WISCONSIN LEGISLATIVE COUNCIL
STAFF MEMORANDUM

Memo No. 2

TO: MEMBERS OF THE SPECIAL COMMITTEE ON REVIEW OF CRIMES AGAINST CHILDREN

FROM: Anne Sappenfield, Senior Staff Attorney, and Larry Konopacki, Staff Attorney

RE: Options for Legislative Changes Recommended for the Special Committee on Review of Crimes Against Children

DATE: November 7, 2006

FIRST-DEGREE SEXUAL ASSAULT OF A CHILD [s. 948.02 (1)]

"Great Bodily Harm"- Standard of Harm

Background

Under current law, first-degree sexual assault of a child under the age of 13 is a Class A felony if the sexual contact or sexual intercourse results in "great bodily harm" to the victim. [s. 948.02 (1) (a), Stats., as affected by 2005 Wisconsin Act 437.] Previously, all acts of first-degree sexual assault of a child under age 13 were punishable as a Class B felony, regardless of whether great bodily harm resulted.

The general definition of "great bodily harm" for the Criminal Code is applicable to first-degree sexual assault of a child. The definition is as follows:

> "Great bodily harm" means bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury. [s. 939.22 (14), Stats.]

The committee has had discussion about the great bodily harm standard and what types of injuries would fall into this category. The definition itself provides some examples, including serious permanent disfigurement and loss of function of a part of the body or an organ. Injuries which "create a substantial risk of death" and "other serious bodily injuries" are more open-ended.

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Application

The drafters of the Wisconsin Criminal Jury Instruction 1225 have determined that "great bodily harm" can be described as "serious bodily injury" in most cases and suggest using the remainder of the detail of the s. 939.22 (14), Stats., definition only as needed. There are many examples in case law of injuries that have been found to rise to the great bodily harm threshold as "other serious bodily injuries." The types of injuries are different in each case, and juries are given a great deal of discretion in determining whether this standard is met by the facts of a particular case. Some examples follow.

The Court of Appeals recently upheld a jury instruction which stated that "great bodily harm" is the infliction of "serious bodily injury." *State v. Ellington*, 2005 WI App 243, ¶ 6, 288 Wis. 2d 264, 707 N.W.2d 907, *pet. for rev. denied, State v. Ellington*, 2006 WI 23, 289 Wis. 2d 10, 712 N.W.2d 35. The specific trial court instruction was as follows: "Great bodily harm means serious bodily injury. You, the jury, are to alone to determine whether the bodily injury in your judgment is serious." *Id.* Despite arguments by the defendant on appeal that this instruction was in error because the jury was free to interpret this instruction to include injuries that would not meet the great bodily harm threshold, the court upheld the use of this instruction. *Id.*

The *Ellington* court explained that the Legislature did not intend the phrase "other serious bodily injury" in the definition of great bodily harm to "assume the coloration of the list of specific injuries that precede it" in the definition. *Id.* at ¶ 7. Instead, the court cited *La Barge v. State*, 74 Wis. 2d 327, 333, 246 N.W.2d 794, 797 (1976), in support of its conclusion that the phrase "or other serious bodily injury" was "designed as an intentional broadening of the scope of the statute to include bodily injuries which were serious, although not of the same type or category as those recited in the statute." *Id.*

The injuries in *Ellington* included injuries from choking, hitting, and kicking, including eyes swollen shut, a split lip, tread patterns on the victim's face from footprints, and bleeding from the ears, nose, mouth, and eyes. *Id.* at ¶ 4.

Other cases have also recognized that this standard is open-ended and juries must ultimately decide what injuries meet the threshold. See, *Cheatham v. State*, 85 Wis. 2d 112, 270 N.W.2d 194 (1978); *Flores v. State*, 76 Wis. 2d 50, 250 N.W.2d 720 (1977). (The line between great bodily harm and mere bodily harm is not easily drawn; there is a "twilight zone" between the two standards in which a reasonable jury could decide either way.) Many of these cases are unpublished, but still provide insight into how the great bodily harm standard is being applied. For example, in *State v. Austin, Unpublished*, 169 Wis. 2d 467, 2-3, 487 N.W.2d 660 (Ct. App. 1992), the injuries at issue included a concussion, severe head bruising, cuts and bruises to the face, knee and hand abrasions, severely blackened eyes, scalp wounds, and prolonged nausea, dizziness, and headaches. *Id.* at 1-2. The court recognized these injuries as being in the *Flores* "twilight zone" between great bodily harm and mere bodily harm and upheld the jury's finding of great bodily harm. *Id.*

