is reason to suspect that any person has permitted, allowed, or encouraged the child to engage in prostitution and, if so, must, within 24 hours after receiving the report, initiate an investigation to determine if the child is in need of protection or services.

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) (d) of the statutes is amended to read:

2 48.02 (1) (d) Permitting, allowing or encouraging a child to violate s. 944.30
3 (1m).

4 **SECTION 2.** 48.355 (2d) (a) 2. a. of the statutes is amended to read:

5 48.355 (2d) (a) 2. a. A violation of s. 940.225, 944.30 (1m), 948.02, 948.025,
6 948.05, 948.051, 948.055, 948.06, 948.085, 948.09 or 948.10.

7 **SECTION 3.** 48.371 (3) (d) of the statutes is amended to read:

8 48.371 (3) (d) Any involvement of the child, whether as victim or perpetrator,
9 in sexual intercourse or sexual contact in violation of s. 940.225, 948.02, 948.025, or
10 948.085, prostitution in violation of s. 944.30 (1m), trafficking in violation of s.
11 940.302 (2) if s. 940.302 (2) (a) 1. b. applies, sexual exploitation of a child in violation
12 of s. 948.05, trafficking of a child in violation of s. 948.051, or causing a child to view
13 or listen to sexual activity in violation of s. 948.055, if the information is necessary
14 for the care of the child or for the protection of any person living in the foster home,

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1 group home, or residential care center for children and youth or in the home of the
2 relative.

3 **SECTION 4.** 48.57 (3p) (g) 3. of the statutes is amended to read:

4 48.57 **(3p)** (g) 3. The person has been convicted of a violation of ch. 940, 944,
5 or 948, other than a violation of s. 940.291, 940.34, 944.36, 948.45, 948.63, or 948.70,
6 or of a violation of the law of any other state or federal law that would be a violation
7 of ch. 940, 944, or 948, other than a violation of s. 940.291, 940.34, 944.36, 948.45,
8 948.63, or 948.70, if committed in this state, except that a county department or, in
9 a county having a population of 500,000 or more, the department may make
10 payments to a person applying for payments under sub. (3m) and a person receiving
11 payments under sub. (3m) may employ in a position in which the person would have
12 regular contact with the child for whom those payments are being made or permit
13 to be an adult resident a person who has been convicted of a violation of s. 944.30
14 (1m), 944.31, or 944.33 or of a violation of the law of any other state or federal law
15 that would be a violation of s. 944.30 (1m), 944.31, or 944.33 if committed in this
16 state, if that violation occurred 20 years or more before the date of the investigation.

17 **SECTION 5.** 48.981 (2) (br) of the statutes is created to read:

18 48.981 **(2)** (br) A court that has reason to suspect that any person has
19 committed abuse, as defined in s. 48.02 (1) (d), of a child who has entered into a
20 consent decree under s. 938.32 or a deferred prosecution agreement in accordance
21 with s. 938.245, 971.39, or 971.40 under the circumstances specified in s. 944.30 (2m)
22 shall report as provided in sub. (3).

23 **SECTION 6.** 48.981 (2) (c) of the statutes is amended to read:

24 48.981 **(2)** (c) Any person not otherwise specified in par. (a), (b), ~~or (bm)~~, or (br),
25 including an attorney, who has reason to suspect that a child has been abused or

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1 neglected or who has reason to believe that a child has been threatened with abuse
2 or neglect and that abuse or neglect of the child will occur may report as provided in
3 sub. (3).

4 **SECTION 7.** 48.981 (3) (a) 2. e. of the statutes is created to read:

5 48.981 (3) (a) 2. e. Cases reported by a court under sub. (2) (br).

6 **SECTION 8.** 48.981 (3) (a) 2d. of the statutes is amended to read:

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

12 **SECTION 9.** 48.981 (3) (c) 1. a. of the statutes is amended to read:

13 48.981 (3) (c) 1. a. Immediately after receiving a report under par. (a), the
14 agency shall evaluate the report to determine whether there is reason to suspect that
15 a caregiver has abused or neglected the child, has threatened the child with abuse
16 or neglect, or has facilitated or failed to take action to prevent the suspected or
17 threatened abuse or neglect of the child or, if the case was reported by a court under
18 sub. (2) (br), that any person has committed abuse, as defined in s. 48.02 (1) (d), of
19 the child. Except as provided in sub. (3m), if the agency determines that a caregiver
20 is suspected of abuse or neglect ~~or, of threatened abuse or neglect of the child,~~
21 ~~determines that a caregiver is suspected,~~ or of facilitating or failing to take action to
22 prevent the suspected or threatened abuse or neglect of the child; determines, if the
23 case was reported by a court under sub. (2) (br), that any person has committed
24 abuse, as defined in s. 48.02 (1) (d), of the child; or cannot determine who abused or
25 neglected the child, within 24 hours after receiving the report the agency shall, in

