

2005 DRAFTING REQUEST

Bill

Received: 04/07/2005

Received By: mdsida

Wanted: As time permits

Identical to LRB:

For: Joel Kleefisch (608) 266-8551

By/Representing:

This file may be shown to any legislator: NO

Drafter: mdsida

May Contact:

Addl. Drafters:

Subject: Correctional System - misc
Criminal Law - sex offenses

Extra Copies: gmm

Submit via email: YES

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

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Residence of sex offenders

Instructions:

Prohibit registered sex offenders from residing within 1,000 feet of any K-12 school; same penalties as under s. 301.47; applies to current residences of sex offenders

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>
/?	mdsida 05/11/2005	chanaman 05/31/2005		_____			S&L Crime
	mdsida 05/31/2005	lkunkel 06/05/2005		_____			
/1			chaugen 06/06/2005	_____	lemery 06/06/2005	mbarman 07/06/2005	

FE Sent For:

<END>

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/?	mdsida 05/11/2005	lrb_editor /lmk 6/2	ch 6-6	ch 6-6 JK			S&L Crime

FE Sent For:

<END>

Dsida, Michael

- 2700

From: Kleefisch, Joel
Sent: Tuesday, May 03, 2005 2:43 PM
To: Dsida, Michael
Subject: RE: Sex offender residency requirement

Yes, only the people living within the 1000 feet

From: Dsida, Michael
Sent: Friday, April 29, 2005 12:08 PM
To: Kleefisch, Joel
Subject: RE: Sex offender residency requirement

One thing that litigators are taught is never to say, "Just one more question."

Do you want to require DOC to provide any type of notice to registrants? I assume that you don't want to require anything for the average registrants, but what about people currently living within 1000 feet of a school?

b11

Add day care

Dsida, Michael

From: Kleefisch, Joel
Sent: Tuesday, May 03, 2005 2:44 PM
To: Dsida, Michael
Subject: RE: Sex offender residency requirement

Exclude halfway houses. They have more oversight.

From: Dsida, Michael
Sent: Friday, April 29, 2005 11:58 AM
To: Kleefisch, Joel
Subject: RE: Sex offender residency requirement

One more question -- how do you want to handle places like halfway houses?

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

From: Kleefisch, Joel
Sent: Friday, April 29, 2005 11:55 AM
To: Dsida, Michael
Subject: RE: Sex offender residency requirement

Just people within 1000 feet of a school.

Joel

From: Dsida, Michael
Sent: Friday, April 29, 2005 11:47 AM
To: Kleefisch, Joel
Subject: RE: Sex offender residency requirement

Does that apply to everyone or just those currently living within 1000 feet of a school?

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

From: Kleefisch, Joel
Sent: Friday, April 29, 2005 11:43 AM
To: Dsida, Michael
Subject: RE: Sex offender residency requirement

60 days

Joel

From: Dsida, Michael
Sent: Friday, April 29, 2005 11:31 AM
To: Rep.Kleefisch
Subject: Sex offender residency requirement

How long do you want to give people who are currently residing within 1,000 feet of a school to move? And if there is delay before the new prohibition takes effect for them, should that delay also apply to people who are not currently residing within 1,000 feet of a school? In other words, if you want a delayed effective date for some people, should the delayed effective date apply to everyone?

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

Dsida, Michael

From: Kleefisch, Joel
Sent: Friday, May 27, 2005 5:24 PM
To: Dsida, Michael
Subject: RE: Bill regarding where sex offenders may live

Yes,

The burden should be on the sex offender.

Joel

From: Dsida, Michael
Sent: Friday, May 27, 2005 9:43 AM
To: Kleefisch, Joel
Subject: Bill regarding where sex offenders may live

I submitted the bill to our editors a couple of weeks ago, so you should be getting it soon. But on the way home last night, I was reading about an Iowa case involving a similar statute, and it raised another question. What happens if a sex offender is living in the community and complying with the requirement, but a new school is built within 1,000 feet of where he or she is living? Does the sex offender have to move?

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



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-2700?

