



**SENATE AMENDMENT 2,
TO 1997 ASSEMBLY BILL 186**

May 13, 1997 – Offered by Senators ADELMAN, DARLING, GEORGE, HUELSMAN and JAUCH.

1 At the locations indicated, amend the bill, as shown by assembly substitute
2 amendment 1, as follows:

3 **1.** Page 1, line 2: delete “of the general public”.

4 **2.** Page 1, line 3: after “offenders” insert “and sex offender registration
5 requirements”.

6 **3.** Page 1, line 4: delete lines 4 and 5 and substitute:

7 “**SECTION 1d.** 51.20 (13) (ct) of the statutes, as created by 1995 Wisconsin Act
8 440, is amended to read:

9 51.20 (**13**) (ct) 1. If the subject individual is before the court on a petition filed
10 under a court order under s. 938.30 (5) (c) 1. and is found to have committed a
11 violation, or to have solicited, conspired or attempted to commit a violation, of s.
12 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06,
13 948.07, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the victim was a minor

1 and the subject individual was not the victim's parent, the court shall require the
2 individual to comply with the reporting requirements under s. 301.45 unless the
3 court determines that the individual is not required to comply under s. 301.45 (1m).

4 2. Except as provided in subd. 1., if the subject individual is before the court
5 on a petition filed under a court order under s. 938.30 (5) (c) 1. and is found to have
6 committed any violation, or to have solicited, conspired or attempted to commit any
7 violation, of ch. 940, 944 or 948 or ss. 943.01 to 943.15, the court may require the
8 subject individual to comply with the reporting requirements under s. 301.45 if the
9 court determines that the underlying conduct was sexually motivated, as defined in
10 s. 980.01 (5), and that it would be in the interest of public protection to have the
11 subject individual report under s. 301.45. The court may require the subject
12 individual to comply with the reporting requirements under s. 301.45 even if the
13 court determines under subd. 1. that the subject individual is not required to comply
14 under s. 301.45 (1m).

15 **SECTION 1h.** 301.45 (1) (e) of the statutes, as affected by 1995 Wisconsin Act
16 440, is amended to read:

17 301.45 (1) (e) Is ordered by a court under s. 51.20 (13) (ct) 2., 938.34 (15m) (b),
18 971.17 (1m) (b) 2. or 973.048 (2) to comply with the reporting requirements under this
19 section.

20 **SECTION 1p.** 301.45 (1m) of the statutes is created to read:

21 301.45 (1m) EXCEPTION TO REGISTRATION REQUIREMENT. (a) In this subsection,
22 "consent" has the meaning given in s. 940.225 (4).

23 (b) Notwithstanding sub. (1), a person is not required to comply with the
24 reporting requirements under this section if a court determines that all of the
25 following apply:

1 1. The person meets the criteria under sub. (1) based on any violation, or on the
2 solicitation, conspiracy or attempt to commit any violation, of s. 948.02 (1) or (2) or
3 948.025 or of a law of another state that is comparable to s. 948.02 (1) or (2) or
4 948.025.

5 2. At the time of the violation, or of the solicitation, conspiracy or attempt to
6 commit the violation, of s. 948.02 (1) or (2) or 948.025 or of a law of another state that
7 is comparable to s. 948.02 (1) or (2) or 948.025, the person was not more than 4 years
8 older or not more than 4 years younger than the child.

9 3. The child consented to the sexual contact or sexual intercourse.

10 (c) If a person meets the criteria under sub. (1) and believes that he or she is
11 not required under par. (b) to comply with the reporting requirements under this
12 section, the person may move a court to make the determination of whether par. (b)
13 applies to the person. A motion made under this paragraph shall be filed with the
14 circuit court for the county in which the person was convicted, adjudicated
15 delinquent, found in need of protection or services or found not guilty or not
16 responsible by reason of mental disease or defect, except that if the person meets the
17 criteria of sub. (1) (dh) the person shall file the motion in the circuit court for the
18 county in which he or she resides. A court shall hold a hearing on a motion made by
19 a person under this paragraph.

20 **SECTION 1t.** 301.46 (2) (e) of the statutes, as created by 1995 Wisconsin Act 440,
21 is amended to read:”.

