

- Marcel Bois
- Sara Bois
- Ed Weiss

Registrations Against

- None.

February 16, 2005

EXECUTIVE SESSION HELD

Present: (9) Representatives Bies, Gundrum, Owens, Suder, LeMahieu, Pope-Roberts, Wasserman, Seidel and Parisi.

Absent: (1) Representative Underheim.

Moved by Representative Gundrum, seconded by Representative Suder that **Assembly Bill 99** be recommended for passage.

Ayes: (9) Representatives Bies, Gundrum, Owens, Suder, LeMahieu, Pope-Roberts, Wasserman, Seidel and Parisi.

Noes: (0) None.

Absent: (1) Representative Underheim.

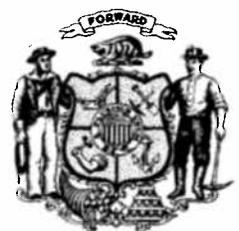
PASSAGE RECOMMENDED, Ayes 9, Noes 0



Andrew Nowlan
Committee Clerk



WISCONSIN STATE LEGISLATURE



FORWARD

Alberta Darling
Wisconsin State Senator
Joint Committee on Finance

**TESTIMONY BEFORE THE ASSEMBLY COMMITTEE ON CORRECTIONS AND
THE COURTS - WEDNESDAY FEBRUARY 9, 2005**

ASSEMBLY LRB/0201

THANK YOU CHAIRMAN BIES AND COMMITTEE MEMBERS FOR THIS OPPORTUNITY TO SPEAK IN FAVOR OF LRB 0201. I AM THE LEAD SENATE SPONSOR OF THIS BILL, AND THE AUTHOR OF COMPANION LEGISLATION IN THE SENATE (LRB 1968/1).

AS THE MAIN AUTHOR OF WISCONSIN'S SEXUAL PREDATOR LAW AND SEX OFFENDER REGISTRY, I AM PROUD OF THE JOB WE HAVE DONE IN THIS STATE TO PROTECT THE PUBLIC FROM PERPETRATORS OF SEXUAL OFFENSES. WISCONSIN HAS BEEN A NATIONAL LEADER IN THESE EFFORTS.

HOWEVER, WHEN WE SEE AN OPPORTUNITY TO MAKE IMPROVEMENTS TO THE LAW, WE NEED TO ACT ON IT. THE LEGISLATION BEFORE YOU REPRESENTS A SMALL BUT IMPORTANT MODIFICATION TO THE SEX OFFENDER REGISTRY, AND I APPLAUD REPRESENTATIVE FRISKE FOR IDENTIFYING THIS ISSUE AND ACTING ON IT.

BY ALLOWING – NOT REQUIRING, BUT ALLOWING – THE LAW ENFORCEMENT COMMUNITY TO SHARE INFORMATION REGARDING JUVENILES ON THE SEX OFFENDER REGISTRY, WE CLOSE A CRUCIAL COMMUNICATION GAP THAT NOW HAMPERS OUR ABILITY TO PROTECT THE PUBLIC.

Capitol Office: P.O. Box 7882 □ Madison, Wisconsin 53707-7882 □ Phone: 608-266-5830 □ Fax: 608-267-0588 □ Toll-free: 1-800-863-1113

District Office: N88 W16621 Appleton Avenue □ Menomonee Falls, Wisconsin 53051

Email: Sen.Darling@legis.state.wi.us □ **Web page:** www.legis.state.wi.us/senate/sen08/news/

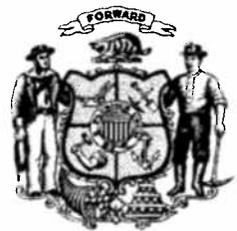
YOU WILL HEAR COMPELLING TESTIMONY ON WHY THIS CHANGE SHOULD BE ENACTED. I WOULD LIKE TO BRIEFLY ADDRESS THE "WHY NOT" – NAMELY, THE NOTION THAT JUVENILE RECORDS MUST ALWAYS BE KEPT SECRET IN THE INTERESTS OF THAT CHILD'S REHABILITATIVE NEEDS. IT'S A NOTION THAT I AM SENSITIVE TO, WHICH IS WHY I SUPPORT THE APPROACH UNDER THIS BILL.

