ASSEMBLY BILL 411 (LRB -1669)

An Act to renumber 301.45 (1p); to renumber and amend 51.20 (13) (ct) 1m., 938.34 (15m) (am), 971.17 (1m) (b) 1m. and 973.048 (1m); to amend 51.20 (13) (ct) 3. (intro.), 301.45 (1p) (title), 301.45 (7) (e) (intro.), 301.45 (7) (e) 1., 938.34 (15m) (c) (intro.), 938.345 (3) (a) (intro.), 971.17 (1m) (b) 3. (intro.) and 973.048 (3) (intro.); and to create 51.20 (13) (ct) 1m. b., 301.45 (1p) (b), 301.45 (7) (f), 938.34 (15m) (am) 2., 938.345 (3) (d), 971.17 (1m) (b) 1m. b. and 973.048 (1m) (b) of the statutes; relating to: the prohibition against making, reproducing, or possessing a nude depiction of a person without the person's consent and the sex offender registry. (FE)

2009

08-31.	A.	Introduced by Representatives **Zigmunt**, **Parisi**, **Gundrum**, **Berceau**, **Bernard Schaber**, **Hraychuck**, **Pope-Roberts**, **Roys**, **Suder** and **Turner**; cosponsored by Senators **Plale**, **Taylor** and **Darling**.	
08-31.	A.	Read first time and referred to committee on Corrections and the Courts	357
09-15.	A.	Fiscal estimate received.	
09-15.	A.	Fiscal estimate received.	
09-16.	A.	Fiscal estimate received.	
09-23.	A.	Public hearing held.	
09-28.	A.	Fiscal estimate received.	
10-20.	A.	**LRB correction**	435
10-20.	A.	Executive action taken.	
10-27.	A.	Report passage recommended by committee on Corrections and the Courts, Ayes 10, Noes 0	456
10-27.	A.	Referred to committee on Rules	457
10-27.	A.	Placed on calendar 10-29-2009 by committee on Rules.	
10-29.	A.	Read a second time	477
10-29.	A.	Ordered to a third reading	477
10-29.	A.	Rules suspended	477
10-29.	A.	Read a third time and **passed**	477
10-29.	A.	Ordered immediately messaged	477
10-29.	S.	Received from Assembly	394
11-03.	S.	Read first time and referred to committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing	399
11-10.	S.	Executive action taken.	
11-12.	S.	Report introduction and adoption of Senate Amendment 1 recommended by committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing, Ayes 5, Noes 0 **(LRB a1051)**	419
11-12.	S.	Report concurrence as amended recommended by committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing, Ayes 5, Noes 0	420
11-12.	S.	Available for scheduling.	

2010

01-14.	S.	Placed on calendar 1-19-2010 by committee on Senate Organization	483
01-19.	S.	Read a second time	490
01-19.	S.	Senate amendment 1 **adopted**	490
01-19.	S.	Ordered to a third reading	490
01-19.	S.	Rules suspended	490
01-19.	S.	Read a third time and **concurred in** as amended	490
01-19.	S.	Ordered immediately messaged	490
01-20.	A.	Received from Senate amended and concurred in as amended (Senate amendment 1 adopted)	587
01-28.	A.	Placed at the foot of the calendar of 1-28-2010	612
01-28.	A.	Senate amendment 1 **nonconcurred in**	615
01-28.	A.	Ordered immediately messaged	615
01-29.	S.	Received from Assembly, Senate amendment 1 nonconcurred in.	
01-29.	S.	Available for scheduling.	
02-10.	S.	Placed on calendar 2-16-2010 pursuant to Senate Rule 18(1)	553
02-16.	S.	Senate recedes from its position on Senate amendment 1.	
02-16.	S.	Ordered immediately messaged.	
02-16.	A.	Received from Senate: Senate recedes from its position on Senate amendment 1.	

4P

2009
ENROLLED BILL

09en A B- 411

ADOPTED DOCUMENTS:

☒ Orig ☐ Engr ___ SubAmdt ___ 09- 1669 / 1

Amendments to above (if none, write "NONE"): _____

Corrections - show date (if none, write "NONE"): OCT. 20, 2009

Topic Rel

2-16-2010
Date

Enrolling Drafter

[rev: 1/6/09 2009enroll(fm)]

State of Wisconsin
2009–2010 LEGISLATURE

CORRECTIONS IN:

2009 ASSEMBLY BILL 411

Prepared by the Legislative Reference Bureau
(October 20, 2009)

1. Page 5, line 11: delete "of" and substitute "or".

(END)

CORR 1

LRB–1669/1ccc–1
NWN:rs

Minor clerical corrections in legislation are authorized under s. 35.17, stats.; Senate Rule 31; Assembly Rule 36; and Joint Rule 56.