In *State v. Miller, Unpublished*, 218 Wis. 2d 164, 2, 578 N.W.2d 208 (Ct. App. 1998), a jury found that a cervical sprain, resulting from a choke hold, which involved temporary loss of consciousness, physical therapy for four months, the need for pain medication and muscle relaxers, and causing tension headaches, constituted great bodily harm. The court explained that "a jury may conclude that a victim has suffered "great bodily harm" as long as the victim has suffered an injury that

is "serious," defining the term as it is ordinarily understood, regardless of whether the injury creates a substantial risk of death, permanent disfigurement, or impairment. *Id.* at 6.

In *State v. Davis, Unpublished*, 199 Wis. 2d 524; 546 N.W.2d 579 (Ct. App. 1996), burns and scarring from industrial strength drain cleaner were determined to be great bodily harm. In *State v. Carli*, 2 Wis. 2d 429, 435, 86 N.W.2d 434 (1957), an ear with a portion bitten off, a black eye, lacerations above the ear, and various bruises constituted great bodily harm. In *State v. Allison, Unpublished*, 200 Wis. 2d 491, 2, 546 N.W.2d 885 (Ct. App. 1996), great bodily harm resulted from a broken nose, severe facial lacerations (not requiring stitches but resulting in scarring), and thoracic back injuries.

Conversely, in *State v. Williams*, 169 Wis. 2d 466, 487 N.W.2d 660 (Ct. App. 1992), a jury's finding of great bodily harm was overruled. The trial jury found that a four-inch head laceration was a "serious bodily injury" and therefore constituted "great bodily harm." The Court of Appeals disagreed and ruled that, as a matter of law, the victim's relatively minor injuries "did not constitute serious bodily injury."

Options

1. Create a definition of "great bodily harm" that is specific to the offense of first-degree sexual assault of a child.

2. Instead of using the phrase "great bodily harm," define a separate term or phrase with a description of the types of injuries that make the offense a Class A felony. This can be done even if the definition would be very similar to the "great bodily harm" definition.[1]

3. Use a different threshold of harm to trigger this most severe category of child sexual assault. Some of the other statutory thresholds under current law include:

    a. "**Substantial bodily harm**" means bodily injury that causes a laceration that requires stitches, staples, or a tissue adhesive; any fracture of a bone; a broken nose; a burn; a temporary loss of consciousness, sight, or hearing; a concussion; or a loss or fracture of a tooth. [s. 939.22 (38), Stats.]

    b. "**Bodily harm**" means physical pain or injury, illness, or any impairment of physical condition. [ss. 46.90 (1) (aj), 346.62 (1) (a), 806.247 (1) (a), 813.123 (1) (b), 939.22 (4), and 940.295 (1) (b), Stats.]

    c. "**Physical injury**" includes but is not limited to lacerations, fractured bones, burns, internal injuries, severe or frequent bruising, or great bodily harm, as defined in s. 939.22 (14). [s. 48.02 (14g), Stats.]

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[1] For instance, the phrase "serious bodily harm" is defined for the purposes of ch. 969 (bail and other conditions of release) as: "bodily injury which causes or contributes to the death of a human being or which creates a substantial risk of death or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury." [s. 969.001 (2), Stats.]

d. "**Personal injury**" means actual bodily harm and includes pregnancy and mental or nervous shock. [s. 949.01 (5), Stats.]

"Great Bodily Harm" - Link to Sexual Assault

Background

As noted above, s. 948.02 (1) (a), Stats., as affected by 2005 Wisconsin Act 437, provides as follows:

> Whoever has sexual contact or sexual intercourse with a person who has not attained the age of 13 years is guilty of one of the following: (a) If the sexual contact or sexual intercourse **resulted** in great bodily harm to the person, a Class A felony. [Emphasis added.]

This is in contrast with the wording of for the offense of first-degree sexual assault under s. 940.225 (1), Stats.:

> Whoever does any of the following is guilty of a Class B felony: (a) Has sexual contact or sexual intercourse with another person without consent of that person and causes pregnancy or great bodily harm to that person. [s. 940.225 (1), Stats.]