I BELIEVE THAT THIS INFORMATION WILL ONLY BE SHARED IN SPECIAL CIRCUMSTANCES WHEN, AS THE BILL STATES, THE LAW ENFORCEMENT COMMUNITY BELIEVES IT IS NECESSARY TO PROTECT THE PUBLIC. FOR THESE SPECIAL CASES, WE NEED TO INSIST THAT THE PRIVACY OF THESE RECORDS BE SECONDARY TO VICTIMS' RIGHTS AND THE SAFETY OF POTENTIAL VICTIMS, AND TRUST IN THE JUDGEMENT OF OUR SHERIFFS AND POLICE CHIEFS.

THANK YOU AGAIN FOR YOUR CONSIDERATION OF MY REMARKS. I LOOK FORWARD TO WORKING WITH THE COMMITTEE ON CONCERNS THAT MEMBERS MAY HAVE.



WISCONSIN STATE LEGISLATURE





STATE REPRESENTATIVE
Garey Bies
1ST ASSEMBLY DISTRICT

Memorandum

To: Members, Assembly Corrections and the Courts Committee
From: Rep. Garey Bies, Chair
Date: February 3rd, 2005
Re: February 9 Public Hearing

Attached to this memo please find a copy of LRB 0202/1. Due to the limited number of committee meeting dates available to the committee this proposal is being placed on the agenda for the February 9th hearing. The proposal will be introduced prior to the hearing.

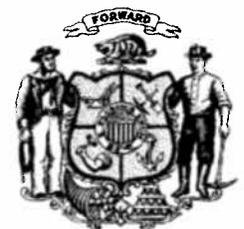
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Home: 2590 Settlement Road, Sister Bay, WI 54234 • (920) 854-2811



WISCONSIN STATE LEGISLATURE



Remarks for Assembly Committee on Corrections and the Courts
Regarding AB 99 – Juvenile Sex Offense Notification
By Representative Donald Friske
February 9, 2005

Thank you Chairman Bies and Committee members. I appreciate your hearing today and scheduling this important legislation for your consideration. I have a brief explanation of where this legislation arose and its merits for passage.

About two years ago, I was notified by the Tomahawk City Police Department Chief Don Johnson he was concerned with current law prohibiting him from disclosing to the public in Tomahawk there was a potentially dangerous juvenile in the city. The juvenile had been adjudicated for a prior offense requiring his listing on the Wisconsin Sex Offender Registry.

State law prohibited Chief Johnson from speaking to me in any specifics. He was forced to bring his problem with the law to me with so much confidentiality; I had to make the accurate inference that this was a real life problem. This is a problem for *local* law enforcement created by *State* statutes.

Wisconsin law enforcement, created to prevent crime and protect the public, have been restrained from using the information they have to do their job. Chapter 301 of the State of Wisconsin Statutes unacceptably impedes the ability of law enforcement to engage in legitimate crime prevention and community protection strategies.

State law should let law enforcement make crime prevention decisions based on the nature and severity of the offense, not the age of the offender. Passage of AB 99, as drafted, will remove statutory impediment without sacrificing the legitimate concern over stigmatization.

AB 99 allows local law enforcement to notify the public when a sexual predator with a juvenile sexual offense, poses a risk to public safety. This notification is would be allowed for juvenile offenses by people who are either still juveniles or now adults.

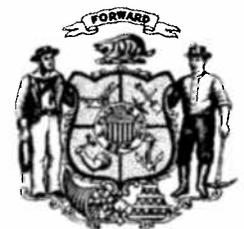
AB 99 also allows local law enforcement to distinguish between offenders committing an offense of juvenile sexual curiosity, unlikely to re-offend, from offenders committing an offense of sexual predation.