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1 accordance with the authority granted to the department under s. 48.48 (17) (a) 1.
2 or the county department under s. 48.57 (1) (a), initiate a diligent investigation to
3 determine if the child is in need of protection or services. If Except as provided in this
4 subd. 1. a., if the agency determines that a person who is not a caregiver is suspected
5 of abuse or of threatened abuse, the agency may, in accordance with that authority,
6 initiate a diligent investigation to determine if the child is in need or protection or
7 services. Within 24 hours after receiving a report under par. (a) of suspected unborn
8 child abuse, the agency, in accordance with that authority, shall initiate a diligent
9 investigation to determine if the unborn child is in need of protection or services. An
10 investigation under this subd. 1. a. shall be conducted in accordance with standards
11 established by the department for conducting child abuse and neglect investigations
12 or unborn child abuse investigations.

13 **SECTION 10.** 51.20 (13) (cr) of the statutes, as affected by 2013 Wisconsin Act
14 20, is amended to read:

15 51.20 (13) (cr) If the subject individual is before the court on a petition filed
16 under a court order under s. 938.30 (5) (c) 1. and is found to have committed a
17 violation that would be a felony if committed by an adult in this state or a violation
18 of s. 940.225 (3m), 941.20 (1), 944.20, 944.30 (1m), 944.31, 944.33 (~~1~~), 946.52, or
19 948.10 (1) (b), the court shall require the individual to provide a biological specimen
20 to the state crime laboratories for deoxyribonucleic acid analysis. The court shall
21 inform the individual that he or she may request expungement under s. 165.77 (4).

22 **SECTION 11.** 103.10 (1m) (b) 6. of the statutes is amended to read:

23 103.10 (1m) (b) 6. "Sexual abuse" means conduct that is in violation of s.
24 940.225, 944.30 (1m), 948.02, 948.025, 948.05, 948.051, 948.055, 948.06, 948.085,

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1 948.09, or 948.10 or that is in violation of s. 940.302 (2) if s. 940.302 (2) (a) 1. b.
2 applies.

3 **SECTION 12.** 165.60 of the statutes is amended to read:

4 **165.60 Law enforcement.** The department of justice is authorized to enforce
5 ss. 101.123 (2), (2m), and (8), 175.60 (17) (e), 944.30 (1m), 944.31, 944.33, 944.34,
6 945.02 (2), 945.03 (1m), and 945.04 (1m) and ch. 108 and, with respect to a false
7 statement submitted or made under s. 175.60 (7) (b) or (15) (b) 2. or as described
8 under s. 175.60 (17) (c), to enforce s. 946.32 and is invested with the powers conferred
9 by law upon sheriffs and municipal police officers in the performance of those duties.
10 This section does not deprive or relieve sheriffs, constables, and other local police
11 officers of the power and duty to enforce those sections, and those officers shall
12 likewise enforce those sections.

13 **SECTION 13.** 165.70 (1) (b) of the statutes is amended to read:

14 165.70 (1) (b) Except as provided in sub. (1m), enforce chs. 945 and 961 and ss.
15 940.20 (3), 940.201, 941.25 to 941.27, 943.01 (2) (c), 943.011, 943.27, 943.28, 943.30,
16 944.30 (1m), 944.31, 944.32, 944.33, 944.34, 946.65, 947.02 (3) and (4), 948.075, and
17 948.08.

18 **SECTION 14.** 165.76 (1) (am) of the statutes, as created by 2013 Wisconsin Act
19 20, is amended to read:

20 165.76 (1) (am) Is or was adjudicated delinquent for an act that if committed
21 by an adult in this state would be a felony or for a violation of s. 940.225 (3m), 941.20
22 (1), 944.20, 944.30 (1m), 944.31, 944.33 (1), 946.52, or 948.10 (1) (b).

23 **SECTION 15.** 440.312 (2) of the statutes is amended to read:

24 440.312 (2) The department may not grant a license under this subchapter to
25 any person who has been convicted of an offense under s. 940.22, 940.225, 940.302

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1 (2) (a) 1. b., 944.06, 944.15, 944.17, 944.30 (1m), 944.31, 944.32, 944.33, 944.34,
2 948.02, 948.025, 948.051, 948.06, 948.07, 948.075, 948.08, 948.09, 948.095, 948.10,
3 948.11, or 948.12.