State of Wisconsin
2009 – 2010 LEGISLATURE

CORRECTED COPY

LRB–1669/1
RLR:nwn:jf

2009 ASSEMBLY BILL 411

August 31, 2009 – Introduced by Representatives ZIGMUNT, PARISI, GUNDRUM, BERCEAU, BERNARD SCHABER, HRAYCHUCK, POPE-ROBERTS, ROYS, SUDER and TURNER, cosponsored by Senators PLALE, TAYLOR and DARLING. Referred to Committee on Corrections and the Courts.

1 AN ACT ***to renumber*** 301.45 (1p); ***to renumber and amend*** 51.20 (13) (ct) 1m.,
2 938.34 (15m) (am), 971.17 (1m) (b) 1m. and 973.048 (1m); ***to amend*** 51.20 (13)
3 (ct) 3. (intro.), 301.45 (1p) (title), 301.45 (7) (e) (intro.), 301.45 (7) (e) 1., 938.34
4 (15m) (c) (intro.), 938.345 (3) (a) (intro.), 971.17 (1m) (b) 3. (intro.) and 973.048
5 (3) (intro.); and ***to create*** 51.20 (13) (ct) 1m. b., 301.45 (1p) (b), 301.45 (7) (f),
6 938.34 (15m) (am) 2., 938.345 (3) (d), 971.17 (1m) (b) 1m. b. and 973.048 (1m)
7 (b) of the statutes; **relating to:** the prohibition against making, reproducing,
8 or possessing a nude depiction of a person without the person's consent and the
9 sex offender registry.

Analysis by the Legislative Reference Bureau

Current law prohibits making a visual representation that depicts a person nude without the person's consent while the person is nude in a circumstance in which he or she has a reasonable expectation of privacy, and prohibits reproducing or possessing such visual representations. Current law also prohibits making, or making and distributing, a visual representation of a person without the person's consent while the person is nude in a locker room. So-called video voyeurism is a Class I felony if committed while the person is nude in a circumstance in which he

or she has a reasonable expectation of privacy, and is a misdemeanor if committed in a locker room.

Under current law, a court may require a person who is convicted, adjudicated delinquent, found in need of protection or services, or found not guilty or not responsible by reason of mental disease or defect for certain offenses to register with the Department of Corrections (DOC) as a sex offender.

This bill provides that a court may order a person to register with DOC as a sex offender if the person is convicted, adjudicated delinquent, found in need of protection or services, or found not guilty or not responsible by reason of mental disease or defect for committing video voyeurism and the court determines that the offense was sexually motivated. The bill further provides that if the person was under the age of 21 when he or she committed the video–voyeurism offense, the court may provide that upon successful completion of the sentence, dispositional order, or commitment for the offense the person be released from the requirement to register as a sex offender. Under the bill, if the person is released from the requirement to register as a sex offender for a video–voyeurism offense and was not required to register for any other offense, DOC must delete information concerning the person from the sex offender registry.

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:

1 **SECTION 1.** 51.20 (13) (ct) 1m. of the statutes is renumbered 51.20 (13) (ct) 1m.
2 a. and amended to read:

3 51.20 **(13)** (ct) 1m. a. Except as provided in subd. 2m., if the subject individual
4 is before the court on a petition filed under a court order under s. 938.30 (5) (c) 1. and
5 is found to have committed any violation, or to have solicited, conspired, or attempted
6 to commit any violation, of ch. 940, 944, or 948 or ~~ss.~~ s. 942.08 or 942.09, or ss. 943.01
7 to 943.15, the court may require the subject individual to comply with the reporting
8 requirements under s. 301.45 if the court determines that the underlying conduct
9 was sexually motivated, as defined in s. 980.01 (5), and that it would be in the interest
10 of public protection to have the subject individual report under s. 301.45.

11 **SECTION 2.** 51.20 (13) (ct) 1m. b. of the statutes is created to read:

51.20 **(13)** (ct) 1m. b. If a court under subd. 1m. a. orders a person to comply with the reporting requirements under s. 301.45 in connection with the commission of a violation, or the solicitation, conspiracy, or attempt to commit a violation, of s. 942.09, the court may provide that the person be released from the requirement to comply with the reporting requirements under s. 301.45 upon satisfying conditions specified by the court. If the person satisfies the conditions, the court shall notify the department of corrections that the person has satisfied the conditions.

SECTION 3. 51.20 (13) (ct) 3. (intro.) of the statutes is amended to read:

51.20 **(13)** (ct) 3. (intro.) In determining under subd. 1m. a. whether it would be in the interest of public protection to have the subject individual report under s. 301.45, the court may consider any of the following:

SECTION 4. 301.45 (1p) (title) of the statutes is amended to read:

301.45 **(1p)** (title) EXCEPTION TO REGISTRATION REQUIREMENT; ~~EXPUNGEMENT OF INVASION OF PRIVACY ADJUDICATION OR CONVICTION~~ PRIVACY-RELATED OFFENSES.

