

1999 DRAFTING REQUEST

Assembly Amendment (AA-AB613)

Received: **03/17/2000**

Received By: **olsenje**

Wanted: **03/20/2000**

Identical to LRB:

For: **Scott Walker (608) 266-9180**

By/Representing: **Bob Margolies,DOC**

This file may be shown to any legislator: **NO**

Drafter: **olsenje**

May Contact:

Alt. Drafters:

Subject: **Correctional System - misc**

Extra Copies: **MGD**

Pre Topic:

No specific pre topic given

Topic:

Reconciliation with AB 99

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	olsenje 03/20/2000	jgeller 03/20/2000	jfrantze 03/20/2000	_____	lrb_docadmin 03/20/2000	lrb_docadmin 03/20/2000	

FE Sent For:

<END>

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/1	olsenje	1 3/20 jlg	3/20	Sell 3/20			

FE Sent For:

<END>

Sample to reconcile AB
99/613
For Walker

ASSEMBLY BILL 99 (LRB-1074)

An Act to renumber 301.45 (6) (b); to renumber and amend 301.45 (4) and 301.45 (6) (a); to amend 301.45 (2) (e) 1., 301.45 (2) (e) 2., 301.45 (2) (e) 5. and 301.45 (6) (c); and to create 301.45 (2) (e) 1m., 301.45 (4) (b), 301.45 (4r) and 301.45 (6) (a) 1. and 2. of the statutes; relating to: sex offender registration requirements for persons who are on probation, parole or extended supervision and providing a penalty. (FE)

1999

- 02-09. A. Introduced by Representatives Wieckert, Kaufert, Vrakas, Ryba, Porter, Musser, Ladwig, F. Lasee, Staskunas, Ott, Steinbrink, Plouff, Owens, Lassa, Wasserman, Underheim, Gunderson, Kestell, Suder, Skindrud, Klusman, Gundrum and Powers; cosponsored by Senators Ellis, Darling, Schultz, Welch and Roessler.

- 02-09. A. Read first time and referred to committee on Corrections and the Courts

61

- 02-16. A. Fiscal estimate received .
- 03-05. A. Fiscal estimate received .
- 03-10. A. Public hearing held .
- 03-17. A. Executive action taken .
- 03-18. A. Report passage recommended by committee on Corrections and the Courts, Ayes 12, Noes 0

120

- 03-18. A. Referred to committee on Rules

120

- 03-18. A. Placed on calendar 3-23-1999 by committee on Rules .
- 03-23. A. Read a second time

132

- 03-23. A. Ordered to a third reading

132

- 03-23. A. Rules suspended

132

- 03-23. A. Read a third time and passed, Ayes 95, Noes 0

132

- 03-23. A. Ordered immediately messaged

132

- 03-25. S. Received from Assembly

110

- 03-25. S. Read first time and referred to committee on Judiciary and Consumer Affairs

110

- 05-25. S. Public hearing held .

2000

- 02-01. S. Executive action taken .
- 02-03. S. Report introduction and adoption of Senate amendment 1 recommended by committee on Judiciary and Consumer Affairs, Ayes 5, Noes 0 by committee on

12775820

Judiciary and Consumer Affairs (LRB a1255)

- 420
02-03. S. Report concurrence as amended recommended by
committee on Judiciary and Consumer Affairs, Ayes
5, Noes 0
- 420
02-03. S. Available for scheduling .
02-08. S. Read a second time
- 430
02-08. S. Senate amendment 1 adopted
- 430
02-08. S. Ordered to a third reading
- 430
02-08. S. Rules suspended
- 430
02-08. S. Read a third time and concurred in as amended
- 430
02-08. S. Ordered immediately messaged
- 431
02-10. A. Received from Senate amended and concurred in as
amended (Senate amendment 1 adopted)
- 660
02-10. A. Referred to committee on Rules
- 661
03-15. A. Placed on calendar 3-22-2000 by committee on Rules .



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBa1899/1

JEO: A:...

