



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-1407/P1  
JEO:kmg:km

Weds 10/6  
afternoon

2  
r.m.r.

PRELIMINARY **DRAFT - NOT READY FOR INTRODUCTION**

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1 **AN ACT** to renumber and amend 301.45 (1) and 301.46 (1); to amend **48.396**  
2 (2) (f), 51.20 (13) (ct) 2m., 51.375 (1) (d), 301.132 (1) (c), 301.45 (1m) (a) 1., 301.45  
3 (1m) (b), 301.45 (2) (a) (intro.), 301.45 (2) (b), 301.45 (2) (c), 301.45 (2) (d), 301.45  
4 (2) (e) (intro.), 301.45 (3) (a) (intro.), 301.45 (3) (b) 1., 301.45 (3) (b) 1m., 301.45  
5 (3) (b) 2., 301.45 (3) (b) 3., 301.45 (3) (b) 3m., 301.45 (4m), 301.45 (5) (a) (intro.),  
6 301.45 (5) (b) (intro.), 301.45 (5) (b) 1., 301.46 (2m) (a), 301.46 (2m) (am), 938.34  
7 (15m) (bm), 938.396 (2) (em), 971.17 (1m) (b) 2m. and 973.048 (2m); and to  
8 **create** 51.20 (13) (ct) 4., 301.45 (1d), 301.45 (1g) (dj), 301.45 (1g) (dL), 301.45  
9 (1g) (f), 301.45 (1g) (g), 301.45 (2) (f), 301.45 (5) (am), 301.45 (5) (b) 3., 301.46  
10 (1) (b), 938.34 (15m) (d), 939.615 (6) (i), 971.17 (1m) (b) 4. and 973.048 (4) of the  
11 statutes; **relating to:** sex offender registration.

**Analysis by the Legislative Reference Bureau**

This is a preliminary draft. An analysis will be provided in a later version of the draft.

For further information see the **state** 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. 48.396 (2) (f) of the statutes is amended to read:

2 48.396 (2) (f) Upon request of the department of corrections to review court  
3 records for the purpose of obtaining information concerning a child required to  
4 register under s. 301.45, the court shall open for inspection by authorized  
5 representatives of the department of corrections the records of the court relating to  
6 any child who has been found in need of protection or services for an offense specified  
7 in s. 301.45 ~~(1)~~ (1g) (a). The department of corrections may disclose information that  
8 it obtains under this paragraph as provided under s. 301.46.

9 SECTION 2. 51.20 (13) (ct) 2m. of the statutes is amended to read:

10 51.20 (13) (ct) 2m. If the subject individual is before the court on a petition filed  
11 under a court order under s. 938.30 (5) (c) 1. and is found to have committed a  
12 violation, or to have solicited, conspired or attempted to commit a violation, of s.  
13 <sup>940.22 (2)</sup> 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06,  
14 948.07, 948.08, 948.095, 948.11 (2) (a) or (am), 948.12, 948.13 or 948.30, or of s. 940.30  
15 or 940.31 if the victim was a minor and the subject individual was not the victim's  
16 parent, the court shall require the individual to comply with the reporting  
17 requirements under s. 301.45 unless the court determines, after a hearing on a  
18 motion made by the individual, that the individual is not required to comply under  
19 s. 301.45(1m).

→ ~~\*\*\*NOTE: Should this list include a reference to s. 940.22 (2)?~~

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

1 51.20 (13) (ct) 4. If the court orders a subject individual to comply with the  
2 reporting requirements under s. 301.45, the court may order the subject individual  
3 to continue to comply with the reporting requirements until his or her death.

4 SECTION 4. 51.375 (1) (d) of the statutes is amended to read:

5 51.375 (1) (d) "Sex offender" means a person committed to the department who  
6 meets any of the criteria specified in s. 301.45 ~~(1)~~ (1g).

INS  
3-6

7 SECTION 5. 301.132 (1) (c) of the statutes is amended to read:

8 301.132 (1) (c) "Sex offender" means a person in the custody of the department  
9 who meets any of the criteria specified in s. 301.45 ~~(1)~~ (1g).

INS  
3-9

10 SECTION 6. 301.45 (1) of the statutes is renumbered 301.45 (lg), and 301.45 (lg)

11 (a), (b), (bm), (c), (d), (dd) ~~and~~ and (e) (dh), as renumbered, are amended to read:

12 301.45 (1g) (a) Is convicted; <sup>or</sup> adjudicated delinquent ~~or found in need of~~  
13 ~~protection or services~~ on or after December 25, 1993, for ~~any violation, or for the~~  
14 ~~solicitation, conspiracy or attempt to commit any violation, of s. 940.22 (2), 940.225~~  
15 ~~(1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07,~~  
16 ~~948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the victim was a minor and the~~  
17 ~~person was not the victim's parent~~ a sex offense.

18 (b) Is in prison, a secured correctional facility, as defined in s. 938.02 (15m), or  
19 a secured child caring institution, as defined in s. 938.02 (15g), or on probation,  
20 extended supervision, parole, supervision or aftercare supervision on or after  
21 December 25, 1993, for ~~any violation, or for the solicitation, conspiracy or attempt~~  
22 ~~to commit any violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or~~  
23 ~~(2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 or 948.30, or of s. 940.30~~  
24 ~~or 940.31 if the victim was a minor and the person was not the victim's parent~~ a sex  
25 offense.

1 (bm) Is in prison, a secured correctional facility, as defined in s. 938.02 (15m),  
2 or a secured child caring institution, as defined in s. 938.02 (15g), or on probation,  
3 extended supervision, parole, supervision or aftercare supervision on or after  
4 December 25, 1993, for a violation, or for the solicitation, conspiracy or attempt to  
5 commit a violation, of a law of this state that is comparable to ~~s. 940.22 (2), 940.225~~  
6 ~~1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07,~~  
7 ~~948.08, 948.11 or 948.30~~ or that is comparable to a violation of s. 940.30 or 940.31 if  
8 ~~the victim was a minor and the person was not the victim's parent~~ a sex offense.

9 (c) Is found not guilty or not responsible by reason of mental disease or defect  
10 on or after December 25, 1993, and committed under s. 51.20 or 971.17 for ~~any~~  
11 ~~violation, or for the solicitation, conspiracy or attempt to commit any violation, of s.~~  
12 ~~940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055,~~  
13 ~~948.06, 948.07, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the victim was~~  
14 ~~a minor and the person was not the victim's parent~~ a sex offense.

15 (d) Is in institutional care or on conditional transfer under s. 51.35 (1) or  
16 conditional release under s. 971.17 on or after December 25, 1993, for ~~any violation,~~  
17 ~~or for the solicitation, conspiracy or attempt to commit any violation, of s. 940.22 (2),~~  
18 ~~940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06,~~  
19 ~~948.07, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the victim was a minor~~  
20 ~~and the person was not the victim's parent~~ a sex offense.

21 (dd) Is in institutional care or on conditional transfer under s. 51.35 (1) or  
22 conditional release under s. 971.17 on or after December 25, 1993, for a violation, or  
23 for the solicitation, conspiracy or attempt to commit a violation, of a law of this state  
24 that is comparable to s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2),  
25 ~~948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 or 948.30~~ or that is

1 ~~comparable to a violation of s. 940.30 or 940.31 if the victim was a minor and the~~  
2 ~~person was not the victim's parent~~ a sex offense.

3 (dh) Is on parole, extended supervision or probation in this state from another  
4 state under s. 304.13 or 304.135 on or after December 25, 1993, for a violation, or for  
5 the solicitation, conspiracy or attempt to commit a violation, of the law of another  
6 state that is comparable to a violation of s. ~~940.22 (2), 940.225 (1), (2) or (3), 944.06,~~  
7 ~~948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 or 948.30~~  
8 ~~or that is comparable to a violation of s. 940.30 or 940.31 if the victim was a minor~~  
9 ~~and the person was not the victim's parent~~ sex offense.

INS  
5-9

10 SECTION 7. 301.45 (Id) of the statutes is created to read:

11 301.45 (1d) DEFINITIONS. In this section:

12 (a) "Employed or carrying on a vocation" means employment or vocational  
13 activity that is full-time or part-time for a continuous period of time exceeding 14  
14 days or for an aggregate period of time exceeding 30 days during any calendar year,  
15 whether financially compensated, volunteered or for the purpose of government or  
16 educational benefit.

17 (b) "Sex offense" means a violation, or the solicitation, conspiracy or attempt  
18 to commit a violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2),  
19 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.095, 948.11 (2) (a) or (am),  
20 948.12, 948.13 or 948.30, or of s. 940.30 or 940.31 if the victim was a minor and the  
21 person who committed the violation was not the victim's parent.

22 (c) "Student" means a person who is enrolled on a full-time or part-time basis  
23 in any public or private educational institution, including a secondary school, a  
24 business, trade, technical or vocational school or an institution of higher education.

25 SECTION 8. 301.45 (lg) (dj) of the statutes is created to read:

SECTION 8

*in this state on or after the effective date of this paragraph ... [reviser inserts date], and is*

*938.988* ✓

*42 USC 14872*

1

301.45 (1g) (dj) Is a juvenile on supervision in this state from another state

2

pursuant to the interstate compact on the placement of children under s. ~~42.088~~ for

3

a violation of a law of another state that is comparable to a sex offense.

\*\*\*NOTE: Unless the draft adds language to s. 301.45 (5), a person subject to proposed s. 301.45 (1g) (dj) will be required to register until 15 years after the conviction or disposition (see s. 301.45 (5) (a) 4.). Okay?

4

SECTION 9. 301.45 (1g) (dL) of the statutes is created to read:

5

301.45 (1g) (dL) Is placed on lifetime supervision under s. 939.615 on or after

6

June 26, 1998.

7

SECTION 10. 301.45 (1g) (f) of the statutes is created to read:

*registered as a sex offender in another state or with the federal bureau of investigation under 42 USC 14872,*

8

301.45 (1g) (f) Is ~~a resident of this state and~~ has been convicted of a violation

9

of federal law that is comparable to a sex offense, has been convicted in the tribal

10

court of a federally recognized American Indian tribe or band of a violation that is

11

comparable to a sex offense or has been sentenced by a ~~general~~ court martial for a

12

violation that is comparable to a sex offense.

\*\*\*NOTE: Unless the draft adds language to S. 301.45 (5), a person subject to proposed s. 301.45 (1g) (f) will be required to register until 15 years after the conviction or disposition (see s. 301.45 (5) (a) 4.). Okay? Also, does the language need to include an initial applicability date?

13

SECTION 11. 301.45 (1g) (g) of the statutes is created to read:

14

301.45 (1g) (g) Is registered as a sex offender in another state and is a resident

15

of this state, a student in this state or employed or carrying on a vocation in this state.

\*\*\*NOTE: Is this broad enough, or should it say something like "any person convicted in another state of a violation that is comparable to a sex offense"? If the latter, how long should they be required to register? Unless the draft adds language to s. 301.45 (5), a person covered under the latter language would be required to register until 15 years after the conviction or disposition (see s. 301.45 (5) (a) 4.). If this language is broad enough, should they have to register in Wisconsin only if they also have to register in the other state? Also, do we have to amend s. 301.45 (5) to give a person credit for time that he or she was registered in the other state? (The federal regulations contemplate giving a person credit for time registered in another state.) Finally, does the language need to include an initial applicability date?

