

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

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This amendment reconciles conflicting provisions of 1999 Assembly Bill 99 and 1999 Assembly Bill 613. In particular, both bills affect the penalty provisions in s. 301.45 (6) (a), stats., in differing ways. AB-99 creates a new offense (proposed s. 301.45 (4r)) and penalizes this new offense using the penalty provided under current law for failing to comply with the sex offender registration requirements. AB-613, by contrast, changes the elements of the offense of failing to comply with the sex offender registration requirements and creates a new penalty for 2nd and subsequent violations of those requirements.

Because the two bills are affecting the same statutory language in inconsistent ways, it is not possible for the revisor of statutes to merge the language for purposes of publishing updated statutes. In addition, the inconsistent language may create uncertainty as to what elements and which penalty applies to prosecutions for failing to comply with the sex offender registration requirements. Reconciling the two bills as they affect s. 301.45 (6), stats., will avoid this uncertainty and will obviate the need for a future bill (by the revisor or someone else) to fix the inconsistency.

In order to completely effect the reconciliation, I also had to repeal and recreate ss. 301.45 (3) (b) 4., 938.185 (3) (intro.) and 971.19 (9) (intro.) to assure correct cross-references to the new penalty provisions. In addition, to make the reconciliation language work in the event AB-613 would be signed into law before AB-99, I changed proposed s. 301.45 (6) (d) to include specific dates rather than having the revisor insert dates based on when AB-613 is enacted. Finally, though it is not absolutely necessary, I repealed and recreated s. 301.45 (2) (e) 2. to try to provide clearer initial applicability provisions for the different (though not legally inconsistent) changes being made to that statute by the two bills.

Finally, this amendment deletes the provisions in the bill that reconcile the new penalty under proposed s. 301.45 (6) (a) 2. with 1999 Assembly Bill 465 (the criminal penalties study committee legislation dealing with "truth in sentencing"). I deleted the reconciliation with AB-465 mostly because reconciling AB-613 with both AB-99 *and* AB-465 would have been extremely complicated and difficult. In addition, however, there is no legal conflict between AB-465 and AB-613 because the new penalty under proposed s. 301.45 (6) (a) 2. can still be imposed even if the two bills are not reconciled. Finally, while it seems likely that AB-99 will be enacted, action on AB-465 is currently stalled, making reconciliation with AB-465 at this time much less pressing.

Please let me know if you have any questions or changes.

Jefren E. Olsen
Legislative Attorney
Phone: (608) 266-8906
E-mail: Jefren.Olsen@legis.state.wi.us