However, citizens, families and juvenile sexual offenders will all benefit when law enforcement has the ability to choose when to notify the public and when not to notify the public.

Let local law enforcement notify the public when they need to know they should take extra precautions. If the State of Wisconsin does not actively take this step, it is passively allowing situations similar to the one in Waukesha recently. AB 99 is our opportunity to take an active step, helping law enforcement complete their mission to prevent crime and protect the public.



WISCONSIN STATE LEGISLATURE



**Testimony on 2005 AB 99
Dissemination of Juvenile Sex Offender Information
Assembly Committee on Corrections and the Courts
February 9, 2005**

**Charles A. Tubbs, Administrator
Division of Juvenile Corrections
Wisconsin Department of Corrections**

Thank you for the opportunity to address the committee today. As the state agency charged with administering the Sex Offender Registry and supervising many of the persons listed in the Registry, the Department would like to speak for information only concerning AB 99.

We see the bill as illustrating the challenges inherent in accomplishing the three main objectives of juvenile justice law in Wisconsin, under which the Legislature told courts, agencies and others to balance public safety, youth accountability and youth rehabilitation considerations.

Background

- Access to information from the registry on youth sex offenders is limited, in keeping with state law protections for most information on delinquent youth and their families.

- Currently the Department of Corrections (DOC) may release sex offender registry information to local law enforcement agencies.

- Through the Law Enforcement web site, Law Enforcement has access to the following information on adults and juveniles:

registrant name and aliases, DOC number, gender, race, date of birth, age, physical descriptors, conviction date, county and state of conviction, statute violated, supervision status, term of registration, compliance status, home address, employment and school information.

- Neither DOC nor law enforcement may release information concerning two groups of persons:
 1. Persons required to register due to a delinquency adjudication for a sex offense, and
 2. Youth under age 18 convicted in criminal court (i.e. through waiver or age 17 jurisdiction) of a sex offense. Under current law, information on these offenders is public once the registrant reaches age 18.
- Under the bill, local law enforcement agencies would no longer be subject to the two restrictions, and would be free to release any information from the sex offender registry if they believed that doing so was necessary to protect the public.
- In many ways this is similar to how law enforcement operates relative to adult offenders.

- Supervision of adjudicated juvenile sex offenders is provided by either the Division of Juvenile Corrections (DJC) or by county social services agencies. This is in contrast to adult criminal supervision, which is provided entirely by the Department of Corrections.
- DJC is responsible for assuring that Corrections youth register. We also provide for a face-to-face check-in with the police. Each county department of human/social services has its own procedures.
- In addition, state law requires that when any youth, including a sex offender, is adjudicated delinquent, the clerk of courts notifies the youth's school district as to the youth's identity, the delinquency offenses, and what the court's dispositional order was. The school district may share this information with school staff, confidentially, when necessary for school safety or to monitor a youth's compliance with the dispositional order.
- When a youth transfers to a new school district as a result of the court's dispositional order, the court is to notify the new school district as well.
- However, there isn't a statutory mechanism for the school district receiving the court's notification to notify another district when a youth moves between districts.

Number of Registrants

- The Department does not supervise the majority of youth sex offenders in the state.
- Of the 475 persons under age 18 in the state Sex Offender Registry today,
- 105 are under DOC supervision in an institution or the community, and
- 37 were previously supervised by DOC but are now off supervision.
- All or most of the remaining 333 youth are either on county supervision or have terminated their county supervision orders.
- So DOC supervises a minority, maybe 30%, of the persons placed on the registry for juvenile sex offenses.

Holding Youth Accountable

- The bill increases youths' accountability for their behavior.
- Under current law, a person whose only sex offense is as a juvenile will not have this information made public under any circumstances.

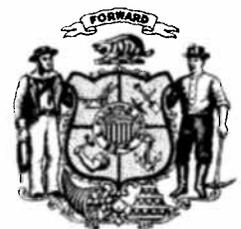
- Under AB 99, as long as that person is in the sex offender registry - say for the 15 years from age 16 to age 31 - there is the possibility that his/her juvenile offense will be revealed.