22 **4.** Page 1, line 12: after that line insert:

23 “**SECTION 1x.** 301.46 (2m) (at) of the statutes is created to read:

1 301.46 **(2m)** (at) Paragraphs (a) and (am) do not apply to a person to whom s.
2 301.45 (1m) applies unless the person is required to comply with the reporting
3 requirements under s. 301.45 by a court acting under s. 51.20 (13) (ct) 2., 938.34
4 (15m) (b), 971.17 (1m) (b) 2. or 973.048 (2), whichever is applicable.”.

5 **5.** Page 2, line 12: after that line insert:

6 “**SECTION 3e.** 938.34 (15m) of the statutes, as created by 1995 Wisconsin Act
7 440, is amended to read:

8 938.34 **(15m)** (a) If the child is adjudicated delinquent on the basis of a
9 violation, or the solicitation, conspiracy or attempt to commit a violation, of s.
10 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06,
11 948.07, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the victim was a minor
12 and the child was not the victim’s parent, the court shall require the person to comply
13 with the reporting requirements under s. 301.45 unless the court determines that the
14 child is not required to comply under s. 301.45 (1m).

15 (b) Except as provided in par. (a), if the child is adjudicated delinquent on the
16 basis of any violation, or the solicitation, conspiracy or attempt to commit any
17 violation, under ch. 940, 944 or 948 or ss. 943.01 to 943.15, the court may require the
18 child to comply with the reporting requirements under s. 301.45 if the court
19 determines that the underlying conduct was sexually motivated, as defined in s.
20 980.01 (5), and that it would be in the interest of public protection to have the child
21 report under s. 301.45. The court may require the child to comply with the reporting
22 requirements under s. 301.45 even if the court determines under par. (a) that the
23 child is not required to comply under s. 301.45 (1m).

1 **SECTION 3m.** 971.17 (1m) (b) of the statutes, as created by 1995 Wisconsin Act
2 440, is amended to read:

3 971.17 **(1m)** (b) 1. If the defendant under sub. (1) is found not guilty by reason
4 of mental disease or defect for a violation, or for the solicitation, conspiracy or
5 attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02
6 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 or 948.30, or of s.
7 940.30 or 940.31 if the victim was a minor and the defendant was not the victim's
8 parent, the court shall require the defendant to comply with the reporting
9 requirements under s. 301.45 unless the court determines that the defendant is not
10 required to comply under s. 301.45 (1m).

11 2. Except as provided in subd. 1., if the defendant under sub. (1) is found not
12 guilty by reason of mental disease or defect for any violation, or for the solicitation,
13 conspiracy or attempt to commit any violation, of ch. 940, 944 or 948 or ss. 943.01 to
14 943.15, the court may require the defendant to comply with the reporting
15 requirements under s. 301.45 if the court determines that the underlying conduct
16 was sexually motivated, as defined in s. 980.01 (5), and that it would be in the interest
17 of public protection to have the defendant report under s. 301.45. The court may
18 require the defendant to comply with the reporting requirements under s. 301.45
19 even if the court determines under subd. 1. that the defendant is not required to
20 comply under s. 301.45 (1m).

21 **SECTION 3s.** 973.048 of the statutes, as created by 1995 Wisconsin Act 440, is
22 amended to read:

23 **973.048 Sex offender reporting requirements.** (1) If a court imposes a
24 sentence or places a person on probation for a violation, or for the solicitation,
25 conspiracy or attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2) or (3),

1 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 or
2 948.30, or of s. 940.30 or 940.31 if the victim was a minor and the person was not the
3 victim's parent, the court shall require the person to comply with the reporting
4 requirements under s. 301.45 unless the court determines that the person is not
5 required to comply under s. 301.45 (1m).

6 (2) Except as provided in sub. (1), if a court imposes a sentence or places a
7 person on probation for any violation, or for the solicitation, conspiracy or attempt
8 to commit any violation, under ch. 940, 944 or 948 or ss. 943.01 to 943.15, the court
9 may require the person to comply with the reporting requirements under s. 301.45
10 if the court determines that the underlying conduct was sexually motivated, as
11 defined in s. 980.01 (5), and that it would be in the interest of public protection to have
12 the person report under s. 301.45. The court may require the person to comply with
13 the reporting requirements under s. 301.45 even if the court determines under sub.
14 (1) that the person is not required to comply under s. 301.45 (1m).".

15 (END)