



## 2009 ASSEMBLY BILL 329

June 23, 2009 – Introduced by Representatives STONE, HRAYCHUCK, A. OTT, BROOKS, SUDER, PETERSEN, KERKMAN, SMITH, LEMAHIEU, BERCEAU, KAUFERT, JORGENSEN, TOWNSEND, MURTHA, VUKMIR, J. OTT, ZEPNICK, BIES, RIPP, PETROWSKI, NERISON, GUNDERSON, SPANBAUER, TURNER, GUNDRUM and ROYS, cosponsored by Senators SULLIVAN, DARLING, LASSA, KAPANKE, A. LASEE, SCHULTZ, LAZICH and PLALE. Referred to Committee on Corrections and the Courts.

1     **AN ACT** *to renumber* 302.114 (5) (d); *to renumber and amend* 302.113 (7); *to*  
2           *amend* 301.048 (2) (am) 3m. and 302.113 (7m) (a); and *to create* 302.113 (7)  
3           (b), 302.114 (5) (d) 2., 304.06 (1r), 973.01 (5m) and 973.09 (6) of the statutes;  
4           **relating to:** conditions of extended supervision, probation, and parole for  
5           persons convicted of certain sex offenses.

---

### *Analysis by the Legislative Reference Bureau*

Under current law, if a person is under the supervision of the Department of Corrections (DOC) on parole, probation, or extended supervision (release), the person is subject to conditions and rules set by the court or DOC. Under this bill, a person who is on parole, probation, or extended supervision following a conviction for sexual assault, sexual assault of a child, or repeated sexual assault of a child (sex offense) is prohibited as a condition of release from contacting the victim of the sex offense or other persons who have certain relationships with the victim.

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:*

6           **SECTION 1.** 301.048 (2) (am) 3m. of the statutes is amended to read:

**ASSEMBLY BILL 329**

1           301.048 **(2)** (am) 3m. A court or the department requires his or her  
2 participation in the program as a condition of extended supervision under s. 302.113  
3 (7) (a) or 302.114 (5) (d) 1, or (8) or 973.01 (5).

4           **SECTION 2.** 302.113 (7) of the statutes is renumbered 302.113 (7) (a) and  
5 amended to read:

6           302.113 **(7)** (a) Any inmate released to extended supervision under this section  
7 is subject to all conditions and rules of extended supervision until the expiration of  
8 the term of extended supervision portion of the bifurcated sentence. The department  
9 may set conditions of extended supervision in addition to any conditions of extended  
10 supervision required under s. 302.116, if applicable, or set by the court under sub.  
11 (7m) or s. 973.01 (5) or (5m) (b) if the conditions set by the department do not conflict  
12 with the court's conditions.

13           **SECTION 3.** 302.113 (7) (b) of the statutes is created to read:

14           302.113 **(7)** (b) If an inmate being released to extended supervision would have  
15 been subject to the condition of extended supervision under s. 973.01 (5m) (b) had he  
16 or she been sentenced on or after the effective date of this paragraph .... [LRB inserts  
17 date], the department shall set as a condition of extended supervision a condition  
18 identical to that under s. 973.01 (5m) (b). A petition may be filed as described under  
19 s. 973.01 (5m) (c) to remove the condition.

20           **SECTION 4.** 302.113 (7m) (a) of the statutes is amended to read:

21           302.113 **(7m)** (a) Except as provided in par. (e), sub. (7) (b), and ss. 302.114 (5)  
22 (d) 2. and 973.01 (5m) (c), a person subject to this section or the department may  
23 petition the sentencing court to modify any conditions of extended supervision set by  
24 the court.

25           **SECTION 5.** 302.114 (5) (d) of the statutes is renumbered 302.114 (5) (d) 1.

**ASSEMBLY BILL 329**

1           **SECTION 6.** 302.114 (5) (d) 2. of the statutes is created to read:

2           302.114 (5) (d) 2. If the court grants the inmate's petition for release to extended  
3 supervision, the court shall, if the inmate would have been subject to the condition  
4 of extended supervision under s. 973.01 (5m) (b) had he or she been sentenced on or  
5 after the effective date of this subdivision .... [LRB inserts date], set as a condition  
6 of extended supervision a condition identical to that under s. 973.01 (5m) (b). A  
7 petition may be filed as described under s. 973.01 (5m) (c) to remove the condition.

8           **SECTION 7.** 304.06 (1r) of the statutes is created to read:

9           304.06 (1r) (a) In this subsection:

10           1. "Contact" has the meaning given in s. 973.01 (5m) (a) 1.

11           2. "Protected person" has the meaning given in s. 973.01 (5m) (a) 3.

12           (b) If parole is granted following a violation of s. 940.225 (1), (2), or (3), 948.02  
13 (1) or (2), or 948.025, the parole commission shall, unless a petition has been granted  
14 under par. (c) 2., prohibit the parolee, as a condition of parole, from doing any of the  
15 following:

16           1. Contacting the victim or any protected person.

17           2. Being within a specified distance of the residence, place of employment, or  
18 school of the victim or protected person, any other fixed location to minimize contact  
19 with the victim or protected person, as determined by the parole commission, or any  
20 other location temporarily occupied by the victim or protected person.

