



## Wisconsin Child Sexual Assault Laws

**948.02 SEXUAL ASSAULT OF A CHILD. 1st Degree Sexual Assault:** A new version of 1<sup>st</sup> degree SA with multiple subsections and a new sentencing scheme went into effect on June 6, 2006. Unfortunately, technical errors have created confusion. Therefore, please check with the district attorney in the county in which the crime occurred to find out how 1<sup>st</sup> degree SA will be charged. **2d Degree Sexual Assault:** “Whoever has sexual contact or intercourse with a person who has not attained the age of 16 years is guilty of a Class C felony.” Note: This statute contains a ‘failure to act’ provision criminalizing the failure of certain individuals to prevent the assault. For more information on these provisions, please contact WCASA or your local sexual assault service provider, a listing of which is contained at [www.wcasa.org](http://www.wcasa.org).

**948.09 SEXUAL INTERCOURSE WITH A CHILD AGE 16 OR OLDER.** “Whoever has sexual intercourse with a child who is not the defendant’s spouse and who has attained the age of 16 years is guilty of a Class A misdemeanor.”

**948.025 ENGAGING IN REPEATED ACTS OF SEXUAL ASSAULT OF THE SAME CHILD.** This crime applies whenever a defendant commits 3 or more violations under s. 948.02(1) or (2) within a specified period of time involving the same child. [For more information see s. 948.025]

**948.06 INCEST WITH A CHILD.** It is a Class C felony for a person to either marry, have sexual contact, or sexual intercourse with a child to whom s/he is a stepparent or related by blood or adoption. Related means a degree of kinship closer than second cousin. Note: this crime also includes a failure to act provision. For more information on the details of this crime contact WCASA or your local sexual assault service provider.

**948.095 SEXUAL ASSAULT OF A CHILD BY A SCHOOL STAFF PERSON OR A PERSON WHO WORKS OR VOLUNTEERS WITH CHILDREN.** “Whoever has sexual contact or sexual intercourse with a child 16 or older” (not a spouse) is guilty of a Class H felony if “[t]he child is enrolled as a student in a school or a school district” AND “[t]he defendant is a member of the school staff of the school or school district in which the child is enrolled as a student.” “A person who has attained the age of 21 years and who engages in an occupation or participates in a volunteer position that requires him or her to work or interact directly with children may not have sexual contact or sexual intercourse with a child who has attained the age of 16, who is not the person’s spouse, and with whom the person works or interacts through that occupation or volunteer position.” School staff and school are defined in the statute. Certain types of professions are presumed to fall within this statute.

**948.07 CHILD ENTICEMENT.** “Whoever, with intent to commit any of the following acts, causes or attempts to cause any child who has not attained the age of 18 years to go into any vehicle, building, room or secluded place is guilty of a Class D felony: (1) Having sexual contact or sexual intercourse with the child in violation of [s. 948.02](#) or [948.095](#). (2) Causing the child to engage in prostitution. (3) Exposing a sex organ to the child or causing the child to expose a sex organ in violation of [s. 948.10](#). (4) Recording the child engaging in sexually explicit conduct. (5) Causing bodily or mental harm to the child. (6) Giving or selling to the child a controlled substance or controlled substance analog in violation of [ch. 961](#)”

**948.055 CAUSING A CHILD TO VIEW OR LISTEN TO SEXUAL ACTIVITY.** “(1) Whoever intentionally causes a child who has not attained 18 years of age to view or listen to sexually explicit conduct may be penalized as provided in sub. (2) if the viewing or listening is for the purpose of sexually arousing or gratifying the actor or humiliating or degrading the child. (2) Whoever violates sub. (1) is guilty of: (a) A Class F felony if the child has not attained the age of 13 years. (b) A Class H felony if the child has attained the age of 13 years but has not attained the age of 18 years.”

**948.08 SOLICITING A CHILD FOR PROSTITUTION.** “Whoever intentionally solicits or causes any child to practice prostitution or establishes any child in a place of prostitution is guilty of a Class D felony.”