MGD:.....

imk

[Handwritten signatures and initials] 6/7

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Gen Cat

- 1 AN ACT ...; relating to: where registered sex offenders may live and providing
- 2 penalties. ✓

Analysis by the Legislative Reference Bureau

Current law restricts where persons who have been convicted of first or second degree sexual assault, first or second degree sexual assault of a child, repeated sexual assault of a child, incest with a child, or child enticement (a "serious sex offense") may reside if they are on extended supervision or parole. First, a person who is released to extended supervision after being imprisoned for a serious sex offense must agree, as a condition of extended supervision, to live in a residence that DOC has approved. Second, no person who has been convicted of a serious sex offense may be paroled to any county where there is a correctional institution that has a specialized sex offender treatment program unless that county was the person's county of residence at the time of the serious sex offense.

In addition, under current law, if a person commits a sex offense (which is defined to include serious sex offenses and other sex-related crimes), the person is required to register as a sex offender with DOC. In general, the registration requirement applies until the person completes the sentence for the sex offense and for the 15 years that follow. If a person is required to register as a sex offender, he or she must provide DOC certain specified information, including his or her current address, and update the information if it changes. In general, a person who knowingly violates the registration requirements is guilty of a Class H felony and may be fined of up to \$10,000 or sentenced to a term of imprisonment of up to six years (which, if the sentence is for more than one year, consists of a term of confinement

Insert analysis

or within 1000 feet of a child care facility

followed by a term of extended supervision) or both. But if the person who commits the violation is required to register as a sex offender based on a misdemeanor and the violation is the person's first offense, he or she is guilty of a misdemeanor and may be fined of up to \$10,000 or sentenced to a term of imprisonment of up to nine months or both.

Under this bill, a person who is required to register as a sex offender may not reside within 1,000 feet of a private or public school, including a kindergarten. A person who knowingly violates this prohibition is subject to the same felony or misdemeanor penalties as those that apply to a person who knowingly violates the registration requirements.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state and local* 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:

INS
2/2

1 SECTION 1. 301.48 of the statutes is created to read:

2 301.48 Where registered sex offenders may reside. (1) In this section:

3 (a) "Juvenile correctional facility" means a secured correctional facility, a
4 secured detention facility, a secured child caring institution, or a secured group
5 home. ✓ ~~with the meaning given in s. 978.50~~ INS 2/4

6 (b) "School" means a kindergarten, an elementary school, or a high school. ✓

7 (c) "Sex offender" means a person who is subject to s. 301.45 (1g) but does not
8 include a person who, as a result of a proceeding under s. 301.45 (1m), is not required
9 to comply with the reporting requirements of s. 301.45.

10 (2) A sex offender may not reside within 1,000 feet of the premises of any public

11 or private school. This subsection does not apply to a sex offender while he or she is
12 confined in an adult or juvenile correctional facility, a jail, or a house of correction. ✓

13 (3) Whoever intentionally violates sub. (2) is subject to the following penalties:

1 (a) Except as provided in par. (b), the person is guilty of a Class H felony. ✓

2 (b) The person may be fined not more than \$10,000 or imprisoned for not more
3 than 9 months or both if all of the following apply: ✓

4 1. The person was ordered under s. 51.20 (13) (ct) 1m., 938.34 (15m) (am),
5 938.345 (3), 971.17 (1m) (b) 1m., or 973.048 (1m) to comply with the reporting
6 requirements under s. 301.45 based on a finding that he or she committed or
7 solicited, conspired, or attempted to commit a misdemeanor. ✓

8 2. The person was not convicted of another offense under this section before
9 committing the present violation. ✓

10 **SECTION 2. Nonstatutory provisions.**

11 (1) Notwithstanding section 301.48 (2) of the statutes, as created by this act,
12 a sex offender, as defined in section 301.48 (1) (c), of the statutes, as created by this
13 act, who resides within 1,000 feet of the premises of a public or private school, as
14 defined in section 301.48 (1) (b), of the statutes, as created by this act, on the effective
15 date of this subsection may reside there through the 60th day beginning after the
16 effective date of this subsection. No later than the 45th day beginning after the
17 effective date of this subsection, the department of corrections shall notify each
18 person to whom this subsection applies of the restriction established under section
19 301.48 (2) of the statutes, as created by this act. In this subsection, "school" and "sex
20 offender" have the meanings given in section 301.48 (1) of the statutes, as created by
21 this act. ✓

22 (END)

*within 1,000 feet
of a child care
facility*

child care facility,

stct

1

analysis INSERT

Under current law, persons who commit certain sex offenses or kidnap a child ("triggering offenses") must register with the Department of Corrections (DOC) as sex offenders, provide DOC certain information (such as the person's home, school, and work addresses and a physical description of the person), and update the information, if it changes. Depending on the circumstances (and with some exceptions), if a person's offense triggers the registration requirements, the requirements apply either: 1) for the rest of the person's life; or 2) until the end of the person's sentence or commitment and for another 15 years after that.

