

AGENCY LEGISLATIVE REFERENCE BUREAU	DATE 12-20-83
DIVISION	REEL NUMBER _____
RECORD SERIES Drafting Records	DISPOSAL AUTHORIZATION NUMBER 130/76-1

I certify that the film listed above complies with the minimum standards of quality for permanent photographic records, as established by the Public Records Board and that the film was processed and developed in accordance with minimum standards established by the Board.

I certify pursuant to Section 16.61 (7) Wisconsin Statutes, that this records series has been photographed on the reels of film listed above.

Dr. H. Rupert Theobald, Chief
Legislative Reference Bureau
Madison, Wis. 53702

Dr. H. Rupert Theobald, Chief

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CAMERA OPERATOR'S CERTIFICATE

REEL NUMBER _____	REDUCTION RATIO 42:1	DISPOSAL AUTHORIZATION NUMBER 130/76-1
CAMERA (TYPE) DIETZGEN STEP & REPEAT	(MODEL)	(SERIAL NUMBER)
TITLE OF RECORD SERIES LEGISLATIVE REFERENCE BUREAU		
AGENCY LEGISLATIVE REFERENCE BUREAU		

I certify that I have on this day of **12-20-**, 19 **83**
photographed the above described documents in accordance with the standards
and procedures established by Section 16.61 of the Wisconsin Statutes.

ROLL BEGINS WITH

ROLL ENDS WITH

1971 Assembly Bills 600

619

CAMERA OPERATOR

K.D.

1971 ASSEMBLY BILLS 600-619

A Cert 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25
AB 600

B 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50
AB 601

C 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75
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D 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100
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E 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125
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F 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150
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G 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175
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1971 ASSEMBLY BILL 600

600

ASSEMBLY BILL _____

3-30-71 Introduced by Representative BARBEE

Representatives _____

Cosponsored by Senator _____

Committee on _____

By request of _____

Referred to Committee on Judiciary

600

1 AN ACT to repeal 940.04; to renumber 947.15; to amend 944.31
2 (title), as renumbered; to repeal and recreate chapter 944; and to
3 create 944.31 (1) (c) of the statutes, relating to crimes against
4 sexual morality and providing penalties.

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Analysis by the Legislative Reference Bureau

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This bill revises the chapter of the statutes relating to crimes against sexual morality. It redefines existing crimes and revises penalties in some cases. Existing provisions on adultery, fornication, cohabitation, indecent exposure and possession of "indecent matter" are deleted. The present abortion statute is repealed.

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The defense of mistake of age is not applicable when the offense is against a child under the age of 14, but does exist if the victim is over that age, in which case the burden of proving that defense is on the defendant. All felony convictions for nonconsensual sexual acts must be on the basis of corroborated testimony. Corroboration may be circumstantial. Prosecution for a nonconsensual sexual act must be within 6 months after the act or, if the victim is under 14 years old, within 6 months after the parent or other competent person learns of the offense.

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The bill also recognizes certain defenses to the charge of bigamy, and enumerates in greater detail activities constituting the crime of prostitution or promotion of prostitution.

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

SECTION 1. 940.04 of the statutes is repealed.

1 SECTION 2. Chapter 944 of the statutes is repealed and
2 recreated to read:

3 CHAPTER 944.

4 SUBCHAPTER I.

5 SEXUAL CRIMES.

6 944.01 DEFINITIONS. In this subchapter:

7 (1) "Sexual intercourse" means genital copulation and occurs
8 upon any penetration, however slight; emission is not required.

9 (2) "Deviate sexual intercourse" means any act of sexual
10 gratification between persons not married to each other, involving
11 the sex organs of one person and the mouth or anus of another.

12 (3) "Sexual contact" means any touching of the genitalia of a
13 person not married to the actor, done for the purpose of gratifying
14 sexual desire of either party.

15 (4) "Female" means any female who is not married to the
16 actor. Persons living together as man and wife are married for
17 purposes of this subchapter, regardless of the legal status of their
18 relationship otherwise. Spouses living apart under a decree of
19 judicial separation are not married to one another for purposes of
20 this subchapter.

21 944.02 FIRST DEGREE RAPE. Whoever does any of the following
22 with intent to engage in sexual intercourse with a female may be
23 imprisoned not more than 15 years unless no serious bodily injury is
24 inflicted on anyone or the victim was a voluntary social companion
25 upon the occasion of the crime and had previously permitted the
26 attacker sexual liberties in which case he may be imprisoned not

1 more than 10 years.

