

2005 DRAFTING REQUEST

Bill

Received: 04/19/2005

Received By: gmalaise

Wanted: As time permits

Identical to LRB:

For: Gary Sherman (608) 266-7690

By/Representing: Eleanora Tribys

This file may be shown to any legislator: NO

Drafter: gmalaise

May Contact:

Addl. Drafters:

Subject: Correctional System - misc

Extra Copies:

Submit via email: YES

Requester's email: Rep.Sherman@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Notification of school district when registered sex offender resides in school district

Instructions:

See Attached--require DOC to notify school district when registered sex offender who is not permitted to have contact with children takes up residence in school district and to notify school district when that restriction is removed.

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> |
|--------------|------------------------|------------------------|------------------------|----------------|------------------------|-----------------------|-----------------|
| /? | gmalaise 04/28/2005 | wjackson 05/05/2005 | | _____ | | | State |
| /1 | | | rschluet 05/05/2005 | _____ | lemery 05/05/2005 | | State |
| /2 | gmalaise 05/31/2005 | wjackson 06/01/2005 | rschluet 06/01/2005 | _____ | lnorthro 06/01/2005 | mbarman 06/02/2005 | |

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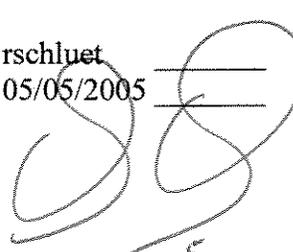
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6-1-5

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|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
| /? | gmalaise | 1 WJ 5/5 | | | | | |

FE Sent For:

<END>

Malaise, Gordon

From: Tribys, Eleanora
Sent: Friday, April 15, 2005 1:19 PM
To: Malaise, Gordon
Subject: FW: drafting request re registered sex offenders

With regard to the questions posed by Mike Dsida:

- 1) Yes, we would want the notice requirements to apply only to registered sex offenders; and
- 2) Notification of restrictions would only apply to restrictions which relate to contact with children.

If any further clarification is required, please let me know.

Thanks,

Nora Tribys

Office of Rep. Sherman, 74th

-----Original Message-----

From: Dsida, Michael
Sent: Thursday, March 31, 2005 12:20 PM
To: Tribys, Eleanora
Subject: RE: drafting request re registered sex offenders

Nora-

I am passing this request along to Gordon Malaise, who also does corrections-related drafts.

FYI - Restrictions of this type would be imposed independent of the sex offender registry. (The case you describe seems to have involved a restriction imposed as a condition of probation, parole, or extended supervision.) Do you still want the notice requirement to apply only in cases involving a registered sex offender? And does it only apply to certain types of restrictions, such as one prohibiting the person from being present at a school? (You can contact Gordon directly with your answers to these questions.)

Mike Dsida
Legislative Reference Bureau
608/266-9867
michael.dsida@legis.state.wi.us

-----Original Message-----

From: Tribys, Eleanora
Sent: Friday, March 18, 2005 7:58 AM
To: Dsida, Michael
Cc: Kelly, Judy
Subject: drafting request re registered sex offenders

Good Morning,

You recently prepared a draft for a bill concerning dissemination of information re juvenile registered sex offenders; hence I am directing this request to you, as it concerns a related issue.

We have been contacted by a school district administrator concerned that the current reporting procedures for registered sex offenders (RSO) is inadequate as it relates to schools.

The only way they keep themselves apprised of new RSOs is to periodically search the sex offender website using the zip codes included within their district. He feels that this does not provide adequate protection for the children and communities they serve, and that instead, the Dept of Corrections and/or police chiefs/sheriffs be required to notify school districts when a new RSO moves into the community.

The administrator also described a recent situation involving an RSO who had attended a school program, causing

some alarm, since it was their understanding that an RSO was not permitted to have contact with children in a school. It was not until they had tracked down the probation officer did they learn that the RSO had satisfactorily completed his required counseling and therefore was allowed to be present in the school. To avoid this type of misunderstanding, schools should be informed of any changes to the restrictions imposed on an RSO residing in the school district.

If I have not provided you with adequate information, please let me know. We anticipate requesting a fiscal estimate as soon as the draft is prepared, as the fiscal impact of this proposal is of concern.

(Elea)Nora Tribys

Office of Rep. Gary Sherman

74th Assembly District

320 West, State Capitol

800-350-6256

eleanora.tribys@legis.state.wi.us



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-2835/7
GMM...f...
WJ

Soon

1 AN ACT ^{Gen}...; relating to: ^g access by school districts ^g and private schools ^{J access} to
2 information concerning individuals registered as sex offenders.

Analysis by the Legislative Reference Bureau

Under current law, subject to certain exceptions, a person must register with the Department of Corrections (DOC) as a sex offender if he or she has been convicted of certain sex offenses, found not guilty of certain sex offenses by reason of mental disease or defect, or adjudicated delinquent on the basis of certain sex offenses. The sex offender registry contains specific information about a person required to register, such as the person's name, appearance, offense, address, and place of employment and any school in which the person is enrolled. A person registered as a sex offender must also periodically provide updated information to DOC if the information originally provided to the registry changes.