16

~~SECTION 12. 301.45 (1m) (a) 1 of the statutes is amended to read:~~

*on or after the effective date of this paragraph ... [reviser inserts date],*

*and is a resident of this state, a student in this state or employed or carrying on a vocation in this state*

INS  
7-1

1 301.45 (1m) (a) 1. The person meets the criteria under sub. (1) (1g) (a) to (dh)  
 2 (d) <sup>or</sup> (f) ~~or (g)~~ based on any violation, or on the solicitation, conspiracy or attempt to  
 3 commit any violation, of s. 948.02 (1) or (2) or 948.025 or of a federal law, tribal law  
 4 or law of another state that is comparable to s. 948.02 (1) or (2) or 948.025.

\*\*\*NOTE: Is it your intent to allow exemptions for persons covered under proposed  
 s. 301.45 (1g) (f) and (g)?

5 SECTION 13. 301.45 (lm) (b) of the statutes is amended to read:

6 301.45 (lm) (b) If a person believes that he or she is not required under par.

7 (a) to comply with the reporting requirements under this section and the person is

8 not before the court under s. 51.20 (13) (ct), 938.34 (15m), 971.17 (lm) (b) or 973.048,

9 the person may move a court to make a determination of whether the person satisfies

10 the criteria specified in par. (a). A motion made under this paragraph shall be filed

11 with the circuit court for the county in which the person was convicted, adjudicated

12 delinquent, ~~found in need of protection or services~~ or found not guilty or not

13 responsible by reason of mental disease or defect;

14 ~~criteria of sub. (1) (1g) (dh) (d) or (f) the person shall file the motion in the circuit~~

15 ~~court for the county in which he or she resides, and if the person meets the criteria~~

16 ~~of sub. (1g) (g) the person shall file the motion in the circuit court for the county in~~

17 ~~which he or she resides, is a student or is carrying on a vocation, whichever is~~

18 ~~applicable.~~ *plain period stays*

19 SECTION 14. 301.45 (2) (a) (intro.) of the statutes is amended to read:

20 301.45 (2) (a) (intro.) The department shall maintain a registry of all persons

21 subject to sub. (1) (la). The registry shall contain all of the following with respect to

22 each person:

INS  
7-22

23 SECTION 15. 301.45 (2) (b) of the statutes is amended to read:

1 301.45 (2) (b) If the department has supervision over a person subject to sub.  
2 ~~(1)~~ (la), the department shall enter into the registry under this section the  
3 information specified in par. (a) concerning the person.

4 SECTION 16. 301.45 (2) (c) of the statutes is amended to read:

5 301.45 (2) (c) If the department of health and family services has supervision  
6 over a person subject to sub. ~~(1)~~ (la), that department, with the assistance of the  
7 person, shall provide the information specified in par. (a) to the department of  
8 corrections in accordance with the rules under sub. (8).

9 SECTION 17. 301.45 (2) (d) of the statutes is amended to read:

10 301.45 (2) (d) A person subject to sub. ~~(1)~~ (1g) who is not under the supervision  
11 of the department of corrections or the department of health and family services shall  
12 provide the information specified in par. (a) to the department of corrections in  
13 accordance with the rules under sub. (8). If the person is unable to provide an item  
14 of information specified in par. (a), the department of corrections may request  
15 assistance from a circuit court or the department of health and family services in  
16 obtaining that item of information. A circuit court and the department of health and  
17 family services shall assist the department of corrections when requested to do so  
18 under this paragraph.

19 SECTION 18. 301.45 (2) (e) (intro.) of the statutes is amended to read:

20 301.45 (2) (e) (intro.) The department 'of health and family services shall  
21 provide the information required under par. (c) or the person subject to sub. ~~(1)~~ (la)  
22 shall provide the information required under par. (d) in accordance with whichever  
23 of the following is applicable:

INS  
8-23

24 SECTION 19. 301.45 (2) (f) of the statutes is created to read:

(9)

and any other information required under par. (c) that the person has not previously provided. The department

1 301.45 (2) (f) The department may require a person covered under sub. (1g) to  
2 provide the department with his or her fingerprints and a recent photograph of the  
3 person and may require the person to report to a place designated by the department,  
4 including an office or station of a law enforcement agency, for the purpose of  
5 obtaining the person's fingerprints and the photograph. or other information

INS  
9-5

6 SECTION 20. 301.45 (3) (a) (intro.) of the statutes is amended to read:

7 301.45 (3) (a) (intro.) A person covered under sub. (1) (1g) is subject to the  
8 annual registration requirements under par. (b) as follows:

INS  
9-8

9 SECTION 21. 301.45 (3) (b) 1. of the statutes is amended to read:

10 301.45 (3) (b) 1. Except as provided in subd. 1m., a person who is subject to par.  
11 (a) shall notify the department once each calendar year, as directed by the  
12 department, of his or her current information specified in sub. (2) (a). The  
13 department shall annually notify registrants of their need to comply with this  
14 requirement. If the registrant is a person under the age of 18, the department may  
15 also annually notify the registrant's narent, guardian or legal custodian of the  
16 reaistrant's need to comnlv with this reauirement.

17 SECTION 22. 301.45 (3) (b) 1m. of the statutes is amended to read:

18 301.45 (3) (b) 1m. A person who is subject to par. (a) because he or she is covered  
19 under sub. (1) (1g) (dt) shall notify the department once each 90 days, as directed by  
20 the department, of his or her current information specified in sub. (2) (a). Every 90  
21 days, the department shall notify registrants subject to this subdivision of their need  
22 to comply with this requirement. If the registrant covered under sub. (1g) (dt) is a  
23 person under the age of 18, the department may also notify the registrant's narent,  
24 guardian or legal custodian every 90 days of the registrant's need to comnlv with this  
25 reauirement.

23

1 SECTION 23. 301.45 (3) (b) 2. of the statutes is amended to read:

2 301.45 (3) (b) 2. The department shall notify a person who is being released  
3 from prison because he or she has reached the expiration date of his or her sentence  
4 and who is covered under sub. (1) (1g) of the need to comply with <sup>the requirements of</sup> this section. Also,  
5 probation, extended supervision and parole agents, aftercare agents and agencies  
6 providing supervision shall notify any client who is covered under sub. (1) (1g) of the  
7 need to comply with this section at the time the client is placed on probation,  
8 extended supervision, parole, supervision or aftercare supervision or, if the client is  
9 on probation, extended supervision <sup>or</sup> <sup>or other supervision</sup> parole from another state under s. 304.13 <sup>or</sup>  
10 304.135 <sup>or 938.938</sup>, when the client enters this state.

11 SECTION 24. 301.45 (3) (b) 3. of the statutes is amended to read:

12 301.45 (3) (b) 3. The department of health and family services shall notify a  
13 person who is being placed on conditional release, conditional transfer or parole, or  
14 is being terminated or discharged from a commitment, under s. 51.20, 51.35 or  
15 971.17 or ch. 975 or 980 and who is covered under sub. (1) (1g) of the need to comply  
16 with this section. <sup>the requirements of</sup>

17 SECTION 25. 301.45 (3) (b) 3m. of the statutes is amended to read:

18 301.45 (3) (b) 3m. After notifying a person under subd. 2. or 3. of the need to  
19 comply with this section, the person who is providing the notification shall require  
20 the person who is covered under sub. (1) (1g) to read and sign a form stating that he  
21 or she has been informed of the requirements of this section.

INS  
10-22

22 SECTION 26. 301.45 (4m) of the statutes is amended to read:  
23 301.45 (4m) INFORMATION CONCERNING A MOVE TO ANOTHER STATE. In addition to  
24 the requirements under subs. (3) and (4), a person who is covered under sub. (1) (1g)  
25 and who is changing his or her residence from this state to another state shall, no

1 later than 10 days before he or she moves out of this state, notify the department that  
 2 he or she is changing his or her residence from this state and inform the department  
 3 of the state to which he or she is moving his or her residence. Upon receiving  
 4 notification from a person under this subsection, the department shall <sup>inform</sup> ~~inform~~ the  
 5 person whether the state to which the person is moving has sex offender registration  
 6 requirements to which the person may be subject and, if so, the name of the agency  
 7 to contact in that state for information concerning those requirements.

\*\*\*\*NOTE: Do you want to require DOC to notify the state to which the registrant is moving, or do you do that by rule? Compare 42 USC 14071 (b) (2) (A) and (5).

8 **SECTION 27.** 301.45 (5) (a) (intro.) of the statutes is amended to read:  
 9 301.45 (5) (a) (intro.) Except as provided in ~~par.~~ pars. (am) and (b), a person who  
 10 is covered under sub. (1) (1g) no longer has to comply with this section when the  
 11 following applicable criterion is met:

12 **SECTION 28.** 301.45 (5) (am) of the statutes is created to read:

13 301.45 (5) (am) 1. Except as provided in subd. 2., a person who is covered under  
 14 sub. (1g) (dL) shall continue to comply with the requirements of this section as long

15 ~~as he or she is on lifetime supervision under s. 939.615.~~ until his or her death

16 2. A person who is covered under sub. (1g) (dL) shall ~~continue~~ <sup>is not required</sup> to comply with  
 17 the requirements of this section ~~until his or her death~~ <sup>if the court orders</sup> ~~continued~~ <sup>is</sup>  
 18 ~~registration~~ <sup>that the person ~~is~~ no longer required to comply</sup> under s. 939.615 (6) (i).

\*\*\*\*NOTE: Because it is possible for lifetime supervision to be terminated (see s. 939.615 (6)), this provision requires someone placed on lifetime supervision to register under s. 301.45 only as long as he or she is on lifetime supervision unless the court that terminates lifetime supervision orders continued registration. Is that okay, or do you want to make lifetime registration automatic for all persons placed on lifetime supervision?

19 ~~SECTION 29.~~ 301.45 (5) (b) (intro.) of the statutes is amended to read:

INS  
12-1

1 301.45 (5) (b) (intro.) A person who is covered under sub. (1) (1g) shall continue

2 to comply with the requirements of this section until his or her death if any of the  
3 following apply:

4 SECTION 30. 301.45 (5) (b) 1. of the statutes is amended to read:

5 301.45 (5) (b) 1. The person has, on 2 or more separate occasions, been convicted  
6 or found not guilty or not responsible by reason of mental disease or defect for any  
7 violation, or for the solicitation, conspiracy or attempt to commit any violation, of s.  
8 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055,  
9 948.06, 948.07, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the victim was  
10 a minor and the person was not the victim's parent, or a sex offense, for any a  
11 violation, or for the solicitation, conspiracy or attempt to commit any a violation, of  
12 a law of this state or any other state that is comparable to a violation of s. 940.22 (2),  
13 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06,  
14 948.07, 948.08, 948.11 or 948.30 or that is comparable to a violation of s. 940.30 or  
15 940.31 if the victim was a minor and the person was not the victim's parent sex  
16 offense, or for a violation, or the solicitation, conspiracy or attempt to commit a  
17 violation, of a law of another state that is a felony and that is comparable to a sex  
18 offense. A conviction that has been reversed, set aside or vacated is not a conviction  
19 for purposes of determining under this subdivision whether a person has been  
20 convicted on 2 or more separate occasions.

