



2023 ASSEMBLY BILL 48

February 20, 2023 - Introduced by Representatives KITCHENS, BILLINGS, J. ANDERSON, ANDRACA, BALDEH, CLANCY, CONLEY, CONSIDINE, DRAKE, EMERSON, GOYKE, GREEN, GUNDRUM, GUSTAFSON, HAYWOOD, JOERS, MADISON, MYERS, OHNSTAD, ORTIZ-VELEZ, PALMERI, RIEMER, RODRIGUEZ, ROZAR, SCHRAA, SHANKLAND, SINICKI, SNYDER, SUBECK, VINING and WITTKE, cosponsored by Senators JAMES, L. JOHNSON, AGARD, BALLWEG, COWLES, FELZKOWSKI, HESSELBEIN, LARSON, ROYS, SMITH, SPREITZER, TAYLOR and WIRCH. Referred to Committee on Criminal Justice and Public Safety.

1 **AN ACT** *to amend* 51.20 (13) (cr), 165.76 (1) (am), 938.34 (15) (a) 1., 944.30 (1m)
2 (intro.), 944.30 (2m) and 973.015 (2m) (intro.) of the statutes; **relating to:**
3 prosecuting or adjudicating delinquent a person under the age of 18 for
4 committing an act of prostitution.

Analysis by the Legislative Reference Bureau

Under current law, a person who is under the age of 18 may be prosecuted or adjudicated delinquent for committing an act of prostitution, a Class A misdemeanor. Under this bill, a person who is under the age of 18 may not be prosecuted or adjudicated delinquent for committing an act of prostitution. This bill also eliminates the option under current law in cases where a person under the age of 18 has committed an act of prostitution for a court to enter a consent decree under the Juvenile Justice Code, or a deferred prosecution agreement under the Juvenile Justice Code or adult criminal statutes, if the court determines that a consent decree or deferred prosecution agreement will serve the best interests of the person being prosecuted and will not harm society.

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

5 **SECTION 1.** 51.20 (13) (cr) of the statutes is amended to read:

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1 51.20 (13) (cr) If the subject individual is before the court on a petition filed
2 under a court order under s. 938.30 (5) (c) 1. and is found to have committed a
3 violation that would be a felony if committed by an adult in this state or a violation
4 of s. 940.225 (3m), 941.20 (1), 944.20, ~~944.30 (1m)~~, 944.31 (1), 944.33, 946.52, or
5 948.10 (1) (b) or s. 944.30 (1m), 2021 stats., the court shall require the individual to
6 provide a biological specimen to the state crime laboratories for deoxyribonucleic
7 acid analysis. The court shall inform the individual that he or she may request
8 expungement under s. 165.77 (4).

9 **SECTION 2.** 165.76 (1) (am) of the statutes is amended to read:

10 165.76 (1) (am) Is or was adjudicated delinquent for an act that if committed
11 by an adult in this state would be a felony or for a violation of s. 940.225 (3m), 941.20
12 (1), 944.20, ~~944.30 (1m)~~, 944.31 (1), 944.33, 946.52, or 948.10 (1) (b) or is or was
13 adjudicated delinquent for a violation of s. 944.30 (1m), 2021 stats., before the
14 effective date of this paragraph [LRB inserts date].

15 **SECTION 3.** 938.34 (15) (a) 1. of the statutes is amended to read:

16 938.34 (15) (a) 1. If the juvenile is adjudicated delinquent on the basis of a
17 violation that would be a felony if committed by an adult in this state or of a violation
18 of s. 940.225 (3m), 941.20 (1), 944.20, ~~944.30 (1m)~~, 944.31 (1), 944.33, 946.52, or
19 948.10 (1) (b), the court shall require the juvenile to comply with the requirement
20 under s. 165.76 (1) (am) by providing a biological specimen to the state crime
21 laboratories for deoxyribonucleic acid analysis. The court shall inform the juvenile
22 that he or she may request expungement under s. 165.77 (4).

23 **SECTION 4.** 944.30 (1m) (intro.) of the statutes is amended to read:

24 944.30 (1m) (intro.) Any Except as provided in sub. (2m), any person who
25 intentionally does any of the following is guilty of a Class A misdemeanor:

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1 **SECTION 5.** 944.30 (2m) of the statutes is amended to read:

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

8 **SECTION 6.** 973.015 (2m) (intro.) of the statutes is amended to read:

9 973.015 **(2m)** (intro.) At any time after a person has been convicted,
10 ~~adjudicated delinquent,~~ or found not guilty by reason of mental disease or defect for
11 a violation of s. 944.30 or adjudicated delinquent for a violation of s. 944.30 (1m),
12 2021 stats., a court may, upon the motion of the person, vacate the conviction,
13 adjudication, or finding, or may order that the record of the violation of s. 944.30 be
14 expunged, if all of the following apply:

15 **SECTION 7. Initial applicability.**

16 (1) This act first applies to a violation committed on the effective date of this
17 subsection.

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(END)