In addition, current law restricts where persons who have been convicted of first- or second-degree sexual assault, first- or second-degree sexual assault of a child, repeated sexual assault of a child, incest with a child, or child enticement (a "serious sex offense") may reside if they are on extended supervision or parole. First, a person who is released to extended supervision after being imprisoned for a serious sex offense must agree, as a condition of extended supervision, to live in a residence that DOC has approved. Second, no person who has been convicted of a serious sex offense may be paroled to any county where there is a correctional institution that has a specialized sex offender treatment program unless that county was the person's county of residence at the time of the serious sex offense.

Under this bill, a person who is required to register as a sex offender may not reside within 1,000 feet of a private or public school, including a kindergarten, or within 1,000 feet of a child care facility. A person who knowingly violates this prohibition for the first time is guilty of a misdemeanor if the triggering offense was itself a misdemeanor, and the person may be fined of up to \$10,000 or sentenced to a term of imprisonment of up to nine months or both. Otherwise, a person who knowingly violates the prohibition created by the bill is guilty of a Class H felony and may be fined of up to \$10,000 or sentenced to a term of imprisonment of up to six years (which, if the sentence is for more than one year, consists of a term of confinement followed by a term of extended supervision) or both.

end of
insert
analysis

BILL

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2/2

1 village, or town park, a multiunit public housing project, a swimming pool open to
2 members of the public, a child care facility, as defined in s. 302.116 (1) (ad), a youth
3 center, a community center, or any private or public school premises.

4 SECTION 7. 302.116 (1) (a) of the statutes is renumbered 302.116 (1) (at).

5 SECTION 8. 302.116 (1) (ad) of the statutes is created to read:

6 302.116 (1) (a) "Child care facility" means a child care facility that is operated
7 by a person licensed under s. 48.65 or 48.69 or certified under s. 48.651 or that is
8 established or contracted for under s. 120.13 (14). END OF INSERT 2/2

9 SECTION 9. 302.116 (1) (af) of the statutes is created to read:

10 302.116 (1) (af) "Child sex offender" means a person serving a sentence for any
11 of the following:

- 12 1. A violation of s. 948.07 or 948.075 or a solicitation or conspiracy to commit
- 13 a violation of s. 948.07 or 948.075.
- 14 2. Any other serious sex offense, if the victim or the intended victim of the
- 15 serious sex offense was a person who had not attained the age of 18 years at the time
- 16 of the offense.

17 SECTION 10. 302.116 (3) of the statutes is created to read:

18 302.116 (3) As a condition of extended supervision, a child sex offender shall
19 live in a residence that is not within 1,000 feet of any state, county, city, village, or
20 town park, a multiunit public housing project, a swimming pool open to members of
21 the public, a child care facility, a youth center, a community center, or any private or
22 public school premises.

23 SECTION 11. 304.02 (4t) of the statutes is created to read:

24 304.02 (4t) Notwithstanding subs. (1) to (3), a child sex offender, as defined in
25 s. 302.116 (1) (af), may not be paroled under this section unless he or she agrees, as

INS. 2/6

948.30(2)(a)

(a) "School" means a ~~public, parochial or private~~ school which provides an educational program for one or more grades between kindergarten and grade 12 and which is commonly known as a kindergarten, elementary school, middle school, junior high school, senior high school or high school.

NOA

any

End of ins 2/6

Basford, Sarah

From: Merkel, Kelly
Sent: Wednesday, July 06, 2005 9:50 AM
To: *Legislative Reference Bureau
Subject: Jacket Request for Kleefish LRB 2700/1

Please send the strips for LRB 2700/1 to 8W.
Thank you,
Kelly Merkel

Legislative Aide

State Representative Joel M. Kleefisch

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