4 **SECTION 16.** 440.982 (2) of the statutes is amended to read:

5 440.982 (2) The department may not grant a license under this subchapter to
6 any person who has been convicted of an offense under s. 940.22, 940.225, 944.06,
7 944.15, 944.17, 944.30 (1m), 944.31, 944.32, 944.33, 944.34, 948.02, 948.025,
8 948.051, 948.06, 948.07, 948.075, 948.08, 948.09, 948.095, 948.10, 948.11, or 948.12
9 or under s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies.

10 **SECTION 17.** 460.05 (1) (h) 1. of the statutes is amended to read:

11 460.05 (1) (h) 1. An offense under s. 940.22, 940.225, 944.15, 944.17, 944.30
12 (1m), 944.31, 944.32, 944.33, 944.34, 948.02, 948.025, 948.08, 948.085, 948.09,
13 948.095, or 948.10.

14 **SECTION 18.** 460.14 (2m) (a) of the statutes is amended to read:

15 460.14 (2m) (a) An offense under s. 940.22, 940.225, 944.15, 944.17, 944.30
16 (1m), 944.31, 944.32, 944.33, 944.34, 948.02, 948.025, 948.08, 948.085, 948.09,
17 948.095, or 948.10.

18 **SECTION 19.** 938.34 (15) (a) 1. of the statutes, as affected by 2013 Wisconsin Act
19 20, is amended to read:

20 938.34 (15) (a) 1. If the juvenile is adjudicated delinquent on the basis of a
21 violation that would be a felony if committed by an adult in this state or of a violation
22 of s. 940.225 (3m), 941.20 (1), 944.20, 944.30 (1m), 944.31, 944.33 (1), 946.52, or
23 948.10 (1) (b), the court shall require the juvenile to comply with the requirement
24 under s. 165.76 (1) (am) by providing a biological specimen to the state crime

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1 laboratories for deoxyribonucleic acid analysis. The court shall inform the juvenile
2 that he or she may request expungement under s. 165.77 (4).

3 **SECTION 20.** 938.355 (2d) (a) 2. of the statutes is amended to read:

4 938.355 (2d) (a) 2. "Sexual abuse" means a violation of s. 940.225, 944.30 (1m),
5 948.02, 948.025, 948.05, 948.055, 948.06, 948.085, 948.09 or 948.10 or a violation of
6 the law of any other state or federal law if that violation would be a violation of s.
7 940.225, 944.30 (1m), 948.02, 948.025, 948.05, 948.055, 948.06, 948.085 (2), 948.09
8 or 948.10 if committed in this state.

9 **SECTION 21.** 938.371 (3) (d) of the statutes is amended to read:

10 938.371 (3) (d) Any involvement of the juvenile, whether as victim or
11 perpetrator, in sexual intercourse or sexual contact in violation of s. 940.225, 948.02,
12 948.025, or 948.085, prostitution in violation of s. 944.30 (1m), sexual exploitation
13 of a child in violation of s. 948.05, or causing a child to view or listen to sexual activity
14 in violation of s. 948.055, if the information is necessary for the care of the juvenile
15 or for the protection of any person living in the foster home, group home, residential
16 care center for children and youth, or juvenile correctional facility.

17 **SECTION 22.** 944.30 of the statutes is renumbered 944.30 (1m).

18 **SECTION 23.** 944.30 (2m) of the statutes is created to read:

19 944.30 (2m) If the person under sub. (1m) has not attained the age of 18 years
20 and if the court determines that the best interests of the person would be served and
21 society would not be harmed, the court may enter a consent decree under s. 938.32
22 or a deferred prosecution agreement in accordance with s. 938.245, 971.39, or 971.40.
23 If the court has reason to suspect that any person has permitted, allowed, or
24 encouraged the person who has entered into the consent decree or the deferred

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1 prosecution agreement to violate sub. (1m), the court shall report that suspicion as
2 provided in s. 48.981 (3).

3 **SECTION 24.** 971.17 (1m) (a) 1. of the statutes, as affected by 2013 Wisconsin
4 Act 20, is amended to read:

5 971.17 **(1m)** (a) 1. If the defendant under sub. (1) is found not guilty by reason
6 of mental disease or defect for a felony or a violation of s. 165.765 (1), 2011 stats., or
7 of s. 940.225 (3m), 941.20 (1), 944.20, 944.30 (1m), 944.31, 944.33 (1), 946.52, or
8 948.10 (1) (b), the court shall require the person to provide a biological specimen to
9 the state crime laboratories for deoxyribonucleic acid analysis. The judge shall
10 inform the person that he or she may request expungement under s. 165.77 (4).

11 **SECTION 25. Effective dates.** This act takes effect on the day after publication,
12 except as follows:

13 (1) The treatment of sections 51.20 (13) (cr), 165.76 (1) (am), 938.34 (15) (a) 1.,
14 and 971.17 (1m) (a) 1. of the statutes takes effect on April 1, 2015.

15 **(END)**