21 SECTION 31. 301.45 (5) (b) 3. of the statutes is created to read:

22 301.45 (5) (b) 3. The court that ordered the person to comply with the reporting  
23 requirements of this section under s. 51.20 (13) (ct), 938.34 (15m), 938.345 (3), 971.17 (1m) (b) or  
24 973.048 also ordered the person to comply with the requirements until his or her  
25 death.

INS  
12-25



1 SECTION 32. 301.46 (1) of the statutes is renumbered 301.46 (1) (intro.) and  
2 amended to read:

3 301.46 (1) DEFINITIONS. (intro.) In this section "agency:

4 (a) "Agency with jurisdiction" means the state agency with the authority or  
5 duty to confine or supervise a person or release or discharge a person from  
6 confinement.

7 SECTION 33. 301.46 (1) (b) of the statutes is created to read:

8 301.46 (1) (b) "Sex offense" has the meaning given in s. 301.45 (Id) (b).

9 SECTION 34. 301.46 (2m) (a) of the statutes is amended to read:

10 301.46 (2m) (a) If an agency with jurisdiction confines a person under s.  
11 301.046, provides a person entering the intensive sanctions program under s.

12 301.048 with a sanction other than a placement in a Type 1 prison or a jail, or releases  
13 a person from confinement <sup>in a state correctional institution</sup> or institutional care, and the person has, on one occasion

14 only, been convicted or found not guilty or not responsible by reason of mental disease  
15 or defect for ~~any violation, or for the solicitation, conspiracy or attempt to commit any~~  
16 ~~violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025,~~

17 ~~948.05, 948.055, 948.06, 948.07, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if~~  
18 ~~the victim was a minor and the person was not the victim's parent, a sex offense or~~

19 for a violation of a law of this state that is comparable to ~~s. 940.22 (2), 940.225 (1),~~  
20 ~~(2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08,~~

21 ~~948.11 or 948.30, or that is comparable to s. 940.30 or 940.31 if the victim was a minor~~  
22 ~~and the person was not the victim's parent~~ a sex offense, the agency with jurisdiction

23 may notify the police chief of any community and the sheriff of any county in which

24 the person will be residing, employed or attending school if the agency with

25 jurisdiction determines that such notification is necessary to protect the public.

INS  
13-7

1 Notification under this paragraph may be in addition to providing access to  
2 information under sub. (2) or to any other notification that an agency with  
3 jurisdiction is authorized to provide.

4 SECTION 35. 301.46 (2m) (am) of the statutes is amended to read:

5 301.46 (2m) (am) If an agency with jurisdiction confines a person under s.  
6 301.046, provides a person entering the intensive sanctions program under s.  
7 301.048 with a sanction other than a placement in a Type 1 prison or a jail, or releases  
8 a person from in a state correctional institution confinement or institutional care, and the person has been found to be  
9 a sexually violent person under ch. 980 or has, on 2 or more separate occasions, been  
10 convicted or found not guilty or not responsible by reason of mental disease or defect  
11 for ~~any violation, or for the solicitation, conspiracy or attempt to commit any~~  
12 ~~violation, of s. 940.22 (2), 940.225 (1), (2), or (3), 944.06, 948.02 (1) or (2), 948.025,~~  
13 ~~948.05, 948.055, 948.06, 948.07, 948.08 or 948.11 or a sex offense or for a violation~~  
14 ~~of a law of this state that is comparable to s. 940.22 (2), 940.225 (1)(2) or (3), 944.06,~~  
15 ~~948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08 or 948.11 a sex~~  
16 offense, the agency with jurisdiction shall notify the police chief of any community  
17 and the sheriff of any county in which the person will be residing, employed or  
18 attending school. Notification under this paragraph shall be in addition to providing  
19 access to information under sub. (2) and to any other notification that an agency with  
20 jurisdiction is authorized to provide.

\*\*\*\*NOTE: The list of offenses in s. 301.46 (2m) (am) is narrower than most lists in s. 301.45, stats., thus, inserting the defined term "sex offense" in the provision has the effect of covering the same offenses as are covered under s. 301.45, stats. Is that your intent?

INIS  
14-20

21 SECTION 36. 938.34 (15m) (bm) of the statutes is amended to read:

22 938.34 (15m) (bm) If the juvenile is adjudicated delinquent on the basis of a  
23 violation, or the solicitation, conspiracy or attempt to commit a violation, of s.

940.22 (2),

1 **940.225** (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06,  
 2 948.07, 948.08, 948.095, 948.11 (2)(a) or Cam). 948.12.948.13 or 948.30, or of s. 940.30  
 3 or 940.31 if the victim was a minor and the juvenile was not the victim's parent, the  
 4 court shall require the juvenile to comply with the reporting requirements under s.  
 5 301.45 unless the court determines, after a hearing on a motion made by the juvenile,  
 6 that the juvenile is not required to comply under s. 301.45 (1m).

7 **SECTION 37.** 938.34 (15m) (d) of the statutes is created to read:

8 938.34 (15m) (d) If the court orders a juvenile to comply with the reporting  
 9 requirements under s. 301.45, the court may order the juvenile to continue to comply  
 10 with the reporting requirements until his or her death.

INS  
15-10

11 **SECTION 38.** 938.396 (2) (em) of the statutes is amended to read:

12 938.396 (2) (em) Upon request of the department to review court records for the  
 13 purpose of obtaining information concerning a child required to register under s.  
 14 301.45, the court shall open for inspection by authorized representatives of the  
 15 department the records of the court relating to any child who has been adjudicated  
 16 delinquent or found not responsible by reason of mental disease or defect for an  
 17 offense specified in s. 301.45 (1) (1g) (a). The department may disclose information  
 18 that it obtains under this paragraph as provided under s. 301.46.

19 **SECTION 39.** 939.615 (6) (i) of the statutes is created to read:

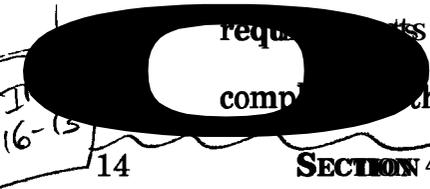
20 939.615 (6) (i) If the court grants a petition requesting termination of lifetime  
 21 supervision and the person is registered with the department under s. 301.45, the  
 22 court may order the person <sup>also</sup> ~~to continue~~ <sup>that is</sup> ~~to~~ <sup>no longer required</sup> to comply with the reporting requirements  
 23 under s. 301.45 ~~until his or her death.~~ <sup>period stays</sup>

24 **SECTION 40.** 971.17 (1m) (b) 2m. of the statutes is amended to read:

1           971.17 (1m) (b) 2m. If the defendant under sub. (1) is found not guilty by reason  
 2 of mental disease or defect for a violation, or for the solicitation, conspiracy or  
 3 attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02  
 4 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.095, 948.11 (2)(a) or  
 5 (am), 948.12, 948.13 or 948.30, or of s. 940.30 or 940.31 if the victim was a minor and  
 6 the defendant was not the victim's parent, the court shall require the defendant to  
 7 comply with the reporting requirements under s. 301.45 unless the court determines,  
 8 after a hearing on a motion made by the defendant, that the defendant is not required  
 9 to comply under s. 301.45 (1m).

10           **SECTION 41.** 971.17 (1m) (b) 4. of the statutes is created to read:

11           971.17 (1m) (b) 4. If the court orders a defendant to comply with the reporting  
 12 requirements under s. 301.45, the court may order the defendant to continue to  
 13 comply with the reporting requirements until his or her death.



14           **SECTION 42.** 973.048 (2m) of the statutes is amended to read:

15           973.048 (2m) If a court imposes a sentence or places a person on probation for  
 16 a violation, or for the solicitation, conspiracy or attempt to commit a violation, of s.  
 17 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055,  
 18 948.06, 948.07, 948.08, 948.095, 948.11 (2)(a) or (am), 948.12, 948.13 or 948.30, or  
 19 of s. 940.30 or 940.31 if the victim was a minor and the person was not the victim's  
 20 parent, the court shall require the person to comply with the reporting requirements  
 21 under s. 301.45 unless the court determines, after a hearing on a motion made by the  
 22 person, that the person is not required to comply under s. 301.45 (1m).

23           **SECTION 43.** 973.048 (4) of the statutes is created to read:

1            973.048 (4) If the court orders a person to comply with the reporting  
2 requirements under s. 301.45, the court may order the person to continue to comply  
3 with the reporting requirements until his or her death.

4

(END)

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1 **INSERT 3-6:** ✓

2 SECTION 1. 71.78 (4) (q) of the statutes is created to read:

3 71.78 (4) (q) Employes of the department of corrections involved in the  
4 administration of the sex offender registry under s. 301.45, for the purpose of  
5 verifying information provided by a person required to register as a sex offender.

6 SECTION 2. 71.78 (5) of the statutes is amended to read:

7 71.78 (5) AGREEMENT WITH DEPARTMENT. Copies of returns and claims specified  
8 in sub. (1) and related schedules, exhibits, writings or audit reports shall not be  
9 furnished to the persons listed under sub. (4), except persons under sub. (4) (e), (k),  
10 (n) ~~and~~, (o) and (q) or under an agreement between the department of revenue and  
11 another agency of government.

12 History: 1987 a. 312; 1987 a. 411 ss. 99, 100, 188; 1991 a. 269,301; 1993 a. 112,399; 1995 a. 27 ss. 3420x to 3423g, 9116 (5); 1995 a. 233,404; 1997 a. 27, 63, 237, 323;  
s. 13.93 (1) (b).

13 **INSERT 3-9:** ✓

14 SECTION 3. 301.29 (4) of the statutes is created to read:

15 301.29 (4) The secretary may designate employes of the department who have  
16 duties primarily related to operation and maintenance of the sex offender registry  
17 under s. 301.45 to exercise general police powers with respect to enforcement of the  
sex offender registration requirements under s. 301.45.

18 **INSERT 5-9:** ✓

19 (e) Is ordered by a court under s. 51.20 (13) (ct) lm., 938.34 (15m) (am), 938.345  
20 (3). 971.17 (1m) (b)1m. or 973.048 (lm) to comply with the reporting requirements  
21 under this section.

22 History: 1995 a. 440 ss 26 to 49, 53 to 74; Stats. 1995 s. 301.45; 1997 a.3, 35, 130,191, 237, 283.

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**INSERT 7-1:** ✓

**SECTION 4.** 301.45 (lm) (a) 1. of the statutes is amended to read:

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

History: 1995 a. 440 ss. 26 to 49, 53 to 74; Stats. 1995 s. 301.45; 1997 a. 3.35, 130, 191, 237,283.

**SECTION 5.** 301.45 (lm) (a) lg. of the statutes is created to read:

301.45 **(lm)** (a) lg. The violation, or the solicitation, conspiracy or attempt to commit the violation, of s. 948.02 (1) or (2) or 948.025 involved a child victim 12 years of age or older and did not involve either sexual intercourse, as defined in s. 948.01 **(6)**, or the use or threat of force or violence.

**SECTION 6.** 301.45 **(1m)** (a) 2. of the statutes is amended to read:

301.45 **(lm)** (a) 2. At the time of the violation, or of the solicitation, conspiracy or attempt to commit the violation, of s. 948.02 (1) or (2) or 948.025 ~~or of a law of~~ f , t h e p e r s o n h a d n o t attained the age of 19 years and was not more than 4 years older or not more than 4 years younger than the child.