SECTION 5. 301.45 (1p) of the statutes is renumbered 301.45 (1p) (a).

SECTION 6. 301.45 (1p) (b) of the statutes is created to read:

301.45 **(1p)** (b) If a person is covered under sub. (1g) based solely on an order that was entered under s. 51.20 (13) (ct) 1m., 938.34 (15m) (am), 938.345 (3) (a), 971.17 (1m) (b) 1m., or 973.048 (1m) in connection with a violation, or the solicitation, conspiracy, or attempt to commit a violation, of s. 942.09, and the court provided in the order that the person be released from the requirement to comply with the reporting requirements under this section upon satisfying the conditions of the court order under s. 51.20 (13) (ct) 1m. or the dispositional order under subch. VI of ch. 938, upon the termination or expiration of a commitment order under s. 971.17, or upon successful completion of the sentence or probation as provided under s. 973.048 (1m)

(b), whichever is applicable, and the person satisfies the conditions of the court order under s. 51.20 (13) (ct) 1m. or the dispositional order under subch. VI of ch. 938, the commitment order under s. 971.17 is terminated or expires, or the person successfully completes the sentence or probation, whichever is applicable, the person is no longer required to comply with the reporting requirements under this section.

SECTION 7. 301.45 (7) (e) (intro.) of the statutes is amended to read:

301.45 **(7)** (e) (intro.) The department shall purge all of the information maintained in the registry under sub. (2) concerning a person to whom sub. (1p) (a) applies if any of the following occurs:

SECTION 8. 301.45 (7) (e) 1. of the statutes is amended to read:

301.45 **(7)** (e) 1. The department receives notice under s. 938.355 (4m) (b) that a court has expunged the record of the person's delinquency adjudication for the violation described in sub. (1p) (a).

SECTION 9. 301.45 (7) (f) of the statutes is created to read:

301.45 **(7)** (f) The department shall purge all of the information maintained in the registry under sub. (2) concerning a person to whom sub. (1p) (b) applies when any of the following occurs:

1. If the person was ordered by a court under s. 51.20 (13) (ct) 1m. to comply with the reporting requirements under this section, when the department receives notice under s. 51.20 (13) (ct) 1m. b. that the person has satisfied conditions of the court order.

2. If the person was ordered by a court under s. 938.34 (15m) (am) to comply with the reporting requirements under this section, when the department receives notice under s. 938.34 (15m) (am) 2. that the juvenile has satisfied the conditions of the dispositional order.

3. If the person was ordered by a court under s. 938.345 (3) (a) to comply with the reporting requirements under this section, when the department receives notice under s. 938.345 (3) (d) that the juvenile has satisfied the conditions of the dispositional order.

4. If the person was ordered by a court under s. 971.17 (1m) (b) 1m. to comply with the reporting requirements under this section, when the department receives notice under s. 971.17 (6m) (b) 2. that the commitment order under s. 971.17 is terminated or has expired.

5. If the person was ordered by a court under s. 973.048 (1m) to comply with the reporting requirements under this section, when the person successfully completes the sentence ~~of~~ INSERT CORR. 1 probation ~~as provided~~ under s. 973.048 (1m) (b).

SECTION 10. 938.34 (15m) (am) of the statutes is renumbered 938.34 (15m) (am) 1. and amended to read:

938.34 **(15m)** (am) 1. Except as provided in par. (bm), if the juvenile is adjudicated delinquent on the basis of any violation, or the solicitation, conspiracy, or attempt to commit any violation, under ch. 940, 944, or 948 or ~~ss.~~ s. 942.08 or 942.09, or ss. 943.01 to 943.15, the court may require the juvenile to comply with the reporting requirements under s. 301.45 if the court determines that the underlying conduct was sexually motivated, as defined in s. 980.01 (5), and that it would be in the interest of public protection to have the juvenile report under s. 301.45.

SECTION 11. 938.34 (15m) (am) 2. of the statutes is created to read:

938.34 **(15m)** (am) 2. If the court under subd. 1. orders the juvenile to comply with the reporting requirements under s. 301.45 in connection with a violation, or the solicitation, conspiracy, or attempt to commit a violation, of s. 942.09, the court may provide that the juvenile be released from the requirement to comply with the

reporting requirements under s. 301.45 upon satisfying the conditions of the dispositional order imposed for the offense. If the juvenile satisfies the conditions of the dispositional order, the court shall notify the department that the juvenile has satisfied the conditions of the dispositional order.

