



2007 ASSEMBLY BILL 791

February 11, 2008 - Introduced by Representatives DAVIS, KLEEFISCH, SUDER, GUNDERSON, LEMAHIEU, MURSAU, MUSSER, KERKMAN, OWENS, A. OTT and TOWNSEND, cosponsored by Senators ROESSLER and SCHULTZ. Referred to Committee on Criminal Justice.

1 **AN ACT to amend** 51.20 (13) (ct) 5., 938.34 (15m) (e), 938.345 (3) (c), 971.17 (1m)
2 (b) 5., 973.048 (title) and 973.048 (5); and **to create** 20.410 (1) (gL), 51.20 (13)
3 (ct) 4m., 301.45 (2) (a) 6m., 301.475, 938.34 (15m) (dm), 938.345 (3) (bm),
4 939.615 (5m), 971.17 (1m) (b) 4m. and 973.048 (4m) of the statutes; **relating**
5 **to:** Internet access restrictions on certain sex offenders, information provided
6 by a person required to register as a sex offender, providing a penalty, and
7 making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, subject to certain exceptions, a person may be ordered by a court to 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. Under this bill, if a court orders a person to register as a sex offender, the court must make a finding as to whether a computer was used in the sex offense. If the court finds that a computer was used, the court must prohibit, with certain exceptions, the person from using a computer during the period that he or she must register as a sex offender. If the person violates the prohibition, he or she is guilty of a misdemeanor and is subject to a fine of up to \$10,000 or may be imprisoned for up to nine months or both.

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1 20.410 (1) (gL) *Internet sex offenders*. The amounts in the schedule for the
2 monitoring of persons whose Internet usage is restricted under s. 301.475 (2) or
3 939.615 (5m) (b). All moneys received under ss. 301.475 (5) and 939.615 (5m) (d) shall
4 be credited to this appropriation account.

5 **SECTION 3.** 51.20 (13) (ct) 4m. of the statutes is created to read:

6 51.20 (13) (ct) 4m. If the court orders a subject individual to comply with the
7 reporting requirements under s. 301.45, the court shall determine if a computer was
8 used in the commission of the underlying violation. If the court finds that a computer
9 was used in the commission of the underlying violation, the court shall order that the
10 person be subject to s. 301.475 for as long as the person must comply with the
11 reporting requirements under s. 301.45.

12 **SECTION 4.** 51.20 (13) (ct) 5. of the statutes is amended to read:

13 51.20 (13) (ct) 5. If the court orders a subject individual to comply with the
14 reporting requirements under s. 301.45 or if the court orders a subject individual be
15 subject to s. 301.475, the clerk of the court in which the order is entered shall
16 promptly forward a copy of the order to the department of corrections. If the finding
17 under s. 938.30 (5) (c) (intro.) on which the order is based is reversed, set aside or
18 vacated, the clerk of the court shall promptly forward to the department of
19 corrections a certificate stating that the finding has been reversed, set aside or
20 vacated.

21 **SECTION 5.** 301.45 (2) (a) 6m. of the statutes is created to read:

22 301.45 (2) (a) 6m. The name or number of every electronic mail account used
23 by the person, every user name the person uses for text messaging or electronic
24 instant messaging, and the Internet address of every Web site maintained by the
25 person.

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1 **SECTION 6.** 301.475 of the statutes is created to read:

2 **301.475 Internet access restriction for certain sex offenders. (1)** In this
3 subsection:

4 (a) “Computer” means a device that can access the Internet or send electronic
5 mail, text, or instant messages.

6 (b) “Internet sex offender” means a person who is ordered to comply with this
7 section under s. 51.20 (13) (ct) 4m., 938.34 (15m) (dm), 938.345 (3) (bm), 939.615 (5)
8 (a), 971.17 (1m) (b) 4m., or 973.048 (4m).

9 **(2)** An Internet sex offender may not do any of the following:

10 (a) Access or use a computer unless the court has given prior written approval
11 or unless the access or use is in connection with employment or employment search
12 and the department has given prior approval.

13 (b) Refuse to submit to, or hamper an action, under sub. (4).

14 **(3)** A person who violates sub. (2) is guilty of a Class A misdemeanor.

15 **(4)** If an Internet sex offender accesses or uses a computer in compliance with
16 sub. (2) (a), the department may examine the computer and any peripherals, install
17 any monitoring device on the computer, or add conditions to the access or use.

18 **(5)** The department may charge an Internet sex offender an amount to
19 reimburse the department for any costs of any action under sub. (4) related to the
20 Internet sex offender. The department shall collect the amounts charged under this
21 subsection and credit those moneys to the appropriation account under s. 20.410 (1)
22 (gL).

23 **SECTION 7.** 938.34 (15m) (dm) of the statutes is created to read:

24 **938.34 (15m) (dm)** If the court orders a juvenile to comply with the reporting
25 requirements under s. 301.45, the court shall determine if a computer was used in

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1 the commission of the underlying crime. If the court finds that a computer was used
2 in the commission of the underlying crime, the court shall order that the juvenile be
3 subject to s. 301.475 for as long as the juvenile must comply with the reporting
4 requirements under s. 301.45.