Today D-Nate

Jlg

ASSEMBLY AMENDMENT,
TO 1999 ASSEMBLY BILL 613

1 At the locations indicated, amend the bill as follows:

2 1. Page 17, line 16: after that line insert:

3 "SECTION 31d. 301.45 (2) (e) 2. of the statutes, as affected by 1999 Wisconsin
4 Acts (Assembly Bill 99) and (this act), is repealed and recreated to read:

5 301.45 (2) (e) 2. If the person is on parole, extended supervision, probation or
6 other supervision from another state under s. 304.13, 304.135 or 938.988, before the
7 person enters this state."

8 2. Page 21, line 16: after that line insert:

9 "SECTION 47d. 301.45 (3) (b) 4. of the statutes, as affected by 1999 Wisconsin
10 Act (this act), is repealed and recreated to read:

11 301.45 (3) (b) 4. It is not a defense to liability under sub. (6) (a) or (ag) that the
12 person subject to sub. (1g) was not required to read and sign a form under subd. 3m.,
13 was not provided with a form to read and sign under subd. 3m. or failed or refused

1 to read or sign a form under subd. 3m. It is not a defense to liability under sub. (6)
2 (a) or (ag) that the person subject to sub. (1g) did not receive notice under this
3 paragraph[✓] from the department of health and family services, the department of
4 corrections, a probation, extended supervision and parole agent, an aftercare agent
5 or an agency providing supervision.”.

6 **3.** Page 29, line 9: delete lines 9 to 16.[✓]

7 **4.** Page 29, line 23: delete lines 23 and 24 and substitute “on December 25,
8 1993, and ending on May 31, 2000[✓], shall be allowed until January 1, 2001, to comply
9 with the requirements under subs. (2) to (4).”[✓]

10 **5.** Page 30, line 1: delete lines 1 and 2.[✓]

11 **6.** Page 30, line 3: before that line insert:

12 “**SECTION 69d.** 301.45 (6)^X of the statutes, as affected by 1999 Wisconsin Acts
13 (Assembly Bill 99) and (this act)[✓], is repealed and recreated to read:

14 301.45 (6) (a) Whoever knowingly fails to comply with any requirement to
15 provide information under subs. (2) to (4)[✓] is subject to the following penalties:

16 1. For a first offense, the person may be fined not more than \$10,000 or
17 imprisoned for not more than 9 months or both.

18 2. For a 2nd or subsequent offense, the person may be fined not more than
19 \$10,000 or imprisoned for not more than 5[✓] years or both. For purposes of this
20 subdivision, an offense is a 2nd or subsequent offense if, prior to committing the
21 offense, the person has at any time been convicted of knowingly failing to comply
22 with any requirement to provide information under subs. (2) to (4).[✓]

23 (ag) Whoever intentionally violates sub. (4r) may be fined not more than
24 \$10,000 or imprisoned for not more than 9[✓] months or both.

1 (am) Whoever knowingly fails to keep information confidential as required
2 under sub. (7) may be fined not more than \$500[✓] or imprisoned for not more than 30
3 days or both.

4 (bm) Subject to s. 971.19 (9)[✓], a district attorney or, upon the request of a district
5 attorney, the department of justice may prosecute a knowing failure to comply with
6 any requirement to provide information under subs. (2) to (4)[✓]. If the department of
7 corrections determines that there is probable cause to believe that a person has
8 knowingly failed to comply with any requirement to provide information under subs.
9 (2) to (4) or has intentionally violated sub. (4r), the[✓] department shall forward a
10 certified copy of all pertinent departmental information to the applicable district
11 attorney. The department shall certify the copy in accordance with s. 889.08[✓].

12 (c) Notwithstanding par. (a)[✓], a person who first became subject to subs. (2) to
13 (4) under 1995 Wisconsin Act 440 and who was in prison or a secured correctional
14 facility or a secured child caring institution, in institutional care, or on probation,
15 parole, supervision, aftercare supervision, corrective sanctions supervision,
16 conditional transfer or conditional release during the period beginning on December
17 25, 1993, and ending on May 31, 1997, shall be allowed until January 1, 1998, to
18 comply with the requirements under subs. (2) to (4).