In *State v. Schambow*, 176 Wis. 2d 286, 500 N.W.2d 362 (Ct. App. 1993), a husband sexually assaulted and killed his wife. The husband was convicted of first-degree sexual assault. The defendant argued that s. 940.225 (1), Stats., required the great bodily harm to be *caused* by the sexual assault. The court disagreed, saying that the great bodily harm element could be satisfied if the harm was "caused by the defendant during the course of conduct that immediately preceded or followed the act of nonconsensual intercourse." *Id.* at 296. In other words, the great bodily harm need not be *caused by* the nonconsensual sexual contact or intercourse, but must be caused by the offender around the same time as the sexual assault.

Because the first-degree sexual assault of a child offense requires a showing that the contact or intercourse ***resulted*** in great bodily harm, the interpretation in *Schambow* may not apply to this offense. It appears that the language used in s. 948.02 (1) (a), Stats., may require a direct causal link between the sexual assault and the great bodily harm, while the language used in s. 940.225 (1) (a), Stats., does not.

Option

- Re-draft s. 948.02 (1) (a), Stats., to clarify that great bodily harm need not result from the sexual assault to trigger the increased penalty under this paragraph.

"Sexual Intercourse"

Background

Under current law, there is a definition of "sexual intercourse" that is specific to the offense of first-degree sexual assault of a child. Under this definition, "sexual intercourse" means vulvar

penetration as well as cunnilingus, fellatio, or anal intercourse between persons or any intrusion of any inanimate object into the genital or anal opening either by the defendant or upon the defendant's instruction. This definition is similar to the general definition of "sexual intercourse" for ch. 948, Stats., but does not include any intrusion, however slight, of any part of a person's body (e.g., penetration by a finger or digit).

Options

1. Eliminate the definition that is specific to the offense of first-degree sexual assault of a child so that the general definition contained in ch. 948, Stats., applies.

2. Address concerns raised and addressed by the definition by amending the offense of first-degree sexual assault of a child or the penalty for first-degree sexual assault of a child. For example, the mandatory minimum prison terms applicable to certain first-degree sexual assault offenses could apply only to offenders who are 18 years of age or older at the time of the offense or the mandatory minimum prison terms could be redrafted to apply only in cases of vulvar penetration, cunnilingus, fellatio, or anal intercourse between persons or any intrusion of any inanimate object into the genital or anal opening either by the defendant or upon the defendant's instruction.

REPEAT CHILD SEX OFFENDERS

Background

General Repeater

Under current law, a person convicted of a crime for which imprisonment may be imposed[2] may be sentenced as a "repeater" if that person was also convicted of a felony or three misdemeanors[3] during the five years prior to committing the crime for which the person is now being sentenced, excluding time spent in confinement serving a criminal sentence. Maximum sentences for repeaters are increased as follows:

- A maximum term of imprisonment of one year or less may be increased by up to ***two years***.

- A maximum term of imprisonment of more than one year but not more than 10 years may be increased by up to ***two years*** if the prior convictions were for misdemeanors.

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[2] Not including the offenses of escape under s. 946.42, Stats., and failure to report to jail under s. 946.425, Stats.

[3] For purposes of s. 939.62, Stats., the terms "felony" and "misdemeanor" have the meanings designated in s. 939.60, Stats., but do not include motor vehicle offenses committed in this state under chs. 341 to 349, Stats., or delinquency proceedings under chs. 48 and 938, Stats. These terms also include similar crimes committed in other jurisdictions. [s. 939.62 (3), Stats.]

- A maximum term of imprisonment of more than one year but not more than 10 years may be increased by up to ***four years*** if the prior conviction was for a felony.

- A maximum term of imprisonment of more than 10 years may be increased by up to ***two years*** if the prior convictions were for misdemeanors.

- A maximum term of imprisonment of more than ten years may be increased by up to ***six years*** if the prior conviction was for a felony.

[s. 939.62 (1) and (2), Stats.]

Two Strikes - Serious Child Sex Offenses

Current law provides that a person who commits a serious child sex offense after having been convicted of a serious child sex offense may be sentenced as a "persistent repeater." The term of imprisonment for a persistent repeater is life imprisonment without the possibility of parole or extended supervision. [s. 939.62 (2m), Stats.] This is commonly referred to as the "two strikes" rule for serious child sex offenses.