The information in the sex offender registry is generally confidential, but when a person first registers as a sex offender or when a registered sex offender updates information in the registry, DOC must make the information available to the police chief of any community or the sheriff of any county in which the person is residing, employed, or attending school. A police chief or sheriff may in turn provide that information, other than information concerning juveniles who are required to register or concerning juvenile adjudications for sex offenses, to certain organizations (including schools), individuals, and the general public if the police chief or sheriff determines that doing so is necessary to protect the public. In addition, organizations may request information regarding specific registrants from DOC, and individuals may request that information from either DOC or a police chief or sheriff.

This bill requires DOC to make information in the sex offender registry available to the school board of the school district in which a registered sex offender

is residing, employed, or attending school and to the governing body of any private school located in that school district when the registered sex offender first registers and when the registered sex offender updates information in the registry. The bill also requires DOC to make available to that school board and governing body at those times information concerning whether there are any restrictions on the registered sex offender's contact with children and, if so, the nature of those restrictions. In addition, the bill permits a school board or governing body of a private school to request information regarding specific registrants from DOC. The bill requires a school board or governing body of a private school that obtains information under the bill to keep the information confidential, except that the bill requires the school board or governing body to provide that information to employees of the school district or private school who have been determined by the school board or governing body to have legitimate educational interests, including safety interests, in the information. Finally, under the bill an employee to whom that information is disclosed may not further disclose the information.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 SECTION 1. 301.46 (3m) of the statutes is created to read:

2 301.46 (3m) NOTIFICATION OF SCHOOL DISTRICTS AND PRIVATE SCHOOLS. (a) When

3 a person is registered under s. 301.45 (2), when a person informs the department of

4 a change in information under s. 301.45 (4), or when there is a change in the

5 information specified in par. (b), the department shall immediately make the

6 information specified in par. (b) and sub. (2) (b) available to the school board of the

7 the school district in which the person is residing, is employed, or is attending school

8 and to the governing body of any private school that is located in that school district,

9 or to a designee of the school board or governing body. The department shall make

10 information available under this paragraph through a direct electronic data transfer

11 system.

12 (b) In addition to the information specified in sub. (2) (b), the department shall

13 make available under par. (a) information concerning whether there are any

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1 restrictions on the person's contact with children and, if so, the nature of those
2 restrictions.

3 (c) In addition to having access to information under par. (a), a school board,
4 governing body ^{of} ~~or~~ a private school, or designee of a school board or governing body
5 of a private school may request that the department provide the school board,
6 governing body, or designee with information concerning any person registered
7 under s. 301.45, other than information specified in sub. (4) (ag).

8 (d) A school board, governing body of a private school, or designee of a school
9 board or governing body of a private school that obtains information under par. (a)
10 or (c) shall keep the information confidential, except that the school board, governing
11 body, or designee shall provide the information to employees of the school district or
12 private school who have been determined by the school board, governing body, or
13 designee to have legitimate educational interests, including safety interests, in the
14 information. A school district or private school employee to whom information is
15 disclosed under this paragraph may not further disclose the information.

16 **SECTION 2.** 301.46 (5n) (a) of the statutes is amended to read:

17 301.46 (5n) (a) ~~No later than June 1, 2001, the~~ The department shall provide
18 access to information concerning persons registered under s. 301.45 by creating and
19 maintaining an Internet site and by any other means that the department
20 determines is appropriate. The information provided through the Internet site shall
21 be organized in a manner that allows a person using the Internet site to obtain the
22 information that the department is required to provide the person under sub. (2),
23 (2m), (3), (3m), (4), or (5) and other information that the department determines is
24 necessary to protect the public. The department shall keep the information provided

1 on the Internet site and in other means used to allow access to the information secure
2 against unauthorized alteration.

3 History: 1995 a. 440; 1997 a. 6, 27, 130, 181, 237, 283; 1999 a. 89; 2001 a. 16; 2003 a. 188.

3 **SECTION 3.** 301.46 (5n) (b) of the statutes is amended to read:

4 301.46 (5n) (b) For Internet access provided to law enforcement agencies,
5 school boards, governing bodies of private schools, or designees of those schools
6 boards or governing bodies under this subsection, the department shall provide the
7 means for [↓]~~a~~ [↓] the law enforcement agency, school board, governing body, or designee
8 to easily identify changes that have occurred in the residence, employment, or place
9 of school attendance of a person registered under s. 301.45.

10 History: 1995 a. 440; 1997 a. 6, 27, 130, 181, 237, 283; 1999 a. 89; 2001 a. 16; 2003 a. 188.

10 **SECTION 4. Effective date.**

11 (1) SCHOOL DISTRICT AND PRIVATE SCHOOL ACCESS TO INFORMATION CONCERNING
12 REGISTERED SEX OFFENDERS. This act takes effect on the first day of the 6th month
13 beginning after publication.