2 (1) Compels a female to submit to sexual intercourse by any
3 threat that would prevent resistance by a woman of ordinary
4 resolution; or

5 (2) Has sexual intercourse with a female by threatening to
6 inflict on her or another person imminent death, serious bodily
7 injury or kidnapping, and she refrains from resisting because of a
8 reasonable belief that he will carry out his threats; or

9 (3) Has sexual intercourse with a female who is physically
10 powerless to resist or to communicate unwillingness to an act and he
11 knows of her condition; or

12 (4) Has sexual intercourse with a female who is less than 14
13 years old; or

14 (5) Has sexual intercourse with a female whose power to
15 appraise or control her conduct has been substantially impaired by
16 his action in administering or employing drugs, intoxicants or other
17 means for the purpose of preventing resistance.

18 944.03 SECOND DEGREE RAPE. Whoever does any of the following
19 with the intent to engage in sexual intercourse with a female may be
20 imprisoned not more than 5 years:

21 (1) Has sexual intercourse with a female compelling her to
22 submit by any threat that would prevent resistance by a woman of
23 ordinary resolution; or

24 (2) Has sexual intercourse with a female that he knows
25 suffers from a mental illness or defect which renders her incapable
26 of appraising the nature of her conduct; or

1 (3) Has sexual intercourse with a female that he knows is
2 unaware that a sexual act is being committed upon her or that she
3 submits because she falsely supposes that he is her husband.

4 944.04 FIRST DEGREE SODOMY. Whoever does any of the following
5 with intent to engage in deviate sexual intercourse may be
6 imprisoned not more than 10 years:

7 (1) Engages in deviate sexual intercourse by threatening to
8 inflict on the alleged victim or another person imminent death,
9 serious bodily injury or kidnapping, and the victim refrains from
10 resisting because of a reasonable belief that he will carry out his
11 threats; or

12 (2) Engages in deviate sexual intercourse with a person who
13 is physically powerless to resist or to communicate unwillingness to
14 the act and the actor knows of the other's condition; or

15 (3) Engages in deviate sexual intercourse with a person who
16 is less than 14 years old; or

17 (4) Engages in deviate sexual intercourse with another person
18 when he has substantially impaired the person's power to appraise or
19 control his conduct by administering or employing drugs, intoxicants
20 or other means for the purpose of preventing resistance and without
21 the person's consent.

22 944.05 SECOND DEGREE SODOMY. Whoever does any of the
23 following with intent to engage in deviate sexual intercourse may be
24 imprisoned not more than 5 years:

25 (1) Compels another person to participate in deviate sexual
26 intercourse by any threat that would prevent resistance by a person

1 of ordinary resolution; or

2 (2) Has deviate sexual intercourse knowing that the other
3 person suffers from a mental disease or defect that renders him
4 incapable of appraising the nature of his conduct; or

5 (3) Has deviate sexual intercourse knowing that the other
6 person submits because he is unaware that a sexual act is being
7 committed upon him.

8 944.06 CORRUPTION OF PERSONS UNDER 14 AND SEDUCTION. Whoever
9 has sexual intercourse with a female or whoever engages in deviate
10 sexual intercourse or causes another to engage in deviate sexual
11 intercourse may be fined or imprisoned as follows if:

12 (1) The other person is under the age of 18 years old and the
13 actor is 18 years of age or over. The actor may be imprisoned not
14 more than 3 years.

15 (2) The other person is less than 18 years old and the actor
16 is his guardian or otherwise responsible for general supervision of
17 his welfare. The actor may be fined not more than \$1,000 or
18 imprisoned not more than 5 years or both.

19 (3) The other person is in custody of law or detained in a
20 hospital or other institution and the actor has supervisory or
21 disciplinary authority over him. The actor may be fined not more
22 than \$1,000 or imprisoned not more than 5 years or both.

23 944.07 SEXUAL ASSAULT. Whoever subjects another person he
24 knows is not his spouse to any sexual contact may be fined not more
25 than \$1,000 or imprisoned not more than 3 years or both, if:

1 (1) He knows that the contact is offensive to the other
2 person; or

3 (2) He knows that the other person suffers from a mental
4 illness or defect which renders him or her incapable of appraising
5 the nature of his or her conduct; or

6 (3) He knows that the other person is unaware that a sexual
7 act is being committed; or

8 (4) The other person is less than 14 years old; or

9 (5) He has substantially impaired the other person's power to
10 appraise or control his conduct, by administering or employing
11 without the other's knowledge or consent drugs, intoxicants or other
12 means for the purpose of preventing resistance; or

13 (6) The other person is less than 16 years old and the actor
14 is 18 years of age or over; or

15 (7) The other person is less than 18 years old and the actor
16 is his guardian or otherwise responsible for general supervision of
17 his welfare; or

18 (8) The other person is in custody of law or detained in a
19 hospital or other institution and the actor has supervisory or
20 disciplinary authority over him.