History: 1995 a. 440 ss. 26 to 49, 53 to 74; Stats. 1995 s. 301.45; 1997 a. 3, 35, 130, 191,237, 283.

**INSERT 7-22:** ✓

**SECTION 7.** 301.45 **(2)** (a) **7.** of the statutes is repealed.

**SECTION 8.** 301.45 **(2)** (a) **9m.** of the statutes is created to read:

301.45 **(2)** (a) **9m.** For a person covered under sub. (lg) **(dt)**, a notation concerning the treatment that the person has received for his or her mental disorder, as defined in s. 980.01 **(2)**.

**INSERT 8-23:** ✓

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**SECTION 9.** 301.45 (2) (e) 2. of the statutes is amended to read:

301.45 (2) (e) 2. If the person is on parole, extended supervision ~~or~~, probation or other sunervision from another state under s. 304.13 ~~or~~, 304.135 or 938.988, within 10 days after the person enters this state.

History: 1995 a. 440 ss. 26 to 49, 53 to 74; Stats. 1995 s. 301.45; 1997 a. 3, 35, 130, 191, 237, 283.

**SECTION 10.** 301.45 (2) (e) 2m. of the statutes is created to read:

301.45 (2) (e) 2m. If the person is registered as a sex offender in another state or with the federal bureau of investigation under 42 USC 14072, within 10 days after the person enters this state.

**SECTION 11 .** 301.45 (2) (e) 5. of the statutes is amended to read:

301.45 (2) (e) 5. If subd. 1., 2., 2m., 3. or 4. does not apply, within 10 days after the person is sentenced or receives a disposition.

History: 1995 a. 440 ss. 26 to 49, 53 to 74; Stats. 1995 s. 301.45; 1997 a. 3, 35, 130, 191, 237, 283.

**INSERT 9-5:** ✓

**SECTION 12.** 301.45 (2) (g) of the statutes is created to read:

301.45 (2) (g) The department may send a person subject to sub. (lg) a notice or other communication requesting the person to verify the accuracy of any information contained in the registry. A person subject to sub. (lg) who receives a notice or communication sent by the department under this paragraph shall, no later than 10 days after receiving the notice or other communication, provide verification of the accuracy of the information to the department in the form and manner specified by the department.

**INSERT 9-8:** ✓

**SECTION 13.** 301.45 (3) (a) lm. of the statutes is amended to read:

1           301.45 (3) (a) lm. If the person is on parole, extended supervision ~~or~~, probation  
2           or other supervision from another state under s. 304.13 ~~or~~, 304.135 or 938.988, he or  
3           she is subject to this subsection upon entering this state.

History: 1995 a. 440 ss. 26 to 49, 53 to 74; Stats. 1995 s. 301.45; 1997 a. 3, 35, 130, 191, 237, 283.

4           **SECTION 14.** 301.45 (3) (a) lr. of the statutes is created to read:

5           301.45 (3) (a) lr. If the person is registered as a sex offender in another state  
6           or with the federal bureau of investigation under 42 USC 14072, within 10 days after  
7           the person enters this state.

8           **SECTION 15.** 301.45 (3) (a) 4. of the statutes is amended to read:

9           301.45 (3) (a) 4. If subd. 1., lm., 1r., 2., 2m., 3., 3g. or 3r. does not apply, the  
10          person is subject to this subsection after he or she is sentenced or receives a  
11          disposition.

History: 1995 a. 440 ss. 26 to 49, 53 to 74; Stats. 1995 s. 301.45; 1997 a. 3, 35, 130, 191, 237, 283.

**INSERT 10-22:**

12          **SECTION 16.** 301.45 (3) (b) 4. of the statutes is amended to read:

13          301.45 (3) (b) 4. ~~Failure to~~ It is not a defense to liability under sub. (6) (a) that  
14          the nerson subiect to sub. (1g) was not reauired to read and sign a form under subd.  
15          3m. . was not nrovided with a form to read and sign under subd. 3m. or failed or  
16          refused to read or sign a form under subd. 3m. It is not a defense to liability under  
17          sub. (6) (a) that the nerson subiect to sub. (1g) did not receive notice under this  
18          paragraph from the department of health and family services, the department of  
19          corrections, a probation, extended supervision and parole agent, an aftercare agent  
20          or an agency providing supervision ~~is not a defense to liability under sub (6).~~

History: 1995 a. 440 ss. 26 to 49, 53 to 74; Stats. 1995 s. 301.45; 1997 a. 3, 35, 130, 191, 237, 283.

21          **SECTION 17.** 301.45 (4m) of the statutes is renumbered 301.45 (4m) (intro.) and  
22          amended to read:  
23

301.45 (4m) INFORMATION CONCERNING A MOVE TO OR SCHOOLING OR EMPLOYMENT

IN ANOTHER STATE. (intro.) In addition to the requirements under subs. (3) and (4), a person who is covered under sub. (1) (la) and who is changing his or her residence from this state to another state, is becoming a student in another state or is to be employed or carrying on a vocation in another state shall, no later than 10 days before he or she moves out of this state, begins school or begins employment or his or her vocation, notify the department that he or she is changing his or her residence from this state ~~and~~, is beginning school in another state or is beginning employment or the carrying on of a vocation in another state. The person shall also inform the department of the state to which he or she is moving his or her residence, the state in which he or she will be in school or the state in which he or she will be employed or carrying on a vocation. Upon receiving notification from a person under this subsection, the department shall ~~inform~~ do all of the following:

(a) Inform the person whether the state to which the person is moving, the state in which the person will be in school or the state in which the person will be employed or carrying on a vocation has sex offender registration requirements to which the person may be subject and, if so, the name of the agency to contact in that state for information concerning those requirements.

History: 1995 a. 440 ss. 26 to 49.53 to 74; Stats. 1995 s. 301.45; 1997 a 3, 35, 130, 191, 237, 283.

**SECTION 18. 301.45 (4m) (b) of the statutes is created to read:**

301.45 (4m) (b) Inform the agency responsible for sex offender registration in the state to which the person is moving, in which the person will be in school or in which the person will be employed or carrying on a vocation that the person is moving to the state, beginning school in the state or beginning employment or carrying on

1 a vocation in the state, and provide the agency of the other state with all of the  
2 information specified in sub. (2) (a).

3 **SECTION 19.** 301.45 (5) (title) of the statutes is amended to read:

4 **301.45 (5) (title)** RELEASE FROM REQUIREMENTS FOR PERSONS WHO COMMITTED A SEX  
5 OFFENSE IN THIS STATE.

History: 1995 a. 440 ss. 26 to 49, 53 to 74; Stats. 1995 s. 301.45; 1997 a. 3, 35, 130, 191, 237, 283.

6 **SECTION 20.** 301.45 (5) (a) (intro.) of the statutes is amended to read:

7 301.45 (5) (a) (intro.) Except as provided in pars. (am) and (b), a person who  
8 is covered under sub. (1) (1g) (a), (b), (bm), (c), (d), (dd), (dp) or (e) no longer has to  
9 comply with this section when the following applicable criterion is met:

History: 1995 a. 440 ss. 26 to 49, 53 to 74; Stats. 1995 s. 301.45; 1997 a. 3, 35, 130, 191, 237, 283.

10 **SECTION 21.** 301.45 (5) (a) 1. of the statutes is amended to read:

11 301.45 (5) (a) 1. If the person has been placed on probation or supervision for  
12 a sex offense, 15 years after discharge from the probation or supervision imposed for  
13 the sex offense.

History: 1995 a. 440 ss. 26 to 49, 53 to 74; Stats. 1995 s. 301.45; 1997 a. 3, 35, 130, 191, 237, 283.

14 **SECTION 22.** 301.45 (5) (a) 1m. of the statutes is renumbered 301.45 (5m) (a)

15 1. and amended to read:

16 301.45 (5m) (a) 1. If the person is on parole, extended supervision ~~or~~, probation  
17 or other sunervision from another state under s. 304.13 ~~or~~, 304.135 or 938.68, 15  
18 years after discharge from that parole, extended supervision ~~or~~, probation or other  
19 sunervision or the period of time that the person is in this state, whichever is less.  
20 For purposes of this subdivision, the period of time <sup>that</sup> the person is in this state is the  
21 period of time that the person is on any kind of sunervision under s. 304.13, 304.135  
22 or 938.988 plus the period of time <sup>that</sup> the person remains in this state after  
23 discharge from that sunervision.

History: 1995 a. 440 ss. 26 to 49, 53 to 74; Stats. 1995 s. 301.45; 1997 a. 3, 35, 130, 191, 237, 283.

1           **SECTION 23.** 301.45 (5) (a) 2. of the statutes is amended to read:

2           301.45 (5) (a) 2. If the person has been sentenced to prison or placed in a secured  
3           correctional facility or' a secured child caring institution for a sex offense, 15 years  
4           after discharge from parole, extended sunervision or aftercare supervision for the sex  
5           offense.

History: 1995 a. 440 ss. 26 to 49, 53 to 74; Stats. 1995 s. 301.45; 1997 a. 3, 35, 130, 191,237, 283.

6           **SECTION 24.** 301.45 (5) (a) 2m. of the statutes is amended to read:

7           301.45 (5) (a) 2m. If the person has been sentenced to prison for a sex offense  
8           and is being released from prison because he or she has reached the expiration date  
9           of ~~his or her~~ the sentence for the sex offense, 15 years after being released from  
10          prison.

History: 1995 a. 440 ss. 26 to 49,53 to 74; Stats. 1995 s. 301.45; 1997 a. 3, 35, 130,191, 237, 283.

11          **SECTION 25.** 301.45 (5) (a) 3. of the statutes is amended to read:

12          301.45 (5) (a) 3. If the person has been committed to the department of health  
13          and family services under s. 51.20 or 971.17 and is in institutional care or on  
14          conditional transfer under s. 51.35 (1) or conditional release under s. 971.17 for a sex  
15          offense, 15 years after termination of the commitment for the sex offense under s.  
16          971.17 (5) or discharge from the commitment for the sex offense under s. 51.35 (4)  
17          or 971.17 (6).

History: 1995 a. 440 ss. 26 to 49,53 to 74; Stats. 1995 s. 301.45; 1997 a. 3, 35, 130,191, 237, 283.

18          **SECTION 26.** 301.45 (5) (a) 4. of the statutes is amended to read:

19          301.45 (5) (a) 4. If subd. 1., ~~1m.,~~ <sup>✓</sup> 2., 2m., 3. or 3m. does not apply, 15 years after  
20          the date of conviction for the sex offense or 15 years after the date of disposition of  
21          the sex offense. whichever is later.

History: 1995 a. 440 ss. 26 to 49, 53 to 74; Stats. 1995 s. 301.45; 1997 a. 3, 35, 130, 191, 237, 283.

22          ) **INSERT 12-1:** ✓

23          **SECTION 27.** 301.45 (5) (b) (intro.) of the statutes is amended to read:

1           301.45 (5) (b) (intro.) A person who is covered under sub. ~~(1) (1g) (a), (b), (bm),~~  
2           ~~(c), (d), (dd), (dp) or (e)~~ shall continue to comply with the requirements of this section  
3           until his or her death if any of the following ~~apply:~~ applies

History: 1995 a. 440 ss. 26 to 49, 53 to 74; Stats. 1995 s. 301.45; 1997 a 3, 35, 130, 191, 237, 283.