**948.085 SEXUAL ASSAULT OF A CHILD PLACED IN SUBSTITUTE CARE:** It is a Class C felony for a person to have “sexual contact or sexual intercourse with a child for whom the actor is a foster parent or treatment foster parent” or have “sexual contact or sexual intercourse with a child [] placed at any of the following facilities if the actor works or volunteers at the facility or is directly or indirectly responsible for managing it: 1. A shelter care facility licensed under s. 48.66(1)(a); 2. A group home licensed under 48.625 or 48.66(1); or 3. A facility described in 940.295(2)(m).”

**948.10 EXPOSING GENITALS OR PUBIC AREA.** (1) Whoever, for purposes of sexual arousal or sexual gratification, causes a child to expose genitals or pubic area or exposes genitals or pubic area to a child is guilty of a Class A misdemeanor. Subsection (1) does not apply when: (a) The child is the defendant’s spouse. (b) A mother’s breast-feeding of her child.

**146.35 FEMALE GENITAL MUTILATION PROHIBITED.** It is a class H felony for a person to “circumcise, excise or infibulate the labia majora, labia minora or clitoris of a female minor.” Note: This prohibition contains an exception that allows physicians to perform this work for the health of the minor or to correct an abnormality. (s. 146.35) 1)

**PENALTIES:** □ B felony = imprisonment not to exceed 60 yrs.

□ C felony = fine not to exceed \$100,000 or imprisonment not to exceed 40 yrs, or both.

□ D felony = fine not to exceed \$60,000 or imprisonment not to exceed 25 yrs, or both.

□ F felony = fine not to exceed \$25,000 or imprisonment not to exceed 12 yrs. 6 mos, or both.

□ H felony = fine not to exceed \$10,000 or imprisonment not to exceed 6 yrs, or both.

□ A misdemeanor = fine not to exceed \$10,000 or imprisonment not to exceed 9 mos, or both.

**DEFINITIONS:** (from chapters 950 and 939.50-51 of the Wisconsin Statutes). Child (when referring to a victim) is a person who has not attained the age of 18 years.

Sexual Contact means any of the following: (a) Intentional touching by the complainant or defendant, either directly or through clothing by the use of any body part or object, of the complainant's or defendant's intimate parts if that intentional touching is either for the purpose of sexually degrading or sexually humiliating the complainant or sexually arousing or gratifying the defendant. (b) Intentional penile ejaculation of ejaculate or intentional emission of urine or feces by the defendant upon any part of the body clothed or unclothed of the complainant if that ejaculation or emission is either for the purpose of sexually degrading or sexually humiliating the complainant or for the purpose of sexually arousing or gratifying the defendant. (c) For the purpose of sexually degrading or humiliating the complainant or sexually arousing or gratifying the defendant, intentionally causing the complainant to ejaculate or emit urine or feces on any part of the defendant’s body, whether clothed or unclothed.

Sexual Intercourse means vulvar penetration as well as cunnilingus, fellatio, or anal intercourse between persons or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal opening either by the defendant or upon the defendant's instruction. The emission of semen is not required (NOTE: a different definition MIGHT apply for 1<sup>st</sup> degree SA of a child—for more guidance, please contact your district attorney).

Sexually explicit conduct means actual or simulated: (a) Sexual intercourse, meaning vulvar penetration as well as cunnilingus, fellatio or anal intercourse between persons or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal opening either by the defendant or upon the defendant's instruction. The emission of semen is not required; (b) Bestiality; (c) Masturbation; (d) Sexual sadism or sexual masochistic abuse including, but not limited to, flagellation, torture, or bondage; or (e) Lewd exhibition of intimate parts.(s. 948.01)

This fact sheet reflects the law as of June 20, 2006. Some of these crimes are relatively new and may not be charged if the offense occurred before the law went into effect. For more information on when these crimes became effective, please contact your DA or a local sexual assault service provider, a list of which can be found at [www.wcasa.org](http://www.wcasa.org). Please note that not all statutes have been printed in their entirety due to space restrictions.