5 **SECTION 8.** 938.34 (15m) (e) of the statutes is amended to read:

6 938.34 **(15m)** (e) If the court orders a juvenile to comply with the reporting
7 requirements under s. 301.45 or orders the juvenile subject to s. 301.475, the clerk
8 of the court in which the order is entered shall promptly forward a copy of the order
9 to the department of corrections. If the finding of delinquency on which the order is
10 based is reversed, set aside or vacated, the clerk of the court shall promptly forward
11 to the department of corrections a certificate stating that the finding of delinquency
12 has been reversed, set aside or vacated.

13 **SECTION 9.** 938.345 (3) (bm) of the statutes is created to read:

14 938.345 **(3)** (bm) If the court orders a juvenile to comply with the reporting
15 requirements under s. 301.45, the court shall determine if a computer was used in
16 the commission of the underlying crime. If the court finds that a computer was used
17 in the commission of the underlying crime, the court shall order that the juvenile be
18 subject to s. 301.475 for as long as the juvenile must comply with the reporting
19 requirements under s. 301.45.

20 **SECTION 10.** 938.345 (3) (c) of the statutes is amended to read:

21 938.345 **(3)** (c) If the court orders a juvenile to comply with the reporting
22 requirements under s. 301.45 or orders the juvenile subject to s. 301.475, the clerk
23 of the court in which the order is entered shall promptly forward a copy of the order
24 to the department. If the finding of need of protection or services on which the order
25 is based is reversed, set aside, or vacated, the clerk of the court shall promptly

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1 forward to the department a certificate stating that the finding has been reversed,
2 set aside or vacated.

3 **SECTION 11.** 939.615 (5m) of the statutes is created to read:

4 939.615 **(5m)** CONDITIONS OF LIFETIME SUPERVISION. (a) In this subsection,
5 “computer” has the definition given in s. 301.475 (1).

6 (b) The department may at any time, if the department determines that such
7 an action would protect the public, prohibit as a regulation of lifetime supervision a
8 person placed on lifetime supervision from doing any of the following:

9 1. Accessing or using a computer unless the court has given prior written
10 approval or unless the access or use is in connection with employment or employment
11 search and the department has given prior approval.

12 2. Refusing to submit to, or hampering an action, under par. (c).

13 (c) If a person on lifetime supervision who has regulations placed on him or her
14 as described under par. (b) accesses or uses a computer in compliance with par. (b)
15 1., the department may examine the computer and any peripherals, install any
16 monitoring device on the computer, or add conditions to the access or use.

17 (d) The department may charge a person on lifetime supervision who is subject
18 to par. (b) an amount to reimburse the department for any costs of any action under
19 par. (c) related to the person. The department shall collect the amounts charged
20 under this paragraph and credit those moneys to the appropriation account under
21 s. 20.410 (1) (gL).

22 **SECTION 12.** 971.17 (1m) (b) 4m. of the statutes is created to read:

23 971.17 **(1m)** (b) 4m. If the court orders a defendant to comply with the reporting
24 requirements under s. 301.45, the court shall determine if a computer was used in
25 the commission of the underlying violation. If the court finds that a computer was

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1 used in the commission of the underlying violation, the court shall order that the
2 defendant be subject to s. 301.475 for as long as the defendant must comply with the
3 reporting requirements under s. 301.45.

4 **SECTION 13.** 971.17 (1m) (b) 5. of the statutes is amended to read:

5 971.17 **(1m)** (b) 5. If the court orders a defendant to comply with the reporting
6 requirements under s. 301.45 or orders the defendant subject to s. 301.475, the clerk
7 of the court in which the order is entered shall promptly forward a copy of the order
8 to the department of corrections. If the finding of not guilty by reason of mental
9 disease or defect on which the order is based is reversed, set aside or vacated, the
10 clerk of the court shall promptly forward to the department of corrections a
11 certificate stating that the finding has been reversed, set aside or vacated.

12 **SECTION 14.** 973.048 (title) of the statutes is amended to read:

13 **973.048** (title) **Sex offender reporting requirements and Internet access**
14 **restrictions.**

15 **SECTION 15.** 973.048 (4m) of the statutes is created to read:

16 973.048 **(4m)** If the court orders a person to comply with the reporting
17 requirements under s. 301.45, the court shall determine if a computer was used in
18 the commission of the underlying crime. If the court finds that a computer was used
19 in the commission of the underlying crime, the court shall order that the person be
20 subject to s. 301.475 for as long as the person must comply with the reporting
21 requirements under s. 301.45.

22 **SECTION 16.** 973.048 (5) of the statutes is amended to read:

23 973.048 **(5)** If the court orders a person to comply with the reporting
24 requirements under s. 301.45 or orders the person subject to s. 301.475, the clerk of
25 the court in which the order is entered shall promptly forward a copy of the order to

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1 the department of corrections. If the conviction on which the order is based is
2 reversed, set aside or vacated, the clerk of the court shall promptly forward to the
3 department of corrections a certificate stating that the conviction has been reversed,
4 set aside or vacated.

5 **SECTION 17. Initial applicability.**

6 (1) The treatment of section 51.20 (13) (ct) 4m. of the statutes first applies to
7 petitions filed on the effective date of this subsection.

8 (2) The treatment of sections 938.34 (15m) (dm) and 938.345 (3) (bm) of the
9 statutes first applies to dispositional orders issued on the effective date of this
10 subsection.

11 (3) The treatment of section 971.17 (1m) (b) 4m. of the statutes first applies to
12 findings made on the effective date of this subsection.

13 (4) The treatment of section 973.048 (4m) of the statutes first applies to
14 sentences or probation imposed on the effective date of this subsection.

15 (END)