4           **SECTION 28.** 301.45 (5) (b) 1. of the statutes is amended to read:

5           301.45 (5) (b) 1. The person has, on 2 or more separate occasions, been convicted  
6           or found not guilty or not responsible by reason of mental disease or defect for ~~any~~  
7           a violation, or ~~for~~ the solicitation, conspiracy or attempt to commit ~~any a~~ a violation,  
8           of s. 940.22 (2), 940.225 ~~(1), (2) or (3)~~, 944.06, ~~948.02 (1) or (2), 948.025,~~ 948.05,  
9           948.055, 948.06, 948.07, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the  
10          victim was a minor and the person was not the victim's parent, or for ~~any a~~ a violation,  
11          or ~~for~~ the solicitation, conspiracy or attempt to commit ~~any a~~ a violation, of a federal  
12          law, a military law, a tribal law or a law of this state ~~or any other~~ state that is  
13          comparable to a violation of s. 940.22 (2), 940.225 ~~(1), (2) or (3)~~, 944.06, ~~948.02 (1) or~~  
14          ~~(2), 948.025,~~ 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 or 948.30 or that is  
15          comparable to a violation of s. 940.30 or 940.31 if the victim was a minor and the  
16          person was not the victim's parent. A conviction or finding of not aulty or not  
17          rensonible by reason of mental disease or defect that has been reversed, set aside  
18          or vacated is not a conviction or finding for purposes of determining under this  
19          subdivision whether a person has been convicted on 2 or more separate occasions.

History: 1995 a. 440 ss. 26 to 49, 53 to 74; Stats. 1995 s. 301.45; 1997 a. 3, 35, 130, 191, 237, 283.

20          **SECTION 29.** 301.45 (5) (b) lm. of the statutes is created to read:

21          301.45 (5) (b) lm. The person has been convicted or found not guilty or not  
22          responsible by reason of mental disease or defect for a violation, or for the solicitation,  
23          conspiracy or attempt to commit a violation, of s. 940.225 (1) or (2), 948.02 (1) or (2)  
24          or 948.025, or for a violation, or for the solicitation, conspiracy or attempt to commit

1 a violation, of a federal law, a military law, a tribal law or a law of any state that is  
2 comparable to a violation of s. 940.225 (1) or (2), 948.02 (1) or (2) or 948.025. A  
3 conviction or finding of not guilty or not responsible by reason of mental disease or  
4 defect that has been reversed, set aside or vacated is not a conviction or finding for  
5 purposes of this subdivision.

6 **SECTION 30.** 301.45 (5) (b) 2. of the statutes is amended to read:

7 301.45 (5) (b) 2. The person has been found to be a sexually violent person under  
8 ch. 980, regardless of whether the person is discharged under s. 980.09 or 980.10  
9 from the sexually violent nerson commitment, except that the nerson no longer has  
10 to comnlv with this section if the finding that the nerson is a sexually violent nerson  
11 has been reversed. set aside or vacated.

History: 1995 a. 440 ss. 26 to 49, 53 to 74; Stats. 1995 s. 301.45; 1997 a. 3, 35, 130, 191, 237, 283.

**INSERT 12-25:**

13 **SECTION 31.** 301.45 (5m) of the statutes is created to read:

14 301.45 (5m) **RELEASE FROM REQUIREMENTS FOR PERSONS WHO COMMITTED A SEX**  
15 **OFFENSE IN ANOTHER JURISDICTION.** (a) Except as provided in par. (b), a person who is  
16 covered under sub. (lg) (dh), (f) or (g) no longer has to comply with this section when  
17 the following applicable criterion is met:

18 2. If the person is registered as a sex offender in another state or with the  
19 federal bureau of investigation under 42 USC 14072, whichever of the following is  
20 less:

21 a. Fifteen years after discharge from parole, extended supervision, probation  
22 or any other supervision, sentence or disposition imposed for the offense for which  
23 he or she was required to register as a sex offender.

1 b. The period of time that the person is a resident of this state, a student in this  
2 state or employed or carrying on a vocation in this state.

3 (b) A person who is covered under sub. (1g) (dh), (f) or (g) shall continue to  
4 comply with the requirements of this section for as long as the person is a resident  
5 of this state, a student in this state or employed or carrying on a vocation in this state  
6 if any of the following ~~apply~~ *apply*: *applies*

7 1. The person is registered as a sex offender in another state or with the federal  
8 bureau of investigation under 42 USC 14072 and is required to register with that  
9 other state or with the federal bureau of investigation until his or her death.

10 2. The person is on parole, extended supervision, probation or other supervision  
11 from another state under s. 304.13, 304.135 or 938.988 and the person has been  
12 convicted or found not guilty or not responsible by reason of mental disease or defect  
13 for a violation, or for the solicitation, conspiracy or attempt to commit a violation, of  
14 a federal law, a military law, a tribal law or a law of any state that is comparable to  
15 a violation of s. 940.225 (1) or (2), 948.02 (1) or (2) or 948.025. A conviction or finding  
16 of not guilty or not responsible by reason of mental disease or defect that has been  
17 reversed, set aside or vacated is not a conviction or finding for purposes of this  
18 subdivision.

19 3. The person is on parole, extended supervision, probation or other supervision  
20 from another state under s. 304.13, 304.135 or 938.988 and the person has, on 2 or  
21 more separate occasions, been convicted or found not guilty or not responsible by  
22 reason of mental disease or defect for a violation, or the solicitation, conspiracy or  
23 attempt to commit a violation, of a federal law, military law, tribal law or law of any  
24 state that is comparable to s. 940.22 (2), 940.225 (3), 944.06, 948.05, 948.055, 948.06,  
25 948.07, 948.08, 948.11 or 948.30, or to s. 940.30 or 940.31 if the victim was a minor

1 and the person was not the victim's parent. A conviction or finding of not guilty or  
2 not responsible by reason of mental disease or defect that has been reversed, set aside  
3 or vacated is not a conviction or finding for purposes of determining under this  
4 subdivision whether a person has been convicted on 2 or more separate occasions.

5 **SECTION 32.** 301.45 (6) (a) of the statutes is renumbered 301.45 (6) (a) (intro.)  
6 and amended to read:

7 301.45 (6) (a) (intro.) Whoever ~~intentionally~~ knowingly fails to comply with any  
8 requirement to provide information under subs. (2) to (4) is subject to the following  
9 penalties:

10 1. For a first offense, the person may be fined not more than \$10,000 or  
11 imprisoned for not more than 9 months or both.

12 ~~Subject~~ to s. 971.19 (9), a district attorney or, upon the request of a district  
13 attorney, the department of justice may prosecute a ~~violation of this subsection~~  
14 knowing failure to comply with any requirement to provide information under subs.  
15 (2) the(4) department of corrections determines that there is probable cause  
16 to believe that a person has ~~intentionally~~ knowingly failed to comply with any  
17 requirement to provide information under subs. (2) to (4), the department shall  
18 forward a certified copy of all pertinent departmental information to the applicable  
19 district attorney. The department shall certify the copy in accordance with s. 889.08.

History: 1995 a. 440 ss. 26 to 49, 53 to 74; Stats. 1995 s. 301.45; 1997 a 3.35, 130, 191, 237, 283.

20 **SECTION 33.** 301.45 (6) (a) 2. of the statutes is created to read:

21 301.45 (6) (a) 2. For a 2nd or subsequent offense, the person may be fined not  
22 more than \$10,000 or imprisoned for not more than 10 years or both. For purposes  
23 of this subdivision, an offense is a 2nd or subsequent offense if, prior to committing

1 the offense, the person has at any time been convicted of knowingly failing to comply  
2 with any requirement to provide information under subs. (2) to (4).

3 **SECTION 34.** 301.45 (6m) of the statutes is created to read:

4 **301.45 (6m)** NOTICETOOTHERJLJRSIDICTIONS CONCERNINGNONCOMPLIANCE. If the  
5 department has reasonable grounds to believe that a person who is covered under  
6 sub. (lg) (f) or (g) is residing in this state, is a student in this state or is employed or  
7 carrying on a vocation in this state and that the person is not complying with the  
8 requirements of this section, the department shall notify the state agency  
9 responsible for the registration of sex offenders in any state in which the person is  
10 registered that it believes the person is not complying with the requirements of this  
11 section.

12 **INSERT 13-7:**

13 **SECTION 35.** 301.46 (2) (b) 7. of the statutes is repealed.

14 **INSERT 14-20:** ✓

15 **SECTION 36.** 301.46 (3) (c) of the statutes is amended to read:

16 301.46 (3) (c) The notice under par. (b) shall be a written notice to the victim  
17 or member of the victim's family that the person required to register under s. 301.45  
18 and specified in the information provided under par. (d) has been registered or, if  
19 applicable, has provided the department with updated information under s. 301.45  
20 (4). The notice shall contain the information specified in sub. (2) (b) 1., 5., 6., 7. and  
21 10. or, if applicable, the updated information.

22 History: 1995 a 440; 1997 a. 6, 27, 130, 181, 237, 283.

23 **SECTION 37.** 301.46 (4) (b) 3. of the statutes is repealed.

24 **SECTION 38.** 301.46 (5) (b) 2. of the statutes is repealed.

**SECTION 39.** 301.46 (6) (a) of the statutes is amended to read:

1           301.46 (6) (a) Except as provided in par. (b), the department or an agency with  
 2 jurisdiction may provide notice of or access to information under subs. (2) to (5)  
 3 concerning a person registered under s. 301.45 only during the period under s. 301.45  
 4 (5) or (5m) for which the person is required to comply with s. 301.45.

5 History: 1995 a. 440; 1997 a. 6, 27, 130, 181, 237, 283.

**SECTION 40.** 343.237 (4g) of the statutes is created to read:

6           343.237 (4g) The department of transportation shall provide the department  
 7 of corrections with a copy of a photograph taken on or after September 1, 1997, of an  
 8 applicant under s. 343.14 (3) or 343.50 (4) if the department of transportation  
 9 receives a written request from the department of corrections that contains all of the  
 10 following:

11           (a) The name of the person whose photograph is requested.

12           (b) A statement signed by an employe of the department of corrections whose  
 13 duties relate primarily to the sex offender registry under s. 301.45 that the person  
 14 **named** under par. (a) is required to register under s. 301.45 and that the photograph  
 15 is being requested for inclusion in the information contained in the sex offender  
 16 registry about the person.

17           **SECTION 41.** 343.237 (5) of the statutes is renumbered 343.237 (5) (a).

18           **SECTION 42.** 343.237 (5) (b) of the statutes is created to read:

19           343.237 (5) (b) If the department of corrections has in its possession a copy of  
 20 a photograph provided to it under sub. (4g), it shall destroy any copies of the  
 21 photograph in its possession when the photograph is no longer necessary for  
 22 inclusion in the information contained in the sex offender registry

23           **SECTION 43.** 343.237 (6) of the statutes is amended to read:

1           343.237 (6) For each copy of a photograph provided under sub. (3) ~~or~~, (4) or (4g),  
2           the department shall record and maintain the written request for the copy of the  
3           photograph and may not disclose any record or other information concerning or  
4           relating to the written request to any person other than a court, district attorney,  
5           county corporation counsel, city, village or town attorney, law enforcement agency,  
6           the applicant or identification card holder or, if the applicant or identification card  
7           holder is under 18 years of age, his or her parent or guardian.