One area you may want to explore is giving the courts the ability to order that a youth's registry information be potentially open to the public. The juvenile court, as part of its dispositional order, could authorize law enforcement to allow public access. Then law enforcement, with input from DOC or county human service staff would have the authority to decide whether information on a specific youth needs to be released in order to protect the public.

Thank you for the opportunity to address the Committee. I'd be happy to try and answer any questions you may have.



WISCONSIN STATE LEGISLATURE



MEMORANDUM

To: Assembly Committee on Corrections & the Courts
From: **Children & the Law Section**
State Bar of Wisconsin
Date: February 9, 2005
Re: LRB-0201

The State Bar's **Children & the Law Section** strongly opposes LRB-0201, which would allow police chiefs and sheriffs to release juvenile sex offender registration data to the general public if they "determine that doing so is necessary to protect the public."

The Children & the Law Section consists of attorneys who have a special interest in laws that affect children, such as county corporation counsel, guardians ad litem, prosecutors and public defenders. After reviewing the proposed legislation, this diverse membership based its opposition on the following points:

- **This proposal would violate the core values of the juvenile justice system** - Juvenile court proceedings are to remain confidential (although some legislative exceptions have been crafted over the years, they all require court approval and do not delegate decisions to others). Furthermore, juveniles have the ability to learn from their mistakes and can be rehabilitated; they should not be stigmatized by their offenses.
- **In the vast majority of cases, juvenile sex offenders never re-offend** – Juvenile sex offenders are very different from adult offenders. Only about eight percent (8%) re-offend sexually.
- **There are no criteria listed to assist law enforcement officials in determining the potential risk to the public** - Psychologists and sex offender researchers have been working for years to determine what factors lead to a risk of re-offense. There are many myths about the risks of re-offense (i.e. denial or minimization of the facts, a history of being sexually abused, etc.) that are simply not true. Police chiefs and sheriffs, who are not trained in risk assessment of juvenile sex offenders, would be making uninformed decisions.

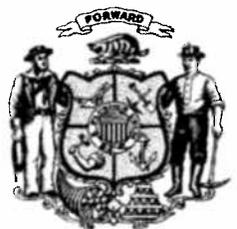
- **The effects of notification are severe** - A state study of 30 recently released sex offenders indicated that a majority noted the adverse affect that notification had on their transition to the community; additionally, 77% were humiliated in their daily lives (i.e. ostracized by neighbors and harassed/threatened by nearby residents or strangers). In Washington, where juvenile sex offender registration can be released to the public, children have found that harassment and embarrassment makes it impossible for them to go back to school.

Anytime oversight of juvenile matters is removed from the courts and delegated to others who have distinct roles separate from those prescribed by the Children's Code and Juvenile Justice Code, we believe that a higher level of scrutiny should be attached.

For more information contact Jason Westphal, Government Relations Coordinator, at (608) 250-6077 or email at jwestphal@wisbar.org.



WISCONSIN STATE LEGISLATURE



MEMORANDUM

To: Rep. Garey Bies
From: Children & the Law Section
State Bar of Wisconsin
Date: February 11, 2005
Re: Assembly Bill 99 – Juvenile Sex Offender Registration (Amie’s Law)

Assembly Bill 99 would, as drafted, allow a police chief or sheriff to provide otherwise confidential sex offender registration information (resulting from delinquency adjudications) to a requesting entity, requesting person or “members of the general public if, in the opinion of the police chief or sheriff, providing that information is necessary to protect the public.”

Proposed Amendment:

If a police chief or sheriff believes that the release of otherwise confidential sex offender registration information is necessary to protect the public, the police chief or sheriff “shall request that the district attorney (DA) bring an action, pursuant to ch. 938.396, requesting authority to do so in the court assigned to exercise jurisdiction under ch. 938,” in the county in which the registrant resides, is employed or carries on a vocation or attends school. The petition shall specify the information that the police chief or sheriff seeks to release, the persons or entities to which the information would be released and how the information would be released.