A "serious child sex offense" means a violation of s. 948.02 (sexual assault of a child), 948.025 (repeated sexual assault of the same child), 948.05 (sexual exploitation of a child), 948.055 (causing a child to view or listen to sexual activity), 948.06 (incest with a child), 948.07 (child enticement), 948.08 (soliciting a child for prostitution), 948.085 (sexual assault of a child placed in substitute care), 948.095 (sexual assault of a child by a school staff person or a person who works or volunteers with children), or 948.30 (abduction of another's child; constructive custody), or, if the victim was a minor and the convicted person was not the victim's parent, a violation of s. 940.31 (kidnapping); or crimes under federal law, other states, or past laws of this state that are comparable to one of the listed crimes.

Three Strikes - Serious Felonies

A person who commits a serious felony after having been convicted of two serious felonies may also be sentenced as a persistent repeater. The term of imprisonment for this type of persistent repeater is also life imprisonment without the possibility of parole or extended supervision. [s. 939.62 (2m), Stats.] This is commonly referred to as the "three strikes" rule for serious felonies.

A serious felony includes the following violations of ch. 948, Stats.: s. 948.02 (1) or (2) (first- or second- degree sexual assault of a child), 948.025 (repeated sexual assault of the same child), 948.03 (2) (a) or (c) (physical abuse of a child), 948.05 (sexual exploitation of a child), 948.06 (incest with a child), 948.07 (child enticement), 948.075 (use of a computer to facilitate a child sex crime), 948.08 (soliciting a child for prostitution), 948.085 (sexual assault of a child placed in substitute care), or 948.30 (2) (abduction of another's child by use or threat of force). [s. 939.62 (2m) (a) 2m., Stats.] [4]

[4] "Serious felony" also includes any felony under s. 961.41 (1), (1m) or (1x) that is a Class A, B, or C felony or, if the felony was committed before February 1, 2003, that is or was punishable by a maximum prison term of 30 years or more; a crime under s. 961.65; any felony under s. 940.09 (1), 1999 Stats., 943.23 (1m) or (1r), 1999 Stats., 948.35 (1) (b) or (c), 1999 Stats., or 948.36, 1999 Stats., or s. 940.01, 940.02, 940.03, 940.05, 940.09 (1c), 940.16, 940.19 (5), 940.195 (5), 940.21, 940.225 (1) or (2), 940.305, 940.31, 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (1g), 943.32 (2), or 946.43 (1m); the

Options

1. Extend or remove the requirement that previous crimes be within five years for the "general repeater" statute to apply.

2. Create a separate repeater provision for child sex offenses which includes a larger enhancer or a minimum confinement requirement.

NEGLECTING A CHILD [S. 948.21]

Background

Under current law, any person who is responsible for a child's welfare who, through his or her actions or failure to take action, intentionally contributes to the neglect of a child is guilty of a Class A misdemeanor (punishable by a fine not to exceed $10,000 and nine months in county jail). If death is a consequence of the neglect, the person is guilty of a Class D felony (punishable by a fine not to exceed $100,000 and 25 years imprisonment--maximum 15-year prison term and 10-year term of extended supervision).

Options

1. Create an intermediate offense for cases in which the child suffers injury but does not die. An element of the intermediate offense could be that the neglect results in bodily harm or that it results in great bodily harm. The offense classifications between a Class A misdemeanor and a Class D felony are as follows:

   - Class E felony (punishable by a fine not to exceed $50,000 and 15 years imprisonment--maximum 10-year prison term and 5-year term of extended supervision).

   - Class F felony (punishable by a fine not to exceed $25,000 and 12.5 years imprisonment--maximum 7.5-year prison term and 5-year term of extended supervision).

   - Class G felony (punishable by a fine not to exceed $25,000 and 10 years imprisonment--maximum 5-year prison term and 5-year term of extended supervision).

   - Class H felony (punishable by a fine not to exceed $10,000 and 6 years imprisonment--maximum 5-year prison term and 5-year term of extended supervision).