History: 1997 a. 119,237.

8           **SECTION 44.** 343.237 (7) of the statutes is amended to read:

9           343.237 (7) The department may not charge a fee for providing a copy of any  
10          photograph to the department of corrections or a Wisconsin law enforcement agency  
11          under this section.

History: 1997 a. 119,237.

12          **SECTION 45.** 343.237 (8m) of the statutes is created to read:

13          343.237 (8m) (a) The department of corrections shall keep the copy of a  
14          photograph provided to it under this section confidential and may disclose it only if  
15          disclosure is necessary for purposes related to the sex offender registry under s.  
16          301.45, to community notification concerning sex offenders under s. 301.46 or to  
17          performance of a law enforcement function. Before the department of corrections  
18          discloses a copy of a photograph under this paragraph to another person for purposes  
19          related to performance of a law enforcement function, the person to whom the copy  
20          of the photograph is disclosed must agree to comply with par. (c).

21          (b) If the department of corrections discloses a copy of a photograph to another  
22          person under par. (a), the copy of the photograph shall have attached to it the  
23          notation specified in sub. (4m).

1 (c) Any person who receives a copy of a photograph from the department of  
 2 corrections under par. (a) shall destroy any copies of the photograph in his or her  
 3 possession when the photograph is no longer necessary to perform the law  
 4 enforcement function for which the photograph was disclosed.

5 **SECTION 46.** 343.50 (8) (b) of the statutes is amended to read:

6 343.50 (8) (b) The department may not disclose any record or other information  
 7 concerning or relating to an applicant or identification card holder to any person  
 8 other than a court, district attorney, county corporation counsel, city, village or town  
 9 attorney, law enforcement agency, the applicant or identification card holder or, if the  
 10 applicant or identification card holder is under 18 years of age, his or her parent or  
 11 guardian. Except for photographs disclosed to the department of corrections or a law  
 12 enforcement agency under s. 343.237, persons entitled to receive any record or other  
 13 information under this paragraph shall not disclose the record or other information  
 14 to other persons or agencies. This paragraph does not prohibit the disclosure of a  
 15 person's name or address, of the name or address of a person's employer or of  
 16 financial information that relates to a person when requested under s. 49.22 (2m) by  
 17 the department of workforce development or a county child support agency under s.  
 18 59.53 (5).

NOTE: NOTE: Par. (b) is shown as affected by two ~~acts~~ of the 1997 legislature and as merged by the revisor under s. 13.93 (2) (c).NOTE:  
 History: 1977 c. 360,447; 1979 c. 226, 306; 1981 c. 20 s.1848r; 1985 a. 29.98; 1987 a 27, 304; 1989 a. 105, 294, 298; 1991 a. 86,269; 1995 a. 446; 1997 a. 27, 119, 191;  
 s. 13.93 (2) (c).

19 **SECTION 47.** 938.185 (3) of the statutes is amended to read:

20 938.185 (3) Venue for a proceeding under s. 938.12 or 938.13 (12) based on an  
 21 alleged violation of s. 301.45 (6) (a) may be in the juvenile's county of residence at the  
 22 time that the petition is filed ~~or, if.~~ If the juvenile does not have a county of residence  
 23 in this state at the time that the petition is filed, ~~any~~ or if the iuvenile's county of  
 24 residence is unknown at the time that the netition is filed. venue for the proceeding

1 may be in the county in which the juvenile ~~has resided while subject to s. 301.45~~ was  
 2 adjudicated delinquent or found not responsible by reason of mental disease or defect  
 3 for the sex offense that requires the juvenile to register under s. 301.45. or, if  
 4 applicable, the county in which the juvenile was found to be a sexually violent person  
 5 under ch. 980.

History: 1995 a. 77, 352, 440.

6 **INSERT 15-10:** ✓

7 **SECTION 48. 938.345 (3) of the statutes is created to read:**

8 938.345 (3) (a) If the court finds that a juvenile is in need of protection or  
 9 services on the basis of a violation, or the solicitation, conspiracy or attempt to  
 10 commit a violation, under ch. 940,944 or 948 or ss. 943.01 to 943.15, the court may  
 11 require the juvenile to comply with the reporting requirements under s. 301.45 if the  
 12 court determines that the underlying conduct was sexually motivated, as defined in  
 13 s. 980.01 (5), and that it would be in the interest of public protection to have the  
 14 juvenile report under s. 301.45. In determining whether it would be in the interest  
 15 of public protection to have the juvenile report under s. 301.45, the court may  
 16 consider any of the following:

- 17 1. The ages, at the time of the violation, of the juvenile and the victim of the
- 18 violation.
- 19 2. The relationship between the juvenile and the victim of the violation.
- 20 3. Whether the violation resulted in bodily harm, as defined in s. 939.22 (4), to
- 21 the victim.
- ✓ 22 4. Whether the victim suffered from a mental illness or mental deficiency that
- 23 rendered him or her temporarily or permanently incapable of understanding or
- 24 evaluating the consequences of his or her actions.

1 5. The probability that the juvenile will commit other violations in the future.

2 6. Any other factor that the court determines may be relevant to the particular  
3 case.

4 (b) If the court orders a juvenile to comply with the reporting requirements  
5 under s. 301.45, the court may order the juvenile to continue to comply with the  
6 reporting requirements until his or her death.

7 **INSERT 16-13:** ✓

8 **SECTION 49. 971.19 (9) of the statutes is amended to read:**

9 971.19 (9) In an action under s. 301.45 (6) (a), the defendant may be tried in  
10 the defendant's county of residence at the time that the complaint is filed ~~or, if.~~ If the  
11 defendant does not have a county of residence in this state at the time that the  
12 complaint is filed, ~~any~~ or if the defendant's county of residence is unknown at the  
13 time that the complaint is filed, the defendant may be tried in the county in which  
14 he or she has resided while subject to s. 301.45 was convicted, found not guilty or not  
15 responsible by reason of mental disease or defect or adjudicated delinquent for the  
16 sex offense that requires the person to register under s. 301.45, or, if applicable, the  
17 county in which the person was found to be a sexually violent person under ch. 980. ✓

18 History: 1987 a. 332; 1993 a. 98, 486; 1995 a. 440; 1997 a. 198.

18 **INSERT 17-3:**

19 **SECTION 50. Nonstatutory provisions.**

20 (1) PERSONS REGISTERED BASED ON BEING FOUND IN NEED OF PROTECTION OR  
21 SERVICES.

22 (a) Notwithstanding section 301.45 (1) (a), 1997 stats., no later than the first  
23 day of the 7th month beginning after the effective date of this <sup>amending</sup> ~~subsection~~ <sup>in</sup>, the  
24 department of corrections shall, except as provided in paragraph (b), purge all of the

↑  
auto ref

1 information maintained in the sex offender registry under section 301.45 of the  
 2 statutes, as affected by this act, concerning a person who is registered as a sex  
 3 offender on the effective date of this subsection solely because the person had been  
 4 found in need of protection or services on or after December 25, 1993, for an offense  
 5 specified in section 301.45 (1) (a), 1997 stats.

6 (b) If the department of corrections believes that purging the information  
 7 concerning a registered sex offender under paragraph (a) would not be in the interest  
 8 of public protection, the department may file a petition in the court in which the  
 9 person was found in need of protection or services requesting the court to order the  
 10 person to continue complying with the reporting requirements under section 301.45  
 11 of the statutes, as affected by this act. If the department decides to file a petition  
 12 under this paragraph, it shall file the petition no later than the first day of the 4th  
 13 month beginning after the effective date of this paragraph. The department shall  
 14 serve a copy of the petition on the person and, if the person has not attained the age  
 15 of 18 years, on the parents, guardian or legal custodian of the person. The court may  
 16 act on the petition with or without holding a hearing, and if the court holds a hearing  
 17 on the petition it may allow both the department and the person to present evidence  
 18 on whether it is in the interest of public protection to have the person continue to  
 19 register as a sex offender. In deciding a petition filed under this paragraph, the court  
 20 may consider any of the factors specified under section 938.345 (3) (a) of the statutes,  
 21 as created by this act. If the court grants the petition, the department shall continue  
 22 to maintain the information in the sex offender registry about the person as provided  
 23 under section 301.45 of the statutes, as affected by this act, and may not purge the  
 24 information under paragraph (a). If the court denies the petition, the department

*paragraph*

*auto ref*

*↑ auto ref.*

1 shall purge the information in the sex offender registry about the person as provided  
2 under paragraph (a). ~~and~~ auto relf

\*\*\*NOTE: I just made this procedure up; it can be changed if you want.

3 **SECTION 51. Initial applicability**

4 (1) The treatment of section 301.45 (6) (a) 2. ✓ of the statutes first applies to  
5 offenses committed on the effective date of this subsection, but does not preclude the  
6 counting of previous offenses for purposes of determining whether the person is  
7 subject to the penalties under section 301.45 (6) (a) 2. ✓ of the statutes, as created by  
8 this act.

JED/MGD & Tony Strander DOC 10/7

✓ Pp. 7-8 : a) penetration of victim under age 12  
b) threat or use of force or violence

✓ P. 9, l. 6 - title reg. "as sex offenders"

✓ P. 10, l. 9 : or "is reg. as S.O. w/

✓ P. 11, l. 14 : ditto

✓ P. 18, l. 18 : "

✓ P. 15, l. 13-17 : doesn't work; delete ll 13-17

✓ (lg) (intro.) → one or more

✓ P. 17, (5)(b) (.. refer to sex offense

~~im. add. language~~  
✓ Im. delete comparable language

✓ P. 19 - 2. & 3. ~~can~~ say "sex offense"  
plus comparable

MGD Require clerk of cts to notify DOC  
re: orders to register

✓ P. 21, → (6m) add fed's agency

✓ (S) (g) As long as they're here ~~if~~  
~~other state requires~~ or as long  
as other state requires regly,  
whichever is less

✓ WI "ownership" trumps. Fe, (5) trumps  
(5m)

MGD ✓ P. 19: Add predator cases to lifetime  
↳ Also to 90 day verification

✓ Delete 343.237 stuff

✓ Venue → city in which has resided,  
gone to school or worked

MGD ✓ 201.46  
NC-1266 Dep't shall put info on www  
& allow release as specified under  
current law

NS = Shall hold hq if prosecutor petitions

Olsen, Jefren .

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From: Streveler, Anthony J. DOC  
Sent: Friday, October 08, 1999 5:35 PM  
To: Olsen, Jefren  
Subject: Registry Internet

Jefren:

Wanted to provide you with a little more information regarding the conceptual model of the proposed Registry Web Site. Attached is a draft document, not yet approved by the Secretary, that provides probably more information than you need - but does give an idea of what direction we are going with this.

In looking at the Secora proposed bill, there is some language that I think sounds pretty good.. .

*The department shall keep the information provided on the internet site and in other means **of** providing access to information under para. (b) secure against unauthorized alteration.*

Although para (b) is irrelevant, the concept is not bad.