The court shall hold a hearing, pursuant to ch. 938.396, on the petition, providing notice to the registrant and an opportunity to be heard. The court shall determine whether it “would be in the interest of public protection” to release the information.

In making that decision, the court shall consider the criteria set forth in sec. 938.34(15m)(c), as well as the registrant’s behavior since commission to the offense and the public interest in the confidentiality of juvenile court records.

For more information contact Jason Westphal, Government Relations Coordinator, at (608) 250-6077 or jwestphal@wisbar.org.

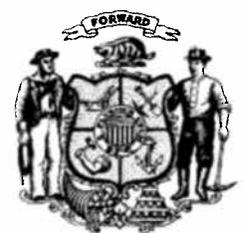
State Bar of Wisconsin

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*Done in my other
process/action to
open a juvenile
record.
(938.396*



WISCONSIN STATE LEGISLATURE





Memorandum

To: Members, Assembly Corrections and the Courts Committee

From: Rep. Garey Bies, Chair

Date: February 15th, 2005

Re: Amendment for AB 99

Attached to this memo, please find a copy of an amendment to AB 99 that will be offered tomorrow in executive session by Representative Pope-Roberts.

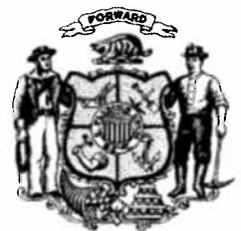
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WISCONSIN STATE LEGISLATURE





WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director
Laura D. Rose, Deputy Director

TO: REPRESENTATIVE DONALD FRISKE

FROM: Rachel E. Letzing, Staff Attorney

RE: Liability of Local Law Enforcement Under 2005 Assembly Bill 99

DATE: February 15, 2005

You have asked whether 2005 Assembly Bill 99 may expose local law enforcement to civil liability in connection with failure to disclose, or a decision not to disclose, information regarding a registered juvenile sex offender.

2005 Assembly Bill 99 authorizes a police chief or sheriff to provide information concerning a child who is a registered sex offender and information concerning a juvenile proceeding in which an adult sex offender registrant was involved to certain entities and to the general public if the police chief or sheriff determines that releasing such information is necessary to protect the public.

Current law already authorizes community notification concerning adult sex offender registrants, access to information relating to adult sex offender registrants by listed entities (including public and private elementary and secondary schools, day care providers, and certain government agencies), and access by the general public. A police chief or sheriff may include information from the adult sex offender registry in a community notification and provide such information to listed entities and the general public if the police chief or sheriff determines that doing so is necessary to protect the public. [s. 301.46 (2), (2m), (4), and (5), Stats.] Current law specifies that a person acting under these "access to information" statutes is *immune from civil liability* for any good faith act or omission regarding the release of information authorized under this statute. This immunity does not extend to a person whose act or omission constitutes gross negligence or involves reckless, wanton, or intentional misconduct. [s. 301.46 (7), Stats.]

By eliminating the current prohibition on the release of any information concerning a child who is required to register as a sex offender and any information concerning a juvenile proceeding in which an adult sex offender registrant was involved, the bill effectively allows law enforcement to treat the release of information regarding juvenile sex offenders in the same manner in which law enforcement currently handles the release of information concerning adult sex offenders. To that end, the statutory immunity provision regarding the release or omission of information under s. 301.46, Stats., would

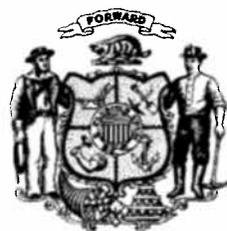
apply to the release of information concerning a child who is required to register as a sex offender and any information concerning a juvenile proceeding in which an adult sex offender registrant was involved. (The statutory immunity would also apply to the release of such information by the Department of Corrections.)

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

REL:rv



WISCONSIN STATE LEGISLATURE



no date

I am a sixteen year old high school sophomore and a recent victim of sexual assault. Every day I become traumatized all over again because the registered juvenile sex offender that assaulted me returned to my high school.

