



2005 ASSEMBLY BILL 301

April 7, 2005 - Introduced by Representatives STEINBRINK, GUNDERSON, TURNER, ALBERS, BERCEAU, BIES, FIELDS, GRONEMUS, HAHN, HINES, JESKEWITZ, OTT, PETROWSKI and PRIDEMORE, cosponsored by Senators A. LASEE, DARLING and COGGS. Referred to Committee on Criminal Justice and Homeland Security.

1 **AN ACT** *to renumber* 302.11 (4m) and 302.116 (1) (a); *to amend* 302.11 (1) and
2 304.06 (1) (b); and *to create* 302.11 (1g) (b) 3., 302.11 (4m) (b), 302.116 (1) (af),
3 302.116 (1) (c), 302.116 (3), 304.02 (4t) and 304.06 (2m) (af) of the statutes;
4 **relating to:** the residence of certain child sex offenders.

Analysis by the Legislative Reference Bureau

Current law restricts where certain 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 living in the community. First, no person who has been convicted of a serious sex offense (a "sex offender") 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 person's offense. Second, any sex offender who is released to extended supervision must agree, as a condition of extended supervision, to live in a residence that the Department of Corrections (DOC) has approved. Current law also imposes certain obligations on DOC with respect to where sex offenders reside. DOC must work to minimize, to the greatest extent possible, the residential population density of sex offenders who are on probation, parole, or extended supervision or who are placed on supervised release after having been committed for treatment as sexually violent persons.

This bill places an additional restriction on where a child sex offender — defined as a person who has been convicted of child enticement; using a computer to facilitate

ASSEMBLY BILL 301

having sex with a child; attempting to commit either of these crimes; or, if the victim or the intended victim was under 18, any other serious sex offense — may reside. This new restriction applies if the child sex offender, while incarcerated, refused to participate in a treatment program recommended by DOC that related to a sex offense that he or she committed. Under the bill, a child sex offender who refused such treatment and who is being placed in the community under the supervision of DOC (through parole or extended supervision) may not reside within 1,000 feet of: 1) any building in which children reside and which contains more than one dwelling unit; or 2) any private or public school premises.

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.** 302.11 (1) of the statutes is amended to read:

2 302.11 (1) The warden or superintendent shall keep a record of the conduct of
3 each inmate, specifying each infraction of the rules. Except as provided in subs. (1g),
4 (1m), (1q), (1z), (4m) (b), (7), and (10), each inmate is entitled to mandatory release
5 on parole by the department. The mandatory release date is established at
6 two-thirds of the sentence. Any calculations under this subsection or sub. (1q) (b)
7 or (2) (b) resulting in fractions of a day shall be rounded in the inmate's favor to a
8 whole day.

9 **SECTION 2.** 302.11 (1g) (b) 3. of the statutes is created to read:

10 302.11 (1g) (b) 3. Refusal by the inmate, if the inmate is an untreated child sex
11 offender, as defined in s. 302.116 (1) (c), to reside, as a condition of parole, in a
12 residence that is not within 1,000 feet of any building in which children reside and
13 which contains more than one dwelling unit or any private or public school premises.

14 **SECTION 3.** 302.11 (4m) of the statutes is renumbered 302.11 (4m) (a).

15 **SECTION 4.** 302.11 (4m) (b) of the statutes is created to read:

ASSEMBLY BILL 301

1 302.11 (4m) (b) An untreated child sex offender, as defined in s. 302.116 (1) (c),
2 is not entitled to mandatory release on parole under this section unless he or she
3 agrees, as a condition of parole, not to reside within 1,000 feet of any building in
4 which children reside and which contains more than one dwelling unit or any private
5 or public school premises.

6 **SECTION 5.** 302.116 (1) (a) of the statutes is renumbered 302.116 (1) (am).

7 **SECTION 6.** 302.116 (1) (af) of the statutes is created to read:

8 302.116 (1) (af) “Child sex offender” means a person serving a sentence for any
9 of the following:

10 1. A violation of s. 948.07 or 948.075 or a solicitation or conspiracy to commit
11 a violation of s. 948.07 or 948.075.