My thoughts on the language is that we need to be as general as possible - requiring the department to create and manage an internet web site for the registry, while not prescribing what the web site should contain, who should have access to what information... the department shall develop and maintain an internet web site containing information from the sex offender registry. . . like...

Information access and the scope or type of information made available will be based on a  
termination of protection of the public.. or something to that effect

Not sure if necessary, but I want to make sure we cannot be made to include public access to juvenile registry information.

Under the new scheme, want to make sure we can take off those we do not "own" and are not in our great State.

Lastly.. I think.. Act 440 created language for registration, notification and use of the polygraph... I assume that if this was one package at one time, then the changes can possibly go in one package... regarding the polygraph change.. real

simple in concept, currently can only require this for a probationer or parolee who is a sex offender.. just need to have it changed so that I can require the polygraph for a sex offender (defined by those required to register).. this way I can use this tool for treatment in an institution setting.. if this is too problematic.. or creates more work/delay.. forget it... just thought I would throw it out.. .

thanks for all your assistance and tolerance with this stuff



Report Website.doc

Tony

This report provides background information and recommendations for the development of a model for a Wisconsin Sex Offender Registry Web Site.

## A. INTENT

Sex offenders pose an ongoing risk of engaging in sex offenses even after being released from incarceration or commitment and that protection of the public from sex offenders is a paramount governmental interest. Persons found to have committed a sexual offense have a reduced expectation of privacy because of the public's interest in public safety. Registration, while on supervision and following expiration from sentence, serves as a means for monitoring and tracking the whereabouts of sex offenders in the community.

Community notification, the release of, or access to relevant information<sup>1</sup> about sexual offenders to law enforcement agencies, public/private entities and the general public will further the governmental interests of public safety and enhance strategies for crime detection and prevention.

## B. PRINCIPLES of IMPLEMENTATION

The model that forms the foundation for the current community notification law and proposed registry information access through an Internet Site is based on the following working principles:

- 9 **FLEXIBLE and RESPONSIBLE:** The model should provide flexibility to the agency of jurisdiction and law enforcement in order to expand or reduce community notification or access to information based on **case-by-case** factors.
- 9 **BALANCED APPROACH:** The model should strike a responsible balance between community protection, the public's goal to be informed and to have access to information, with the need to create an environment that enhances the registrant's likelihood for successful reintegration within the community. There must be proper controls for dissemination and access to juvenile registrant information.
- 9 **SENSITIVE to VICTIMS:** The model must be sensitive to potential impact on victims, and should contain safeguards to reduce the possibility of re-victimization and harassment of the victim and/or the victim family.

---

<sup>1</sup>

**“Relevant Offender Information”** is defined as any information that is deemed necessary to protect the public concerning a specific person required to register under the law, except: 1) that the identity of the victim of the offense is withheld; and 2) the release of any information on juvenile offenders beyond law enforcement and corrections officials is prohibited.

- **CONSTITUTIONAL:** The model must be based on sound constitutional precepts and legal practices.
- **RELIABLE INFORMATION:** Information disseminated or made accessible to law enforcement officials, victim/victim family members, community agencies, organizations and members of the public must be as accurate and reliable as practicable. Suspected inaccurate or incomplete information must be properly labeled as such and reasonable mechanisms set in place to obtain missing information or correct inaccurate data. Generally, it is better to provide no information than to provide inaccurate information (see Addendum “C” for related news release).
- **ENHANCE PUBLIC PROTECTION:** The overall intent of a community notification law is not to impose additional “punishment” onto the offender, but to increase accountability of the offender through enhanced information sharing within, and between the criminal justice system and the community. The model should include safeguards to reduce the potential of “vigilantism” or other possibilities for misuse of the information.

### **C. SUMMARY of OTHER STATE REGISTRY WEB SITES**

A detailed review and analysis was conducted on several other State Sex Offender Registry Web Sites. The following is a brief summary of the issues highlighted by the survey, a more detailed accounting of each State Web Site can be found in Addendum “A” and “B”.

- There are over 30 identified state and/or local Sex Offender Registry Web Sites. Recently a web site was created that serves as a primary link among many of the state and local web sites (<http://www.exis.net/hrlef/criminal.htm>).
- Majority of state Web Sites were initiated through State legislation.
- Web Sites are primarily managed and supported by the agency responsible for administering the Sex Offender Registry database. Many are managed through State law enforcement agencies (central and local).
- Web sites receive significant inquiries, reportedly ranging from several thousand per month to well over 100,000 - 500,000 within a calendar year.
- Average reported Web Site development time was approximately 6 months from design to implementation. All Web Sites require staff resources for ongoing technical maintenance and updating.
- Average reported cost for Web Site design and development was approximately \$200,000 (programmers, hardware and software) and varying

ongoing costs, reporting several thousands of dollars per year (note: many of the costs provided by the State respondents did not differentiate the costs specifically associated with the Web Site from ongoing maintenance of the Registry database. Both operations are integrally connected). Funding was provided through either State allocations, through Federal grants, or a combination of funding.

**D. ISSUES/PROBLEMS with REGISTRY WEB SITE MANAGEMENT & ACCESS to INFORMATION**

The following is a listing of problems/recommendations associated with the management of Registry Web Sites, as provided by other State programs:

- . ensure accuracy of information - better to provide no information than bad or inaccurate information;
- ensure timely data entry with established quality control mechanisms;
- ensure there are proper security measures to preclude information tampering;
- ensure pictures, names, identifying information, conviction data, residence, employment and other information related to an individual registrant is directly associated with that registrant - false identification is quite problematic and legally volatile;
- . ensure that individuals who are not required to register are not on the Web Site, and those determined to be removed from the site are immediately deleted. Be cautious with including juvenile registrant information;
- ensure persons inquiring the information have sufficient explanation of terms, what is/is not available, and that misuse of the information (vigilantism) will be prosecuted;
- ensure that there are appropriate contacts identified in the query information so the person obtaining the information can contact someone for additional information or clarification, if needed;
- ensure the agency maintaining the registry and Web Site have adequate staff for data entry, information verification/quality control and Web Site software/hardware/database maintenance;
- . ensure the Web Site is “user-friendly” and easy to navigate and understand;

ensure there is an ongoing statewide marketing/education plan set in place to announce the web site, its' purpose, who has access to what information and what limitations are associated with information contained in the data system.

The following is a more detailed listing of potential issues/problems with placing the entire Sex Offender Registry onto a Web Site without proper controls/limits for access to the information - as presented in DOC testimony on AB-865 (1998). This listing also includes the proposed remedy based on the recommended Wisconsin Web Site model.

➤ **Compromise Security and Information Contained in the Registry**

Web Sites cannot be fully secure from tampering or hackers entering, altering and/or destroying the information contained on the registry and information subsequently provided on the WWW. For example, names or pictures could be changed to falsely identify someone who is not a registered sex offender.

✓ **Planned Remedy:** Current technology exists that can substantially reduce the probability of information tampering or hacking. The proposed Web Site will include current state-of-the-art security and firewalls to preclude compromise of information. Persons who attempt to tamper with the information will not effect the actual database, in that the information used for the Web Site will be "mirrored" or replicated data from the actual database. Additionally, security software will be installed that will alert the Data Base Web Site Administrator of tampering attempts.

➤ **Misidentifying persons as registered sex offenders and/or providing inaccurate residence, employment or school attendance registered sex offenders.**

Information maintained on the registry cannot be 100% timely and accurate, With approximately 11,000 records, access to the registry on-line assumes that all residence, employment or school attendance information is 100% accurate at any given point in time. This database will continue to grow significantly over the next several years - first registrant scheduled to be taken off the registry is 12/25/08.

Although the Department has a residence verification process, it is quite possible that an address of a non-sex offender could be displayed on the Web Site, leading to misidentification a person or a household as the residence of a sexual offender (e.g., Registrant moves and does not inform SORP of the change of address, and a new resident - non-sex offender - moves into the house or apartment).

- ✓ **Planned Remedy:** The data system will be structured to provide only information verified through the SORP's data validation and verification processes. This includes auto-validated residence addresses compared to actual U.S. Postal addresses, accomplished through special software (e.g., address reported by registrant is automatically validated through a software package to determine if the address is real - not a parking lot, for example). This software, however, does not verify the accuracy of the address, e.g., that the registrant actually resides at the reported address.

Address verification will take place through agent verification that the offender actually resides at the reported address. This will be accomplished through data entered by the agent indicating the address is accurate based on certain factors, such as "verified by home visit." For cases off field supervision other means of residence verification will take place, such as periodic phone calls, home visits and collateral contacts through local law enforcement. Finally, all reported address will be verified through the SORP's automated letter mailing system - whereby a letter is mailed to the reported addresses whenever a new address is reported. If the letter is returned and signed by the registrant, the address is verified and then made available on the Web Site. If not returned, or returned by the U.S. Postal Service, the address is considered not valid and the registrant is determined to be in non-compliance with the registry.

It should be noted, however, that with all available resources/means to verify and validate the accuracy of information utilized, the SORP can not guarantee 100% accuracy of the information contained on the Web Site. A narrative qualifier to this effect will be included on the Web Site (like all other state Web Sites of this nature). All reported registrant residence information will be identified as either **verified** or **not verified**. Inaccurate or unverified information will not be provided to the general public.

➤ **Identifying Victims - Re-victimization**

Having the name and conviction of the registrant on the Web Site could lead to identifying the victim(s) of the crime. For example, there are registrants who were convicted of **Incest** or **Incest with a Child**. These conviction statutes automatically identify the crime victim(s).

- ✓ **Planned Remedy:** This issue will be controlled by not including the State Statute conviction descriptor for offenses that can identify the victim(s). For example, instead of using "**Incest**" the offense descriptor will indicate "**Sexual Assault - Child**."

## 9 Impact of Registrants Off Supervision

The registry contains information on sex offenders who have completed their entire sentence and who are now living in the community as free citizens. Full disclosure of this information to the general public may lead to serious problems for the registrants' family, residence, employment and general acceptance or stability in the community.

✓ **Planned Remedy:** The proposed Web Site will control for this issue by not providing all information on all registrants to all persons/entities that have access to the Web Site. Under the proposed model, only registrants off field supervision who are identified as "non-compliant" will have expanded information on the Web Site, with greater accessibility to the general public. "Compliant" off supervision registrant information will be limited to:

- ✓ all information available to law enforcement;
- ✓ all information available to the victim/victim family member;
- ✓ limited information to the general public through an individual query to determine if a *speczjicperson* is a registrant (same as current 1-800# access).

## 9 Impact of Sex Offenders @Supervision

Disclosure of all sex offenders currently on probation and parole supervision may have serious impact on the stability of their supervision, residence, and employment. This could lead increased incidents of harassment or vigilantism that may result in an increased possibility of absconding from supervision.

Without any discrimination or determination as to which registrants should be placed on the WWW, a site could intermix offenders who have been convicted of "statutory" crimes (such as a 19 year old who had sex with a 16 year old) with those who are a 2-strike offender, recently released from prison and had a level 3 notification take place.

✓ **Planned Remedy: Same** as remedy presented in the above point regarding registrants off supervision.

## 9 Impact of Juvenile Registrants

Placing juvenile registrant information on the WWW would seriously impact the juvenile's ability to successfully reintegrate back into the community.

Issues related to stigmatization, adaptation to school and impact on the family will be quite problematic and may lead to legal challenges.