Last year he was found guilty of four felonies and required to register as a juvenile sex offender. Unfortunately, under the current Wisconsin state laws, this registered sex offender's record will be expunged at the age of eighteen. This means no one will ever find out about his deviant behavior when he becomes an adult. And he will be free to become a mentor, counselor, child care provider or even your child's teacher.

I was granted a no contact order that is not enforceable since his record is not to be shared with the public. The sad part of my situation is that no one knows about his sexual deviance because unlike other states near us, the Wisconsin laws currently protect the juvenile sex offender. He is free to do what ever he wants to harass me at school because the only people to know about his record are the principal and some school officials. They can't be with me every minute of the school day so I constantly feel threatened.

So who is being protected from juvenile sex offenders? Certainly not the students that come in contact with him every day who know nothing about his inappropriate behavior. Nor is the general public because information about him can not be released.

Convicted juvenile sex offenders should be treated differently than non-sexual juvenile criminals. For the greater good of society, I encourage you to pass a bill that puts into law safe guards to protect students and the community from all juvenile sex offenders by unsealing their records. Thank you for allowing me to speak to you today.

(Enclosed is an article written by me for my Journalism class at my high school)

Allison Gullick

12/20/04

Editorial

When an adult sex offender comes in close contact with children, parents insist on knowing. However, what happens when the sex offender is a juvenile and exposed to a child? We, The Highlander staff, believe that Wisconsin should change its registry statutes like many other states and alert the student and staff population in schools as well as the concerned public when a juvenile sex offender is present.

Already Illinois, Texas and Idaho have adopted policies that do not allow juvenile sex offenders to mask their heinous crime. The laws clearly state that a juvenile and adult sex offender are not to be treated differently and both be added to the internet registry as well as written requests. In Wisconsin, even mentioning the offender's name is illegal. How can people protect themselves and others? Because 23% of all sexual offences occur from juveniles and the average victim is a child the same age or younger, children are at risk. Children, unaware of a dangerous person, unknowingly place themselves in difficult situations, putting themselves at risk. Because 80% of all offences occur to people the offender has befriended, citizens need to be protected. Already, in states where these laws exist, statistics show that recidivism has declined.

Unfortunately, juvenile sex offenders claim that rehabilitation is necessary. According to Barbaree (1993) denial and minimization are serious problems among the juvenile sex offender. They do not possess sufficient internal motivation for treatment and behavior change and it should not be considered a guarantee of success. Also, juveniles claim their offenses were mistakes. However, their mistakes are often costly to the victims resulting in mental illnesses such as post traumatic stress disorder, depression and low self-esteem. Consequences which may last for years. Researchers say more than half of the offenders will be arrested for

recidivism. Furthermore, if a child is old enough to understand sex, he should be held accountable for his actions.

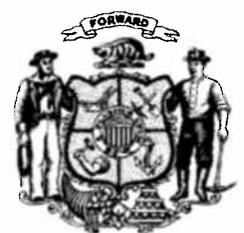
In order for children to be protected, the Wisconsin state law needs to be modified, stating that juveniles shall be counted in the sex offender registry and information made public for interested persons. By doing so, the safety of the public will no longer be in jeopardy.

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WISCONSIN STATE LEGISLATURE



AB 99

2/4/05
PH

This bill uses the degree of the offense as the determining factor rather than the age of the offender.

Public notification would use the same methodology as currently use for adult convictions.

What liability issue is there for say a sheriff that does not notify & an individual re-commits? → There is immunity provision... (more info needed)

→ Protects the future of our children.

State Bar

ABEP

"Confidentiality has been a core value of the juvenile court"

* Confidentiality to allow for rehabilitation.

40% of juvenile ~~sex~~ offenders do not re-offend.

[AB 99] has no criteria whatsoever.

Leave notification decision in court where experts and risk assessments are present.

Will apply to those individuals
already on the list. Those who
were placed on the registry prior
to this bill being in place.