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SEX CRIMES AND PENALTIES

During the 1997-98 legislative session, a number of laws were enacted relating to sex crimes and penalties. These acts defined new crimes, provided for enhanced penalties for current offenses, and changed sex offender notification and registration laws.

NEW SEX CRIMES

1997 Wisconsin Act 82 (1997 Assembly Bill 189) prohibits any person age 17 or older from knowingly exposing a child to a “harmful description or narrative account”, defined as “any explicit and detailed description or narrative account of sexual excitement, sexually explicit conduct, sadomasochistic abuse, physical torture or brutality that, taken as a whole, is harmful to children.” Violation is a Class E felony, punishable by a fine not to exceed \$10,000 or imprisonment not to exceed 2 years or both.

1997 Wisconsin Act 220 (1997 Assembly Bill 564) classifies as second degree sexual assault an act of sexual intercourse or sexual contact with a person that the perpetrator knows is under the influence of an intoxicant to a degree which renders the victim incapable of appraising his or her conduct. Violation is a Class BC felony, punishable by a fine not to exceed \$10,000 or imprisonment not to exceed 20 years or both. If the victim was under 18 years of age, the person convicted of the crime is further restricted from working or volunteering with children under 16 years of age.

Act 220 classifies GHB and ketamine as controlled substances and increases the penalty for possession of the depressant flunitrazepam. All three are known as “date rape” drugs.

1997 Wisconsin Act 271 (1997 Assembly Bill 276) prohibits a person from installing or using a surveillance device or other contrivance, such as a peephole, to observe a nude or partially nude person without the consent of the person observed. Violation is a Class A misdemeanor, punishable by a fine of not more than \$10,000 or imprisonment for not more than 9 months or both.

ENHANCED PENALTIES FOR SEX CRIMES

1997 Wisconsin Act 266 (1997 Assembly Bill 278) increases the maximum term of imprisonment for a violent felony, including sexual assault, by 5 years if the offense is committed against an elderly person (age 62 or older).

1997 Wisconsin Act 276 (1997 Assembly Bill 866) increases the maximum prison term for a serious sex crime by up to 5 years if the perpetrator knew at the time of the crime that he or she had AIDS, was infected with the HIV virus that can cause AIDS, or had another specified sexually transmitted disease.

1997 Wisconsin Act 326 (1997 Assembly Bill 505) mandates a sentence of life imprisonment without parole if a person is charged and convicted as a “serious repeat offender” for a second serious child sex offense. Crimes covered by this act, which is popularly labeled as the “two strikes and you’re out” law, include sexual assault of a child, sexual exploitation of a child, incest with a child, child enticement, soliciting a child for prostitution, sexual assault

of a child by a school instructional staff person, causing a child to view or listen to sexual activity, and exposing a child to harmful material.

CHANGES TO SEX OFFENDER REGISTRY AND NOTIFICATION LAWS

1997 Wisconsin Act 6 (1997 Assembly Bill 186) authorizes law enforcement officials to provide members of the general public with information regarding a registered sexual offender without being requested to do so, if the police chief or sheriff believes the information is necessary for public protection.

1997 Wisconsin Act 130 (1997 Assembly Bill 431) allows a court to exempt an individual from the sex offender registration and notification requirements if the person was less than 19 years old at the time of the violation and was not more than 4 years older or 4 years younger than the victim of the sex crime. (This typically relates to consensual sex between teenagers.) The judge must believe registration is not necessary to protect the public.

RELATED LAWS

1997 Wisconsin Act 275 (1997 Assembly Bill 660) authorizes the court to require, in addition to other penalties, that persons convicted of certain serious sex crimes be subject to lifetime supervision by the Department of Corrections. The person may petition to be released from lifetime monitoring after 15 years of supervision if he or she has not been convicted of another crime during that period. Violating the conditions of lifetime supervision may result in a fine of up to \$10,000 and imprisonment up to 9 months (up to 2 years if the violation is a felony offense).

1997 Wisconsin Act 280 (1997 Assembly Bill 876) creates a statutory rape prosecution pilot program, under which a county selected by the Department of Health and Family Services is assigned an additional assistant district attorney and given funds to hire an investigator, who will work exclusively to develop new methods for investigating and prosecuting statutory rape, generally defined as having sexual contact or sexual intercourse with a child. The program sunsets on June 30, 2000.

1997 Wisconsin Act 284 (1997 Assembly Bill 577) provides for “chemical castration” of certain sexual offenders as a condition of parole. A person sentenced to imprisonment for sexual assault of a child under the age of 13 may be denied parole unless the person consents to participate in pharmacological treatment using an “antiandrogen drug”, a substance that inhibits the effects of male hormones, such as testosterone. The act also allows a court, when deciding whether to place a person on supervised release, to consider the defendant’s possible participation in pharmacological treatment if the person was found to be a sexually violent person (“sexual predator”) on the basis of conviction for sexual assault against a child under the age of 13.

FOR MORE INFORMATION

For copies of any of the 1997 Wisconsin Acts discussed above, contact the Legislative Reference Bureau at (608) 266-0342 or the Legislative Documents Room at (608) 266-2400. Acts can be downloaded from the legislature’s website at <http://www.legis.state.wi.us/bill-track.html>.