21 944.08 INDECENT SOLICITATION OF A CHILD. Whoever solicits a
22 child under the age of 14 to do any act which if done would be a
23 sexual assault or sexual intercourse or deviate sexual conduct may
24 be fined not more than \$500 or imprisoned not more than 6 months or
25 both if he is 17 years of age or older.

1 944.09 MISTAKE AS TO AGE. (1) Whenever in this subchapter the
2 criminality of conduct depends on a child's being below the age of
3 14, it is no defense that the actor did not know the child's age, or
4 reasonably believed the child to be older than 14.

5 (2) However, when criminality depends on the child's being
6 below a critical age other than 14, it is a defense for the actor to
7 prove by a preponderance of the evidence that he reasonably believed
8 the child to be above the critical age.

9 (3) The burden of injecting the issue of mistake is on the
10 defendant, but this does not shift the burden of proof. For this
11 purpose the defendant may introduce any relevant evidence of the
12 child's previous experience in, or knowledge of, sexual matters.

13 944.10 PROMPT COMPLAINT. No prosecution may be instituted
14 under this subchapter unless the alleged offense was brought to the
15 notice of public authority within 6 months of its occurrence or,
16 where the alleged victim was less than 18 years old or otherwise
17 incompetent to make complaint, within 6 months after a parent,
18 guardian or other competent person specially interested in the
19 victim learns of the offense.

20 944.11 CORROBORATION. No person may be convicted of any
21 felony under this subchapter upon the uncorroborated testimony of
22 the alleged victim. In any prosecution before a jury for an offense
23 under this subchapter, the jury shall be instructed to evaluate the
24 testimony of a victim or complaining witness with special care in
25 view of the emotional involvement of the witness and the difficulty

1 of determining the truth with respect to alleged sexual activities
2 carried out in private.

3 SUBCHAPTER II.

4 SEXUAL CRIMES WHICH AFFECT THE FAMILY.

5 944.25 BIGAMY. (1) Whoever does any of the following may be
6 fined not more than \$1,000 or imprisoned not more than 5 years or
7 both:

8 (a) Contracts of marriage in this state with knowledge that
9 his prior marriage is not dissolved; or

10 (b) Contracts a marriage in this state with knowledge that
11 the prior marriage of the person he marries is not dissolved; or

12 (c) Cohabits in this state with a person whom he married
13 outside this state with knowledge that his own prior marriage had
14 not been dissolved or with knowledge that the prior marriage of the
15 person he married had not been dissolved.

16 (2) It shall be defense to bigamy that:

17 (a) The prior marriage was dissolved by divorce or annulment;
18 or

19 (b) The accused reasonably believed the prior spouse to be
20 dead; or

21 (c) The prior spouse had been continually absent for a period
22 of 5 years during which time the accused did not know the prior
23 spouse to be alive; or

24 (d) The accused reasonably believed that he was legally
25 eligible to remarry.

1 944.26 INCEST. Whoever knowingly marries or has nonmarital
2 sexual intercourse or performs an act of deviate sexual conduct with
3 a person he knows is a blood relative and such relative is in fact
4 related in a degree within which the marriage of the parties is
5 prohibited by the law of this state may be imprisoned not more than
6 one year.

7 944.27 PROSTITUTION AND RELATED OFFENSES. (1) DEFINITIONS. In
8 this section:

9 (a) "Sexual activity" includes homosexual and other deviate
10 sexual relations.

11 (b) A "house of prostitution" is any place where prostitution
12 or promotion of prostitution is regularly carried on by one person
13 under the control, management or supervision of another.

14 (c) An "inmate" is a person who engages in prostitution in or
15 through the agency of a house of prostitution.

16 (d) "Public place" means any place to which the public or any
17 substantial group thereof has access.