SECTION 12. 938.34 (15m) (c) (intro.) of the statutes is amended to read:

938.34 **(15m)** (c) (intro.) In determining under par. (am) 1. whether it would be in the interest of public protection to have the juvenile report under s. 301.45, the court may consider any of the following:

SECTION 13. 938.345 (3) (a) (intro.) of the statutes is amended to read:

938.345 **(3)** (a) (intro.) If the court finds that a juvenile is in need of protection or services on the basis of a violation, or the solicitation, conspiracy, or attempt to commit a violation, under ch. 940, 944, or 948 or ~~ss.~~ s. 942.08 or 942.09, or ss. 943.01 to 943.15, the court may require the juvenile to comply with the reporting requirements under s. 301.45 if the court determines that the underlying conduct was sexually motivated, as defined in s. 980.01 (5), and that it is in the interest of public protection to have the juvenile report under s. 301.45. In determining whether it is in the interest of public protection to have the juvenile report under s. 301.45, the court may consider any of the following:

SECTION 14. 938.345 (3) (d) of the statutes is created to read:

938.345 **(3)** (d) If the court under par. (a) orders the juvenile to comply with the reporting requirements under s. 301.45 in connection with a violation, or the solicitation, conspiracy, or attempt to commit a violation, of s. 942.09, the court may provide that the juvenile be released from the requirement to comply with the reporting requirements under s. 301.45 upon satisfying the conditions of the dispositional order imposed for the offense. If the juvenile satisfies the conditions

of the dispositional order, the clerk of the court shall notify the department that the juvenile has satisfied the conditions of the dispositional order.

SECTION 15. 971.17 (1m) (b) 1m. of the statutes is renumbered 971.17 (1m) (b) 1m. a. and amended to read:

971.17 **(1m)** (b) 1m. a. Except as provided in subd. 2m., if the defendant under sub. (1) is found not guilty by reason of mental disease or defect for any violation, or for the solicitation, conspiracy, or attempt to commit any violation, of ch. 940, 944, or 948 or ~~ss.~~ s. 942.08 or 942.09, or ss. 943.01 to 943.15, the court may require the defendant to comply with the reporting requirements under s. 301.45 if the court determines that the underlying conduct was sexually motivated, as defined in s. 980.01 (5), and that it would be in the interest of public protection to have the defendant report under s. 301.45.

SECTION 16. 971.17 (1m) (b) 1m. b. of the statutes is created to read:

971.17 **(1m)** (b) 1m. b. If a court under subd. 1m. a. orders a person to comply with the reporting requirements under s. 301.45 in connection with a finding of not guilty by reason of mental disease or defect for a violation, or the solicitation, conspiracy, or attempt to commit a violation, of s. 942.09 and the person was under the age of 21 when he or she committed the offense, the court may provide that upon termination of the commitment order under sub. (5) or expiration of the order under sub. (6) the person be released from the requirement to comply with the reporting requirements under s. 301.45.

SECTION 17. 971.17 (1m) (b) 3. (intro.) of the statutes is amended to read:

971.17 **(1m)** (b) 3. (intro.) In determining under subd. 1m. a. whether it would be in the interest of public protection to have the defendant report under s. 301.45, the court may consider any of the following:

1 **SECTION 18.** 973.048 (1m) of the statutes is renumbered 973.048 (1m) (a) and
2 amended to read:
3 973.048 **(1m)** (a) Except as provided in sub. (2m), if a court imposes a sentence
4 or places a person on probation for any violation, or for the solicitation, conspiracy,
5 or attempt to commit any violation, under ch. 940, 944, or 948 or ~~ss.~~ s. 942.08 or
6 942.09, or ss. 943.01 to 943.15, the court may require the person to comply with the
7 reporting requirements under s. 301.45 if the court determines that the underlying
8 conduct was sexually motivated, as defined in s. 980.01 (5), and that it would be in
9 the interest of public protection to have the person report under s. 301.45.
10 **SECTION 19.** 973.048 (1m) (b) of the statutes is created to read:
11 973.048 **(1m)** (b) If a court under par. (a) orders a person to comply with the
12 reporting requirements under s. 301.45 in connection with a violation, or the
13 solicitation, conspiracy, or attempt to commit a violation, of s. 942.09 and the person
14 was under the age of 21 when he or she committed the offense, the court may provide
15 that the person be released from the requirement to comply with the reporting
16 requirements under s. 301.45 upon successfully completing the sentence or
17 probation imposed for the offense. A person successfully completes a sentence if he
18 or she is not convicted of a subsequent offense during the term of the sentence. A
19 person successfully completes probation if probation is not revoked and the person
20 satisfies the conditions of probation.
21 **SECTION 20.** 973.048 (3) (intro.) of the statutes is amended to read:
22 973.048 **(3)** (intro.) In determining under sub. (1m) (a) whether it would be in
23 the interest of public protection to have the person report under s. 301.45, the court
24 may consider any of the following:
25 **SECTION 21. Initial applicability.**

1 (1) This act first applies to offenses committed on the effective date of this
2 subsection.

3 **(END)**