19 (d) Notwithstanding par. (a)[✓], a person who first became subject to subs. (2) to
20 (4) under 1999 Wisconsin Act ... (this act) and who was in prison or a secured
21 correctional facility or a secured child caring institution, in institutional care, or on
22 probation, parole, supervision, aftercare supervision, corrective sanctions
23 supervision, conditional transfer or conditional release during the period beginning
24 on December 25, 1993, and ending on May 31, 2000, shall be allowed until January
25 1, 2001, to comply with the requirements under subs. (2) to (4).”

1 **7.** Page 38, line 21: after that line insert:

2 “**SECTION 89d.** 938.185 (3) (intro.) of the statutes, as affected by 1999 Wisconsin
3 Act ... (this act), is repealed and recreated to read:

4 938.185 (3) (intro.) Venue for a proceeding under s. 938.12 or 938.13 (12) based
5 on an alleged violation of s. 301.45 (6) (a) or (ag) may be in the juvenile’s county of
6 residence at the time that the petition is filed. If the juvenile does not have a county
7 of residence in this state at the time that the petition is filed, or if the juvenile’s county
8 of residence is unknown at the time that the petition is filed, venue for the proceeding
9 may be in any of the following counties.”

10 **8.** Page 43, line 14: after that line insert:

11 “**SECTION 102d.** 971.19 (9) (intro.) of the statutes, as affected by 1999 Wisconsin
12 Act ... (this act), is repealed and recreated to read:

13 971.19 (9) In an action under s. 301.45 (6) (a) or (ag), the defendant may be tried
14 in the defendant’s county of residence at the time that the complaint is filed. If the
15 defendant does not have a county of residence in this state at the time that the
16 complaint is filed, or if the defendant’s county of residence is unknown at the time
17 that the complaint is filed, the defendant may be tried in any of the following
18 counties.”

19 **9.** Page 47, line 5: delete lines 5 to 10 and substitute:

20 “(2d) RECONCILIATION PROVISION. The repeal and recreation of sections 301.45
21 (2) (e) 2., (3) (b) 4. and (6), 938.185 (3) (intro.) and 971.19 (9) (intro.) of the statutes
22 and **SECTIONS 109 (2d)** and **110 (2d)** and **(3d)** of this act are void unless 1999 Assembly
23 Bill 99 is enacted into law before July 1, 2000, and unless 1999 Assembly Bill 99

1 affects sections 301.45 (2) (e) 2. and (6) (a) of the statutes in exactly the same form
2 as shown in 1999 Assembly Bill 99, as passed by the senate." ✓

3 **10.** Page 47, line 21: delete "REQUIREMENTS; INITIAL" and substitute
4 "REQUIREMENTS." ✓

5 **11.** Page 47, line 22: ✓ delete "PROVISION."

6 **12.** Page 48, line 3: delete lines 3 to 8 and substitute:

7 "(2d) PROVISION OF INFORMATION BY CERTAIN PERSONS. The repeal and recreation
8 of section 301.45 (2) (e) 2. ✓ of the statutes first applies to persons who are required to
9 provide information under section 301.45 (2) (e) of the statutes, as affected by this
10 act, on the effective date of this subsection." ✓

11 **13.** Page 48, line 22: delete the material beginning with that line and ending
12 with page 49, line 9 ✓ and substitute:

13 "(2d) If 1999 Assembly Bill 99 has been enacted on or before the day after
14 publication of this act, the repeal and recreation of sections 301.45 (2) (e) 2., (3) (b)
15 4. and (6), 938.185 (3) (intro.) and 971.19 (9) (intro.) of the statutes and SECTION 109
16 (2d) take effect on on the day after publication of this act.

17 (3d) If 1999 Assembly Bill 99 is enacted after the day after publication of this
18 act but before July 1, 2000, the repeal and recreation of section 301.45 (2) (e) 2., (3)
19 (b) 4. and (6), 938.185 (3) (intro.) and 971.19 (9) (intro.) of the statutes and SECTION
20 109 (2d) ✓ of this act take effect on on the date that the treatment of section 301.45 (2) (e) 2. and
21 (6) (a) of the statutes by 1999 Assembly Act 99 takes effect."

22 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1899/ldn

JEO:.....

JLg

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1899/1dn

JEO:jlg:jf

March 20, 2000

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.

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