18 (2) PROMOTION OF PROSTITUTION. Whoever knowingly promotes
19 prostitution of another under any of the following circumstances may
20 be imprisoned not more than 5 years:

21 (a) Owns, controls, manages, supervises or otherwise keeps,
22 along or in association with others, a house of prostitution or a
23 prostitution business; or

24 (b) Procures an inmate for a house of prostitution or a place
25 in a house of prostitution for one who would be an inmate; or

1 (f) Hiring a prostitute to engage in sexual activity with
2 him; or

3 (g) Entering or remaining in a house of prostitution for the
4 purpose of engaging in sexual activity.

5 (4) PROMOTION PRESUMED. Whoever is supported in whole or
6 substantial part by the proceeds of prostitution is presumed to be
7 knowingly promoting prostitution except the prostitute or the
8 prostitute's minor child or other legal dependent incapable of
9 self-support.

10 (5) EVIDENCE OF HOUSE OF PROSTITUTION. On the issue of
11 whether a place is a house of prostitution the following shall be
12 admissible evidence: its general repute; the repute of the persons
13 who reside in or frequent the place; the frequency, timing and
14 duration of visits by nonresidents.

15 SECTION 3. 947.15 of the statutes is renumbered 944.31 and
16 944.31 (title), as renumbered, is amended to read:

17 944.31 (title) CONTRIBUTING TO THE DELINQUENCY OR ENDANGERING
18 WELFARE OF CHILDREN; NEGLECT; NEGLECT CONTRIBUTING TO DEATH.

19 SECTION 4. 944.31 (1) (c) of the statutes is created to read:

20 944.31 (1) (c) Any parent, guardian, or other person
21 supervising the welfare of a child under 18 who knowingly endangers
22 the child's welfare by violating a duty of care, protection or
23 support.

24

(End)



LRB

480

REQUEST SHEET

Reviewed by _____

For (S) _____ (A) _____ Date rec'd 11/12/70

Special instructions:

Draftsman: WH WH _____

Typist: Ma Ma _____

Proofed: sl/ma sl/ma _____

Submitted: 11-18-70 3-23-71 _____

Delivered: _____ 3-26-71 _____

Fiscal Note Data:

FN Required: Yes _____ No

FN - 2nd draft: Yes _____ No _____

Submitted to Bur. of Mgt. _____

FN Submitted _____

Remarks:

Supplemental information:
(Note date and each new instruction)

Al Bui 600

ENROLLING

Amdts. adopted _____

Date _____

Draftsman _____

Proofed _____

RECEIVED Final Draft:

Lloyd [Signature]

(Requestor)

(Agent)

(Use reverse side of sheet if additional space is needed for instructions)

480

LRB _____

Date rec'd 11/1/70

Wanted _____

DRAFTING REQUEST

(S) _____ (A) X X
(Bill) (Jt.Res.) (Res.) (Sub.Amdt.) (Amdt.)

Subject Sex crimes revision

For Mr. Barbee Instructions by him
(Member) (Committee)

Representing _____

In X form, by X
(Draft) (Written) (Oral) (Telephone) (Personally) (Letter)

Index under: Crimes Contact _____

No. extra copies: _____ FN Required _____ Send out _____

INSTRUCTIONS

like A. Bill 196 (1969) but:
1. change all 14 references to "13".
2. also repeal 269.565

Received by MU

Signature OK

Assign to WH

(Requestor)

Copies to _____

ANALYSIS

This bill revises the chapter of the statutes relating to crimes against sexual morality. It redefines existing crimes and revises penalties in some cases. Existing provisions on adultery, fornication, and possession of "indecent matter" are deleted. The present abortion statute is repealed.

~~xxx~~ The defense of mistake of age is not applicable when the offense is against a child under the age of ~~13~~¹⁴, but does exist if the victim is over that age, in which case the burden of proving that defense is on the defendant. All felony convictions ~~xxxxxxx~~ for ~~xxxxxxx~~ nonconsensual sexual acts must be on the basis of corroborated testimony. Corroboration may be ~~xxx~~ circumstantial. Prosecution for a nonconsensual sexual act must be within 6 months after the act or, if the victim is under 18 years old, within 6 months after the parent or other competent person learns of the offense.

The bill also recognizes certain defenses to the charge of bigamy, and enumerates ~~xxxx~~ in greater detail ~~xxxxxxxxxxxx~~ activities constituting the crime of prostitution or promotion of prostitution.

~~xxxxxxx~~ ^{in cases} Persistent nonsupport ~~xxxxxxx~~ where there is an ability to pay is made a crime punishable by ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ imprisonment, fine or both. Violating a duty of care, protection or support of a child is also made a crime, and is punishable by a fine of \$500 or imprisonment for 5 years or both.