12 2. Any other serious sex offense, if the victim or the intended victim of the
13 serious sex offense was a person who had not attained the age of 18 years at the time
14 of the offense.

15 **SECTION 7.** 302.116 (1) (c) of the statutes is created to read:

16 302.116 (1) (c) “Untreated child sex offender” means a child sex offender who,
17 while incarcerated, refused to participate in a treatment program recommended by
18 the department that related to an offense listed in par. (af) that he or she committed.

19 **SECTION 8.** 302.116 (3) of the statutes is created to read:

20 302.116 (3) As a condition of extended supervision, an untreated child sex
21 offender shall live in a residence that is not within 1,000 feet of any building in which
22 children reside and which contains more than one dwelling unit or any private or
23 public school premises.

24 **SECTION 9.** 304.02 (4t) of the statutes is created to read:

ASSEMBLY BILL 301**SECTION 9**

1 304.02 **(4t)** Notwithstanding subs. (1) to (3), an untreated child sex offender, as
2 defined in s. 302.116 (1) (c), may not be paroled under this section unless he or she
3 agrees, as a condition of parole, not to reside within 1,000 feet of any building in
4 which children reside and which contains more than one dwelling unit or any private
5 or public school premises.

6 **SECTION 10.** 304.06 (1) (b) of the statutes is amended to read:

7 304.06 **(1)** (b) Except as provided in s. 961.49 (2), 1999 stats., sub. (1m) or (2m)
8 (af), or s. 302.045 (3), 302.05 (3) (b), 973.01 (6), or 973.0135, the parole commission
9 may parole an inmate of the Wisconsin state prisons or any felon or any person
10 serving at least one year or more in a county house of correction or a county
11 reforestation camp organized under s. 303.07, when he or she has served 25% of the
12 sentence imposed for the offense, or 6 months, whichever is greater. Except as
13 provided in s. 939.62 (2m) (c) or 973.014 (1) (b) or (c), (1g) or (2), the parole commission
14 may parole an inmate serving a life term when he or she has served 20 years, as
15 modified by the formula under s. 302.11 (1) and subject to extension under s. 302.11
16 (1q) and (2), if applicable. The person serving the life term shall be given credit for
17 time served prior to sentencing under s. 973.155, including good time under s.
18 973.155 (4). The secretary may grant special action parole releases under s. 304.02.
19 The department or the parole commission shall not provide any convicted offender
20 or other person sentenced to the department's custody any parole eligibility or
21 evaluation until the person has been confined at least 60 days following sentencing.

22 **SECTION 11.** 304.06 (2m) (af) of the statutes is created to read:

23 304.06 **(2m)** (af) Neither the parole commission nor the department may parole
24 an untreated child sex offender, as defined in s. 302.116 (1) (c), unless he or she
25 agrees, as a condition of parole, not to reside within 1,000 feet of any building in

ASSEMBLY BILL 301

1 which children reside and which contains more than one dwelling unit or any private
2 or public school premises.

3 **SECTION 12. Initial applicability.**

4 (1) The treatment of section 302.11 (1) and (4m) (b) of the statutes first applies
5 to persons reaching their mandatory release date on the effective date of this
6 subsection.

7 (2) The treatment of section 302.11 (1g) (b) 3. of the statutes first applies to
8 persons whose cases are considered by the parole commission under section 302.11
9 (1g) (b) (intro.) of the statutes on the effective date of this subsection.

10 (3) The treatment of sections 302.116 (3) of the statutes first applies to persons
11 released to extended supervision on the effective date of this subsection.

12 (4) The treatment of section 304.02 (4t) of the statutes first applies to persons
13 serving the confinement portion of any sentence on the effective date of this
14 subsection.

15 (5) The treatment of section 304.06 (1) (b) and (2m) (af) of the statutes first
16 applies to persons in whose cases the department of corrections or the parole
17 commission conducts an interview or a hearing regarding whether to grant the
18 person parole under section 304.06 of the statutes on the effective date of this
19 subsection.

20 (END)