21           3. Conducting an Internet search on the victim or any protected person.

22           4. Causing another person other than a law enforcement officer to contact the  
23 victim or any protected person.

24           (c) 1. If a parolee is subject to a condition imposed under par. (b), the victim of  
25 the violation may file, with the circuit court for the county in which the parolee was

**ASSEMBLY BILL 329**

1 convicted or with the parole commission, a petition, at any time before or during the  
2 parole period, requesting that the condition be eliminated.

3 2. Upon receiving a petition under subd. 1., the court or the parole commission,  
4 whichever is appropriate, shall grant the petition if it determines that granting the  
5 petition does not pose a risk to public safety.

6 3. If the petition is not granted under subd. 2., the victim who filed the petition  
7 may not file another petition under subd. 1. regarding that parolee until 5 years have  
8 elapsed since the petition was denied.

9 **SECTION 8.** 973.01 (5m) of the statutes is created to read:

10 **973.01 (5m) EXTENDED SUPERVISION CONDITIONS FOR SEXUAL ASSAULT.** (a) In this  
11 subsection:

12 1. “Contact” means call, e-mail, mail, or fax.

13 2. “Dating relationship” has the meaning given in s. 813.12 (1) (ag).

14 3. “Protected person” means a spouse, sibling, parent, child, grandparent, or  
15 grandchild of the victim; any employer of the victim; any individual with whom the  
16 victim has a child in common; any individual with whom the victim has or has had  
17 a dating relationship; and any individual who is part of the victim’s household.

18 (b) Whenever the court imposes a bifurcated sentence under sub. (1) for a  
19 violation of s. 940.225 (1), (2), or (3), 948.02 (1) or (2), or 948.025, the court shall,  
20 except as provided in par. (c), prohibit the person, as a condition of extended  
21 supervision, from doing any of the following:

22 1. Contacting the victim or any protected person.

23 2. Being within a specified distance of the residence, place of employment, or  
24 school of the victim or protected person, any other fixed location to minimize contact

**ASSEMBLY BILL 329**

1 with the victim or protected person, as determined by the court, or any other location  
2 temporarily occupied by the victim or protected person.

3 3. Conducting an Internet search on the victim or any protected person.

4 4. Causing another person other than a law enforcement officer to contact the  
5 victim or any protected person.

6 (c) 1. If a person is subject to a condition imposed under par. (b) or s. 302.113  
7 (7) (b) or 302.114 (5) (d) 2., the victim of the violation may file, with the circuit court  
8 for the county in which the person was convicted or with the department, a petition,  
9 at any time before or during the person's sentence, requesting that the condition be  
10 eliminated.

11 2. Upon receiving a petition under subd. 1., the court or the department,  
12 whichever is appropriate, shall grant the petition if it determines that granting the  
13 petition does not pose a risk to public safety.

14 3. If the petition is not granted under subd. 2., the victim who filed the petition  
15 may not file another petition under subd. 1. regarding that person until 5 years have  
16 elapsed since the petition was denied.

17 **SECTION 9.** 973.09 (6) of the statutes is created to read:

18 973.09 (6) (a) In this subsection:

19 1. "Contact" has the meaning given in s. 973.01 (5m) (a) 1.

20 2. "Protected person" has the meaning given in s. 973.01 (5m) (a) 3.

21 (b) If the probation is imposed following a violation of s. 940.225 (1), (2), or (3),  
22 948.02 (1) or (2), or 948.025, the court shall, except as provided in par. (c), prohibit  
23 the person, as a condition of probation, from doing any of the following:

24 1. Contacting the victim or any protected person.

**ASSEMBLY BILL 329****SECTION 9**

1           2. Being within a specified distance of the residence, place of employment, or  
2 school of the victim or protected person, any other fixed location to minimize contact  
3 with the victim or protected person, as determined by the court, or any other location  
4 temporarily occupied by the victim or protected person.

5           3. Conducting an Internet search on the victim or any protected person.

6           4. Causing another person other than a law enforcement officer to contact the  
7 victim or any protected person.

8           (c) 1. If a person is subject to a condition imposed under par. (b), the victim of  
9 the violation may file, with the circuit court for the county in which the person was  
10 convicted or with the department, a petition, at any time before or during the person's  
11 probation, requesting that the condition be eliminated.

12           2. Upon receiving a petition under subd. 1., the court or the department,  
13 whichever is appropriate, shall grant the petition if it determines that granting the  
14 petition does not pose a risk to public safety.

15           3. If the petition is not granted under subd. 2., the victim who filed the petition  
16 may not file another petition under subd. 1. regarding that person until 5 years have  
17 elapsed since the petition was denied.

18           **SECTION 10. Initial applicability.**

19           (1) The treatment of sections 302.113 (7) (b) and 302.114 (5) (d) 2. of the statutes  
20 first applies to persons released to extended supervision on the effective date of this  
21 subsection.

22           (2) The treatment of sections 304.06 (1r) (b) and 973.01 (5m) (b) of the statutes  
23 first applies to persons sentenced on the effective date of this subsection.

