



1997 ASSEMBLY BILL 605

November 11, 1997 - Introduced by Representatives HUBER, GOETSCH, R. YOUNG, UNDERHEIM, ZIEGELBAUER, POWERS, STASKUNAS, HARSDORF, PLOUFF, GRONEMUS, TURNER, SPRINGER, HANSON, BOCK, KUNICKI, BOYLE and MURAT, cosponsored by Senators DARLING and WINEKE. Referred to Committee on Judiciary.

1 **AN ACT to renumber** 948.09; **to amend** 939.65, 948.025 (3) and 948.09 (title);
2 **and to create** 948.09 (1) (title) and 948.09 (2) of the statutes; **relating to:**
3 sexual intercourse or sexual contact with a child and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law makes it a crime to have sexual contact or sexual intercourse with a child (a person under the age of 18), regardless of whether the child consents to the sexual contact or sexual intercourse. The penalties for these crimes depend on the age of the child and certain other circumstances. The crimes and their penalties are as follows:

1. *First degree sexual assault of a child.* A person is guilty of first degree sexual assault of a child if he or she has sexual contact or sexual intercourse with a child who has not attained the age of 13. A person found guilty of this crime may be imprisoned for not more than 40 years.

2. *Second degree sexual assault of a child.* A person is guilty of second degree sexual assault of a child if he or she has sexual contact or sexual intercourse with a child who has not attained the age of 16. A person found guilty of this crime may be imprisoned for not more than 20 years or fined not more than \$10,000 or both.

3. *Repeated acts of sexual assault of the same child.* A person is guilty of repeated acts of sexual assault of the same child if he or she has sexual contact or sexual intercourse with a child who has not attained the age of 16 on 3 or more occasions within a specified period of time. A person found guilty of this crime may be imprisoned for not more than 40 years.

4. *Sexual intercourse with a child.* A person is guilty of sexual intercourse with a child if he or she has sexual intercourse with a child who is age 16 or 17 and who is not his or her spouse. A person found guilty of this crime may be imprisoned for not more than 9 months or fined not more than \$10,000 or both.

This bill creates a new crime relating to sexual intercourse or sexual contact with a child who is age 14 or 15. Under the bill, a person who has sexual intercourse

or sexual contact with a child who is age 14 or 15 may be imprisoned for not more than 9 months or fined not more than \$10,000 or both if, at the time of the sexual contact or sexual intercourse, the person was not more than 30 months younger or more than 30 months older than the child. The bill also provides that a person cannot be prosecuted for the same acts involving the same child under both the new crime created in the bill and either second degree sexual assault of a child or repeated acts of sexual assault of a child.

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

1 **SECTION 1.** 939.65 of the statutes is amended to read:

2 **939.65 Prosecution under more than one section permitted.** Except as
3 provided in ~~s. ss.~~ ss. 948.025 (3) and 948.09 (2) (b), if an act forms the basis for a crime
4 punishable under more than one statutory provision, prosecution may proceed under
5 any or all such provisions.

6 **SECTION 2.** 948.025 (3) of the statutes is amended to read:

7 **948.025 (3)** The state may not charge in the same action a defendant with a
8 violation of this section and with a felony violation involving the same child under
9 ch. 944 or a violation involving the same child under s. 948.02, 948.05, 948.06,
10 948.07, 948.08, 948.09 (2) (a), 948.10, 948.11 or 948.12, unless the other violation
11 occurred outside of the time period applicable under sub. (1). This subsection does
12 not prohibit a conviction for an included crime under s. 939.66 when the defendant
13 is charged with a violation of this section.

14 **SECTION 3.** 948.09 (title) of the statutes is amended to read:

15 **948.09 (title) Sexual intercourse or contact with a child age 16 14 or**
16 **older.**

17 **SECTION 4.** 948.09 of the statutes is renumbered 948.09 (1).

18 **SECTION 5.** 948.09 (1) (title) of the statutes is created to read:

