



## 2015 ASSEMBLY BILL 290

July 29, 2015 – Introduced by Representatives KLEEFISCH, JOHNSON, BERNIER, BOWEN, EDMING, GANNON, HEATON, HORLACHER, JARCHOW, KITCHENS, KRUG, MURSAU, QUINN, SINICKI, SPIROS, WEATHERSTON and ZEPNICK. Referred to Committee on Corrections.

1     **AN ACT** *to repeal* 301.03 (20) (a) 2.; *to renumber* 301.48 (1) (a); *to amend* 301.03  
2           (20) (a) 1., 301.03 (20) (b) and 980.08 (6m); and *to create* 48.652, 66.0408,  
3           301.48 (1) (ad), 301.48 (1) (dv), 301.48 (8) and 980.085 of the statutes; **relating**  
4           **to:** imposing residence restrictions on certain sex offenders, establishing  
5           conditions of release from civil commitment for certain sex offenders, and  
6           providing a criminal penalty.

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### ***Analysis by the Legislative Reference Bureau***

This bill establishes residence restrictions for persons who have committed certain sex offenses.

Under current law, when a person who has committed a sex offense (sex offender) is released to parole or extended supervision in the community, the Department of Corrections (DOC) may approve the person to reside only within the county in which the person was convicted of the offense, or in which he or she was residing at the time of the offense, or within a sex offender treatment facility. Current law allows DOC to authorize the person to reside in a different location if the person initially resided in one of the listed locations.

Under current law, with some exceptions, a person who commits certain sex offenses is required to register with DOC (registered sex offender). A registered sex offender may not establish or change his or her residence without notifying DOC and, so long as he or she is under DOC supervision, without DOC approval. DOC

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maintains the sex offender registry and makes the information contained therein available on an Internet site and makes the information available to local law enforcement agencies via a direct electronic data transfer system.

Under current law, a person who is released to the community after committing certain sex offenses against children or who otherwise requires close monitoring upon his or her release into the community (high-risk sex offender) is subject to electronic monitoring by DOC. A high-risk sex offender may be monitored through global positioning system tracking or passive positioning system tracking, which may continue for the lifetime of the high-risk sex offender.

Under the bill, DOC must make every reasonable effort to authorize a sex offender to reside within the city, town, or village in which he or she resided on the date of the sex offense. If the person is unable to reside in the city, town, or village in which he or she resided on the date of the sex offense, DOC may authorize the person to reside in the county in which the person resided at the time of the sex offense or in which the person was convicted of the sex offense.

Under the bill, DOC may authorize most sex offenders to reside in a different location if the sex offender was initially placed in the appropriate city, town, village, or county but may not authorize a high-risk sex offender to reside in any location other than a sex offender treatment facility. Under the bill, a high-risk sex offender may not reside within 1,000 feet of a school premises or within 1,000 feet of a child care facility for as long as he or she is subject to tracking.

The bill provides exceptions from the residency restriction for a person who is confined in a jail, prison, or other house of correction, for certain juvenile offenders, and for a person who is living in housing under a contract with DOC.

Under the bill, a high-risk sex offender who intentionally violates a restriction on his or her residence is guilty of a Class H felony and may be fined up to \$10,000, or sentenced to a term of imprisonment of up to six years, or both.

The bill sets forth conditions of release, established by the Department of Health Services, for those persons who are released to the community after being held in civil commitment for certain serious sex offenses. Finally, the bill prohibits a city, village, town, or county from enacting or enforcing an ordinance or resolution that affects the residence of any registered sex offender.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

- 1           **SECTION 1.** 48.652 of the statutes is created to read:
- 2           **48.652 Notification to department of corrections.** The department shall
- 3           notify the department of corrections monthly of the address of any child care facility

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1 that was licensed pursuant to s. 48.65 or certified pursuant to s. 48.651 during the  
2 preceding month.

3 **SECTION 2.** 66.0408 of the statutes is created to read:

4 **66.0408 Local regulation of sex offenders. (1)** In this section:

5 (a) "Political subdivision" means a city, village, town, or county.

6 (b) "Sex offender" means a person who is a registered sex offender under s.  
7 301.45.

8 **(2)** (a) A political subdivision may not enact an ordinance or adopt a resolution  
9 that affects the residence of a sex offender.

10 (b) If a political subdivision has in effect on the effective date of this paragraph  
11 .... [LRB inserts date], an ordinance or resolution that is inconsistent with par. (a),  
12 the ordinance or resolution does not apply and may not be enforced.

13 **SECTION 3.** 301.03 (20) (a) 1. of the statutes is amended to read:

14 301.03 **(20)** (a) 1. The city, town, or village in which the person resided on the  
15 date of the sex offense. If, after making every reasonable effort, the department is  
16 unable to place the person in the city, town, or village in which the person resided on  
17 the date of the sex offense, the department shall place the person in the county in  
18 which the person resided on the date of the sex offense or in the county in which the  
19 person was convicted of the sex offense.

20 **SECTION 4.** 301.03 (20) (a) 2. of the statutes is repealed.

21 **SECTION 5.** 301.03 (20) (b) of the statutes is amended to read:

22 301.03 **(20)** (b) Paragraph (a) does not preclude the department from  
23 authorizing a person to reside in a location other than one listed in par. (a) 1. ~~to~~ or  
24 3. if the department initially placed the person in one of those listed locations. This

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1 paragraph does not apply to a person who is subject to a residency restriction under  
2 s. 301.48 (8).

3 **SECTION 6.** 301.48 (1) (a) of the statutes is renumbered 301.48 (1) (am).

4 **SECTION 7.** 301.48 (1) (ad) of the statutes is created to read:

5 301.48 (1) (ad) "Child care facility" means a child care facility that is operated  
6 by a person licensed under s. 48.65 or certified under s. 48.651 or that is established  
7 or contracted for under s. 120.13 (14).

8 **SECTION 8.** 301.48 (1) (dv) of the statutes is created to read:

9 301.48 (1) (dv) "School premises" has the meaning given in s. 948.61 (1) (c).

10 **SECTION 9.** 301.48 (8) of the statutes is created to read:

11 301.48 (8) RESIDENCY RESTRICTIONS. (a) Except as provided in par. (c), no person  
12 who is subject to global positioning system tracking or passive positioning system  
13 tracking may, during the period he or she is subject to tracking, reside within 1,000  
14 feet of a school premises or within 1,000 feet of a child care facility.

15 (b) Paragraph (a) does not apply to any of the following:

16 1. A person who is confined in an adult correctional facility, a juvenile  
17 correctional facility, as defined in s. 938.02 (10p), a juvenile detention facility, as  
18 defined in s. 938.02 (10r), a secured residential care center for children and youth,  
19 as defined in s. 938.02 (15g), a jail, or a house of correction or who is confined  
20 pursuant to ch. 980.

21 2. A facility operating under a contract with the department to provide housing  
22 for offenders.

23 3. A person whose information is not available to the public pursuant to s.  
24 301.46 (5) (c).

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1 (c) Not later than 30 days after receiving notice under s. 48.652, the department  
2 shall notify a person who is subject to a residency restriction under this subsection  
3 and who resides within 1,000 feet of the child care facility that is the subject of the  
4 notice that he or she may not reside within 1,000 feet of the child care facility more  
5 than 90 days after the date the department issues the notification.

6 (d) A person who intentionally violates a residency restriction under this  
7 subsection is guilty of a Class H felony.

8 **SECTION 10.** 980.08 (6m) of the statutes is amended to read:

9 980.08 (**6m**) An order for supervised release places the person in the custody  
10 and control of the department. The department shall arrange for control, care and  
11 treatment of the person in the least restrictive manner consistent with the  
12 requirements of the person and in accordance with the plan for supervised release  
13 approved by the court under sub. (4) (g). A person on supervised release is subject  
14 to the conditions under s. 980.085, to the conditions set by the court, and to the rules  
15 of the department. Within 10 days of imposing a rule, the department shall file with  
16 the court any additional rule of supervision not inconsistent with the rules or  
17 conditions imposed by the court. If the department wants to change a rule or  
18 condition of supervision imposed by the court, the department must obtain the  
19 court's approval. Before a person is placed on supervised release by the court under  
20 this section, the court shall so notify the municipal police department and county  
21 sheriff for the municipality and county in which the person will be residing. The  
22 notification requirement under this subsection does not apply if a municipal police  
23 department or county sheriff submits to the court a written statement waiving the  
24 right to be notified.

25 **SECTION 11.** 980.085 of the statutes is created to read:

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1           **980.085 Conditions of supervised release.** (1) The conditions of  
2 supervised release in this section are in addition to any conditions imposed by a court  
3 or by the department under s. 980.08.

4           (2) A person on supervised release shall do all of the following:

5           (a) Participate in and accept treatment opportunities offered or recommended  
6 by the department, including sex offender treatment, alcohol and other drug  
7 addiction treatment, and psychological testing.

8           (b) Comply with all safety and security measures that are required under this  
9 chapter or under ch. 301 or that are required or implemented by the department,  
10 including global positioning system tracking; chaperone requirements; searches of  
11 the person's body, property, or residence; random, unannounced residence visits; and  
12 drug and alcohol testing.

13           (c) Provide true, correct, and complete responses to inquiries by the  
14 department, in writing or orally, as requested by the department.

15           (d) Submit to polygraph examinations as requested by the department.

16           (e) Contribute to the cost of his or her care and supervision. The department  
17 shall determine the person's ability to pay and determine an amount the person shall  
18 pay under this paragraph.

19           (f) Seek, obtain, and maintain verifiable employment. If the person is unable  
20 to be employed, the person shall participate in volunteer or educational activities  
21 that are approved by the department.

22           (g) Reside in a residence that is approved by the department and ordered by  
23 the committing court. No other individual may reside at the residence without  
24 approval by the department.

25           (3) A person on supervised release may not do any of the following:

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1 (a) Have unsupervised contact with any person under the age of 18 without  
2 prior approval from the department.

3 (b) Maintain or initiate any relationship with any adult, including a family  
4 member, who has minor children without prior approval from the department.

5 (c) Have any physical relationship or sexual contact with any person without  
6 prior approval from the department.

7 (d) Possess any sexually related materials without prior approval from the  
8 department.

9 (e) Purchase, possess, or use any electronic device that is capable of taking,  
10 retrieving, or storing images or data or of sending messages, or of communicating  
11 with other similar devices, or of making a voice call, without prior approval from the  
12 department.

13 **SECTION 12. Nonstatutory provisions.**

14 (1) No later than the 30th day beginning after the effective date of this  
15 subsection, the department of corrections shall notify each person to whom this  
16 subsection applies of the restriction established under section 301.48 (8) of the  
17 statutes, as created by this act. Notwithstanding section 301.48 (8) of the statutes,  
18 as created by this act, a person subject to global positioning system tracking or  
19 passive positioning system tracking under section 301.48 of the statutes who resides  
20 within 1,000 feet of a school premises or within 1,000 feet of a child care facility on  
21 the effective date of this subsection may reside there through the 90th day beginning  
22 after the date the department of corrections issues a notification to the person under  
23 this subsection. In this subsection, "child care facility" has the meaning given in

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**SECTION 12**

1 section 301.48 (1) (ad) of the statutes, as created by this act, and “school premises”

2 has the meaning given in section 301.48 (1) (dv) of the statutes, as created by this act.

3 (END)