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solicitation, conspiracy, or attempt, under s. 939.30, 939.31 or 939.32, to commit a Class A felony; a crime at any time under federal law or the law of any other state or, prior to April 28, 1994, under the law of this state that is comparable to a crime specified in this provision. [s. 939.62 (2m) (a) 2m., Stats.]

- Class I felony (punishable by a fine not to exceed $10,000 and 3.5 years imprisonment--maximum 1.5-year prison term and 2-year term of extended supervision).

2. If an intermediate offense, as discussed in item 1., is created, create a parallel offense in the crime of leaving a child unattended in a child care vehicle. Under s. 984.53, Stats., no person responsible for a child's welfare while the child is being transported in a child care vehicle may leave the child unattended at any time from the time the child is placed in the care of that person to the time the child is placed in the care of another person responsible for the child's welfare. A person who violates this provision is guilty of a Class A misdemeanor or, if death is a consequence, a Class G felony.

3. Modify the language that requires that the person ***intentionally*** contributed to the neglect of the child.

4. Create an exception to the child neglect crimes for acts that may be characterized as acts of poor judgment, such as not requiring a child to wear a seatbelt.

PHYSICAL ABUSE OF A CHILD [S. 948.03 (2) AND (3)]

Background

Under current law, physical abuse of a child is penalized as follows:

- Whoever ***intentionally*** causes great bodily harm to a child is guilty of a Class E felony.

- Whoever ***intentionally*** causes bodily harm to a child is guilty of a Class H felony.

- Whoever ***intentionally*** causes bodily harm to a child by conduct which creates a high probability of great bodily harm is guilty of a Class F felony.

- Whoever ***recklessly***[5] causes great bodily harm to a child is guilty of a Class G felony.

- Whoever ***recklessly*** causes bodily harm to a child is guilty of a Class I felony.

- Whoever ***recklessly*** causes bodily harm to a child by conduct which creates a high probability of great bodily harm is guilty of a Class H felony.

Options

1. Increase the penalty for physical abuse of a child that results in great bodily harm. As noted above, it is a Class E felony to intentionally cause great bodily harm to a child and a Class G felony to recklessly cause great bodily harm to a child.

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[5] In this statutory section, "recklessly" is defined as conduct which creates a situation of unreasonable risk of harm to and demonstrates a conscious disregard for the safety of the child. [s. 948.03 (1), Stats.]

2. Tailor the offense so that it does not penalize physical altercations between peers who are children. For example, the offense could apply only if the actor has attained a specified age at the time of the offense (e.g., 17 or 18 years of age) or only if there is a specified age difference between the actor and the victim (e.g., four or five years), or both.

POSSESSION OF CHILD PORNOGRAPHY [S. 948.12]

Background

Under current law, a person may not possess any undeveloped film, photographic negative, photograph, motion picture, videotape, or other recording of a child engaged in sexually explicit conduct under all of the following circumstances:

- The person knows that he or she possesses the material.
- The person knows the character and content of the sexually explicit conduct in the material.
- The person knows or reasonably should know that the child engaged in sexually explicit conduct has not attained the age of 18 years.

In addition, no person may exhibit or play a recording of a child engaged in sexually explicit conduct, if all of the following apply:

- The person knows that he or she has exhibited or played the recording.
- Before the person exhibited or played the recording, he or she knew the character and content of the sexually explicit conduct.
- Before the person exhibited or played the recording, he or she knew or reasonably should have known that the child engaged in sexually explicit conduct had not attained the age of 18 years.

A person who violates either of the above provisions is guilty of a Class D felony, unless the person was under 18 years of age when the offense occurred. In that case, the person is guilty of a Class I felony.

Options

- Create a separate offense for persons who possess a specified number of images.

MISCELLANEOUS

Sex Offender Registry Offenses

Background

A person who commits a sex offense is generally required to register as a sex offender under s. 301.45, Stats. Crimes under ch. 948, Stats., that are defined as "sex offenses" for purposes of the sex offender registry include the following: a violation, or the solicitation, conspiracy, or attempt to commit a violation, of s. 948.02 (1) or (2) (first- or second-degree sexual assault of a child), 948.025 (repeated sexual assault of the same child), 948.05 (sexual exploitation of a child), 948.055 (causing a child to view or listen to sexual activity), 948.06 (incest with a child), 948.07 (child enticement), 948.075 (use of a computer to facilitate a child sex crime), 948.08 (soliciting a child for prostitution), 948.085 (sexual assault of a child placed in substitute care), 948.095 (sexual assault of a child by a school staff person or a person who works or volunteers with children), 948.11 (2) (a) or (am) (exposing a child to harmful material, descriptions, or narrations), 948.12 (possession of child pornography), 948.13 (child sex offender working with children), or 948.30 (abduction of another's child; constructive custody), or of s. 940.30 (false imprisonment) or 940.31 (kidnapping) if the victim was a minor and the person who committed the violation was not the victim's parent. [s. 301.45 (1d) (b), Stats.]

In addition, s. 973.048 (1m), Stats., allows a court to require a person to register as a sex offender when being sentenced for the solicitation, conspiracy, or attempt to commit any other violation of ch. 948, Stats., if the court determines that the underlying conduct was sexually motivated[6] and that it would be in the interest of public protection[7] to require registration.[8]

Options

1. Eliminate from mandatory registry requirements certain offenses that are not necessarily sex-related. The following crimes, with are included in the definition of "sex offense" under s. 301.45 (1d), Stats., and trigger sex offender registration requirements, are not necessarily associated with sexual conduct:

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[6] "Sexually motivated" means that one of the purposes for an act is the actor's sexual arousal or gratification or for the sexual humiliation or degradation of the victim. [s. 980.01 (5), Stats.]

[7] In determining whether it would be in the interest of public protection to have the person register as a sex offender, the court may consider any of the following: the ages, at the time of the violation, of the person and the victim of the violation; the relationship between the person and the victim of the violation; whether the violation resulted in bodily harm to the victim; whether the victim suffered from a mental illness or mental deficiency that rendered him or her temporarily or permanently incapable of understanding or evaluating the consequences of his or her actions; the probability that the person will commit other violations in the future; or any other factor that the court determines may be relevant to the particular case. [s. 973.048 (3), Stats.]

[8] The court also has discretion to order sex offender registration for other violations of ch. 940 or 944, or s. 942.08 or 943.01 to 943.15.

- Section 948.07 (5), Stats.--Child enticement with intent to cause bodily or mental harm to the child.

- Section 948.07 (6), Stats.--Child enticement with intent to give or sell a controlled substance or analog to the child.

2. Consider adding other sex-related crimes against children to the list of offenses requiring mandatory registration. The following sex-related crimes are currently not included in the definition of "sex offense" and therefore do not trigger mandatory sex offender registry requirements:

    - Section 948.10, Stats.--Exposing genitals or pubic area to a child or causing a child to expose his or her genitals or pubic area.

    - Section 948.11 (2) (b), Stats.--Possession of harmful material with the intent to sell, rent, exhibit, play, distribute, or loan the material to a child. Harmful material is defined as any of the following:

        - Any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the human body that depicts nudity, sexually explicit conduct, sadomasochistic abuse, physical torture, or brutality and that is harmful to children.

        - Any book, pamphlet, magazine, printed matter, however reproduced or recording that contains any matter listed above, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexually explicit conduct, sadomasochistic abuse, physical torture, or brutality and that, taken as a whole, is harmful to children.

    - Section 948.14, Stats. – Registered sex offender photographing minors. While such an offender is already a registrant, inclusion of this offense in the definition of "sex offense" would require this offense to be listed under s. 301.45 (2) (a) 3., Stats., as a statute the person violated that subjects that person to the registry requirement.

Statute of Limitations for Juvenile Offenders

Background

Under current law, for most offenses of sexual assault of a child, a prosecution may be commenced at any time or at any time before the victim reaches the age of 45 years, depending upon the offense charged.

Current law also provides that, in general, a person who commits a criminal offense as a juvenile must be charged as an adult if the person is an adult when he or she is charged. This rule does not apply if the prosecution was delayed manipulatively to avoid juvenile court jurisdiction. [*State v. Annala*, 168 Wis. 2d 453, 484 N.W.2d 138 (1992).]

Options

1. Create a separate statute of limitations for prosecution of sexual assault of a child for persons who commit an offense as a juvenile and are later charged as an adult.

2. Modify the penalties for sexual assault of a child so that a person who commits an offense as a juvenile is subject to a lesser felony classification or is not subject to mandatory minimum prison terms, regardless of when the person is charged.

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