DRAFTMAN'S NOTE

A new section, s. 944.25 was created last session, and is among the sections revoked by this bill. Revoking this new section (ch. 405, Laws of 1969) may or may not have been contemplated in the original draft of this bill.

1971

LRB - 480
WH: 1

1969 ASSEMBLY BILL 196

February 11, 1969 - Introduced by Assemblyman BARBEE. Referred to
Committee on Judiciary.

1 AN ACT to repeal 940.04; to renumber 947.15; to amend ^{944.31} ~~947.15~~ (title),
2 as renumbered; to repeal and recreate chapter 944; and to create
3 ^{944.31} ~~944.31~~ (1) (c) of the statutes, relating to crimes against sexual
4 morality and providing penalties.

Analysis by the Legislative Reference Bureau

please
(see attached sheet)

7 This bill proposes criminal penalties for certain nonconsensual
8 sexual acts. These acts include rape, sodomy, sexual assault, cor-
9 ruption of minors and seduction, indecent solicitation of a child
10 and indecent exposure.

11 This bill defines sexual intercourse, deviate sexual inter-
12 course, sexual contact and female in relation to these criminal
13 penalties. The penalties provided for criminal nonconsensual
14 acts depend on circumstances ~~described~~ described in ~~the bill~~ the bill.

15 The defense of mistake as to age or reasonable belief as to
16 age is not applicable when the offense is against a child ~~under~~
17 ~~18~~ years of age. The defense does exist if the victim is over
18 ~~18~~ but the burden of proving this defense is on the defendant.
19 Any conviction for criminal nonconsensual acts must be on the
20 basis of corroborated testimony.

21 The time for bringing a prosecution for criminal nonconsensual
22 sexual acts is limited to 6 months after the occurrence of the
23 act or, if the victim is less than 18 years of age, 6 months after
24 a parent or other competent person learns of the offense.

25 In addition this bill ~~amends~~ makes the following changes ^{relating}
26 ~~amends~~ to sexual crimes and other crimes which affect the family:

1 AN ACT to repeal 940.04; to renumber 947.15; to amend 944.31
2 (title), as renumbered; to repeal and recreate chapter 944; and to
3 create 944.31 (1) (c) of the statutes, relating to crimes against
4 sexual morality and providing penalties.

cohabitation, indecent exposure

6 Analysis by the Legislative Reference Bureau

7 This bill revises the chapter of the statutes relating to
8 crimes against sexual morality. It redefines existing crimes and
9 revises penalties in some cases. Existing provisions on adultery,
10 fornication and possession of "indecent matter" are deleted. The
11 present abortion statute is repealed. 14

12 The defense of mistake of age is not applicable when the
13 offense is against a child under the age of 16, but does exist if
14 the victim is over that age, in which case the burden of proving
15 that defense is on the defendant. All felony convictions for
16 nonconsensual sexual acts must be on the basis of corroborated
17 testimony. Corroboration may be circumstantial. Prosecution for a
18 nonconsensual sexual act must be within 6 months after the act or,
19 if the victim is under 16 years old, within 6 months after the
20 parent or other competent person learns of the offense. 14

21 The bill also recognizes certain defenses to the charge of
22 bigamy, and enumerates in greater detail activities constituting the
23 crime of prostitution or promotion of prostitution.

24 Persistent nonsupport in cases where there is an ability to
25 pay is made a crime punishable by imprisonment, fine or both.
26 Violating a duty of care, protection or support of a child is also
27 made a crime, and is punishable by a fine of \$500 or imprisonment
28 for 5 years or both.

By: [Signature]

LEGISLATIVE REFERENCE BUREAU
201 North, State Capitol, Madison, Wisconsin 53702

Relating to LRB drafting number 480/2

The attached draft is submitted for your inspection. Please check each part carefully and sign on the appropriate line below to indicate whether additional changes are to be incorporated (a revised draft will then be submitted for your approval) or whether you approve the draft for jacketing.

If the draft is stamped FISCAL NOTE REQUIRED because it increases or decreases state revenues or expenditures, you have the option to submit it for a fiscal note now, prior to introduction, or to introduce it without the note in which case it will be submitted automatically upon introduction. It takes about one week to obtain a fiscal note.

Only the legislator who authorized preparation of the draft can direct that the draft be jacketed. Please allow one day for the preparation of the required copies.

1. Redraft; see changes attached _____
2. Obtain fiscal note now, prior to introduction _____
3. Jacket the draft for introduction *[Signature]*