14 (END)

Malaise, Gordon

From: Tribys, Eleanora
Sent: Friday, May 27, 2005 5:58 PM
To: Malaise, Gordon
Subject: RE: LRB 2835

Thank you for your thorough explanation. We understand about the relationship of the school board and administrator so the current language is fine. As for the notification procedure, we would like you to alter the language with your suggestion, except for the inclusion of the posting on the internet option, i.e. "by electronic mail, facsimile transmission, or telephone." A large part of the reason why this legislation is sought is to avoid requiring the school districts to have to search the website for the information.

Thank you!

Nora

-----Original Message-----

From: Malaise, Gordon
Sent: Thursday, May 26, 2005 3:26 PM
To: Tribys, Eleanora
Subject: RE: LRB 2835

Nora:

The draft provides for notification to the school board because the school board is the legal entity that is responsible for the operation of the school district. The school district administrator, in contrast, is a mere employee. See, e.g., s. 938.396 (7), which requires certain juvenile court records to be disclosed to the school board or a designee. But see s. 938.396 ((1m), which permits the school district administrator to request certain information from a law enforcement agency.

As a practical matter, though, the school board will most likely name the school district administrator as its designee, so notice will be provided to the administrator as intended. As such, it probably does not make much difference whether we say school board or school district administrator, except that a reference to the school board would give the board the flexibility to designate someone other than the administrator to receive the notifications.

On closer inspection, "direct electronic data transfer system" refers to the Transaction Information for the Management of Enforcement (TIME) System of the Department of Justice under s. 165.827 to 165.8285 or any other computerized or direct electronic data transfer system. The fiscal estimate for 1995 SB 182 indicated that law enforcement agencies would have to reprogram their computers and pay a monthly access fee to gain access to the TIME System.

Because it probably would not pay for a school district, especially a small rural district, to incur those expenses to gain access to that system, that requirement should probably be deleted from the draft and instead DOC should be required to make the information available "by electronic mail, facsimile transmission, or telephone or by posting on the Internet."

If you would like these changes drafted, please advise.

Gordon

-----Original Message-----

From: Tribys, Eleanora
Sent: Thursday, May 26, 2005 10:58 AM
To: Malaise, Gordon

Subject: LRB 2835

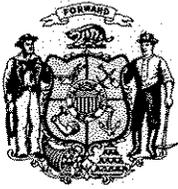
Greetings,

Thank you for the draft re notification to school districts regarding registered sex offenders. We note that you have provided that the notification be made to the school board of a school district as opposed to the district administrator. Why is that? We would prefer to have the notification be made to the district administrator, although I do see that you also provide that the school board may designate another.

Also, you have provided that the information be made available "through a direct electronic data transfer system." Am I correct in interpreting that to mean e-mail directly to the recipient or does that instead contemplate some other form of electronic communication, such as requiring the school to log onto a database?

We will look forward to your response at your earliest convenience.

Thanks,
Nora Tribys
Office of Rep. Gary Sherman
74th Assembly District



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-2835/1

GMM:wlj:rs

Soon

↑

2
PME

2005 BILL

Regen

- 1 **AN ACT to amend** 301.46 (5n) (a) and 301.46 (5n) (b); and **to create** 301.46 (3m)
2 of the statutes; **relating to:** school district and private school access to
3 information concerning individuals registered as sex offenders.

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Under current law, subject to certain exceptions, a person must register with the Department of Corrections (DOC) as a sex offender if he or she has been convicted of certain sex offenses, found not guilty of certain sex offenses by reason of mental disease or defect, or adjudicated delinquent on the basis of certain sex offenses. The sex offender registry contains specific information about a person required to register, such as the person's name, appearance, offense, address, and place of employment and any school in which the person is enrolled. A person registered as a sex offender must also periodically provide updated information to DOC if the information originally provided to the registry changes.

The information in the sex offender registry is generally confidential, but when a person first registers as a sex offender or when a registered sex offender updates information in the registry, DOC must make the information available to the police chief of any community or the sheriff of any county in which the person is residing, employed, or attending school. A police chief or sheriff may in turn provide that information, other than information concerning juveniles who are required to register or concerning juvenile adjudications for sex offenses, to certain organizations (including schools), individuals, and the general public if the police chief or sheriff determines that doing so is necessary to protect the public. In

BILL

addition, organizations may request information regarding specific registrants from DOC, and individuals may request that information from either DOC or a police chief or sheriff.

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2) ~~system~~

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15 REGISTERED SEX OFFENDERS. This act takes effect on the first day of the 6th month
16 beginning after publication.

17 (END)

Barman, Mike

From: Sherman, Gary
Sent: Thursday, June 02, 2005 12:13 PM
To: LRB.Legal
Subject: Draft review: LRB 05-2835/2 Topic: Notification of school district when registered sex offender resides in school district

It has been requested by <Sherman, Gary> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-2835/2 Topic: Notification of school district when registered sex offender resides in school district