- ✓ **Planned Remedy:** Consistent with current laws and practice, juvenile registrant information is only made available to law enforcement officials and the victim or family member of the victim. Access to this information to community agencies, groups of the general public is prohibited. The proposed Web Site model will remain consistent with this practice -juvenile information will not be made available to the general public. Juveniles waived into adult court and convicted of a sex crime will have their registry information made available to the public after their 18<sup>th</sup> birthday.

## 9 Impact on Local Decision-Making Regarding Level of Notification

Complete access to the registry on the WWW would circumvent the local decision-making process for law enforcement related to determine levels of notification warranted for a particular case. Specific case determinations for Special Bulletin Notifications (SBNs) would become moot, resulting in no individualized assessment of the case. This could lead to more legal and constitutional challenges of the process and seriously impacting the legislative intent regarding Special Bulletins and community notification .

- ✓ **Planned Remedy:** The proposed Web Site model will control for this issue by remaining consistent with the current local law enforcement decision-making process for all Special Bulletin Notifications (SBNs). SBN decisions for Levels 2 and 3 notification (Targeted and Expanded Notification) will be posted on the Web Site for general public access. Decisions made for Level 1 notifications (Limited to Law Enforcement only) will not be made accessible for the general public in Bulletin format.

## F. PROPOSED WI SORP REGISTRY WEB SITE MODEL

Based on the other State Registry survey results, an analysis of the various Web Site designs, and premised on the current principles of the Wisconsin community notification/access to information system, the following constitutes the recommended Wisconsin Sex Offender Registry Web Site model (see Addendum “D” for an illustrated example of the Web Site - based on North Carolina and Virginia State Police sites).

### ACCESS to INFORMATION

The model Web Site will have five unique sub-components and related functions.

## 1. LAW ENFORCEMENT

- Full Web Site access will be made available to all law enforcement agencies across the state via secured access procedures - that is, through encrypted access to information with inquiry determined by the Agency ORI# and other security measures. This includes all registrants, juveniles, on/off supervision, out-state, etc.. .
- All registrant information contained in the registry, on all registrants, will be accessible to law enforcement through multiple search fields. Specific information will be highlighted for cases determined to be in non-compliance with the registry, absconders and Levels 2 and 3- Special Bulletin cases.
- Information will be made available by individual, group, jurisdictional (like Zip Code) or statewide registrant search and reporting methods.
- Information will be made available through Global Information System (GIS) mapping capabilities, allowing officials to search the data system through mapping software.
- Site will include a contact person/office to obtain additional information on the case. Contact will be dependant upon the registrants' current status - such as, if off field supervision - contact will be DOC SORP; if on supervision - contact will be the respective DCC field unit; if out-of state - other State Registry Program.
- Registrant Profile information will be made available through a system *Investigatory Inquiry* interface, allowing law enforcement to search the database based on registrant demographics, geographic location and criminal profile. This provides an on-line investigative information resource for past or current criminal investigations.
- Registrant information that is determined to be inaccurate or not verified will be specifically identified on the information screen - such as identification of non-compliance due to residence verification.

## 2. VICTIM/VICTIM FAMILY MEMBERS & VICTIM/WITNESS COORDINATORS

- Controlled Web Site access to victims and family members of victims via the use of their Victim Identification Number (VIN), as provided through registration with the Department's Parole Eligibility Notification System (PENS). System would involve encrypted

information access for the victim, victim family member(s) only, who have registered with the Department. This process will parallel the current VINE 1-800# access system.

- . Similar access will be made to County Victim Witness Coordinators across the State. Currently, Victim/Witness Coordinators have a security VIN access code for the 1-800# VINE system.
- All required registry information, related to the specific offender(s) of the victim, would be made available to the person through a specified Victim Identification Number (VIN) access code. Information access will include current residence, employment, school attendance; picture, identifying information; and current correctional/ registry status (incarcerated, parole supervision, off supervision, compliant/non-compliant registry status, absconder status).
- Site will include a contact person/office to obtain additional information on the case. Contact will be dependant upon the registrants' current status - such as, if off field supervision - contact will be DOC SORP; if on supervision - contact will be the respective DCC field unit.
- . Registrant information that is determined to be inaccurate or not verified, or registrants who are determined to be in non-compliance or an absconder from supervision will be specifically identified on the information screen.
- . Note: this component of the web site will not include global or geographic search capabilities. Access will be direct to the information on the offender(s) of their crime. Victim/ Witness Coordinators, however, will have global search capabilities so that they can obtain information on certain offenders by entering necessary identifying information (e.g., name, date of birth, DOC#).

### **3. COMMUNITY AGENCIES & GENERAL PUBLIC**

- Controlled Web Site access to community organizations, agencies and the general community through a public inquiry screen.
- Unlike the site components for law enforcement, registered victims, family members of victims and Victim/Witness Coordinators, the general public will not have access to all information contained in the registry regarding a particular registrant, or group of registrants, including:

- ✓ All juvenile registrant information will be excluded (with the exception of a juvenile waived into adult court and convicted of a sex crime - this information will be made available after the registrants' 18<sup>th</sup> birthday).
- ✓ Any registrant residence, employment or attendance at school information that has not been verified as accurate will be excluded. Since the search capabilities of this component of the site will be for specific registrants (name and other identifying information search) or geographic searches (city, township, county, zip code) providing "hits" on invalid residence, employment or school attendance information can lead to falsely identifying a particular house or apartment as the residence of a registered sex offender, or providing false information about a particular employer or school.
- ✓ Any non-compliant registrant and/or absconder will be excluded from the search component of this site (this information will be made available in another section of the Web Site).
- ✓ Incarcerated cases - this information will be made available upon release from an institution.
- Site will provide multiple search capabilities to obtain limited individual and/or group registrant information, including:
  - ✓ Search by name or other identifiers, such as date of birth;
  - ✓ Search by zip code, county, city or township.
- Information to be made available upon successful "hit" on an inquiry will include:
  - ✓ Registrant Name
  - ✓ Alias
  - ✓ Date of Birth
  - ✓ Race/Sex
  - ✓ Physical Descriptors
  - ✓ Conviction Date of Conviction Requiring Registration
  - ✓ County/State of Conviction Requiring Registration
  - ✓ Offense Statute and Title (excluding criminal codes specific to *Incest or Incest with a Child* - renamed to *Sexual Assault - Child*)
  - ✓ Date Required to Register
  - ✓ Term of Registration and Registration End Date
  - ✓ Current Registry Status (on supervision or off supervision)

- ✓ Last Reported Verified Residence Address
  - ✓ Date Information Last Updated
  - ✓ Agency Contact
- .
- . Site will include a contact person/office to obtain additional information on the case. Contact will be dependant upon the registrants' current status - such as, if off field supervision - contact will be DOC SORP; if on supervision - contact will be the respective DCC field unit.
  - . This component of the site is more expansive than the current VINE 1-800# access and written Public Inquiry process. With this screen, a member of the general public will have access to individual and group registry information. In addition, the person making the inquiry will not be required to provide several specific identifiers of the registrant, as is currently required for the 1-800# - such as exact name and date of birth, and social security number or driver's license number.

#### 4. OPEN REGISTRY ACCESS PAGE

- This component of the site will be made available to anyone who accesses the Web Site. The intent of this component is to provide open access to registrant information (excluding juvenile registrants) who meet any of the following criteria:
  - ✓ Is a registrant who has been determined to be in non-compliance with the law for either greater than 60 days or,  
  
Who has a warrant out for his/her arrest for non-compliance or,  
  
Where certified documents have been submitted to a District Attorneys office to issue a warrant for arrest related to non-compliance under the law.
  - ✓ Is a registrant who has been identified as an absconder from supervision;
  - ✓ Is a registrant who has been identified as a Special Bulletin Notification case whereby law enforcement has determined that a Level 2 or 3 notification is warranted.

.

  - . Registrant information contained in the open access page will remain in this component of the site until:
    - ✓ Determined to be in compliance with the law.

- ✓ Warrant for arrest is retracted.
  - ✓ Is no longer determined by law enforcement as meeting Levels 2 or 3 notification.
  - ✓ Is no longer determined to be an absconder.
  - ✓ Is no longer determined to be required to register.
  - ✓ Is removed from the registry due to death.
- Information contained in this component of the Web Site will include pictures (if available) and complete registry information, as previously reported or obtained on the case.
  - Persons entering this component of the site will be able to scroll through this information or perform search functions by status (non-compliant, absconder, Levels 2 or 3 notifications) and by name, township, city, county, zip code or state.

## **5. OPEN INTRODUCTORY/INFORMATION PAGE**

- This component of the Web Site will be the central entry page for all persons querying the site and will connections to the various sub-components. This page will also provide access to other pages that will contained detailed information about the sex offender registry and community notification law, policies, procedures and informational brochures, including:
  - ✓ Description of the law, department policies, procedures;
  - ✓ Publish information handbooks and brochures, such as: *Your Right to Know, Check it Out, Staying Safe and Community Notification Guidelines.*
  - ✓ Specific information about the utility and limits of information contained in the Sex Offender Registry and Web Site.
- This page will provide global up-to-date information regarding the registry and community notification programs that are typically asked of the Department, including:
  - ✓ Total # of registrants statewide, zip code, county, township or city
  - ✓ Total # of registrants by on/off field supervision
  - ✓ Total # of Wisconsin registrants living out-state
  - ✓ Total # of Special Bulletins by county and decided level
  - ✓ Total number of inquires into the WI SORP Web Site

- Lastly, this page will lead the person to the appropriate query page/function (such as law enforcement, victim, victim family member, victim/witness coordinator or general public). For persons entering the general public inquiry screen, they will be required to acknowledge that they have read and understood a narrative section that provides information regarding the intent and limitations of the registry information, and that any misuse of this information may lead to criminal prosecution in accordance with current law.

**G. WEB SITE COST ESTIMATE - START-UP and ONGOING**

MA Supreme Judicial Court

**Supreme Judicial Court**

Opinions courtesy of Lawyers Weekly

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SJC-07655

**JOHN DOE**

**vs.**

**ATTORNEY GENERAL & others.[1]**

Norfolk. May 7, 1999. - August 11, 1999.

Present: Wilkins, C.J., Abrams, Lynch, Greaney, Fried, Marshall, & Ireland, JJ. ,

Delinquent Child. Sex Offender. Constitutional Law, Sex offender, Privacy. Due Process of Law, Sex offender, Hearing. Privacy. Statute, Construction.

Civil action commenced in the Superior Court Department on November 25, 1996.

A motion for a preliminary injunction was heard by Judith A. Cowin, J.

The Supreme Judicial Court on its own initiative transferred the case from the Appeals Court.

James M. Doyle for the plaintiff.

Gregory S. Gilman, Assistant Attorney General, for the Attorney General & others.

Carol A. Donovan, Committee for Public Counsel Services, & John Reinstein, for Committee for Public Counsel Services & another, amici curiae, submitted a brief.

MARSHALL, J. We consider once again a challenge to the registration and notification requirements of the Sex Offender Registration and Community Notification Act, G. L. c. 6, §§ 178C-178O (act or sex offender act).[2] In 1993, the plaintiff, John Doe, then fifteen years old, entered into a negotiated plea agreement with the Commonwealth pursuant to which he was adjudicated delinquent by reason of the rape of a child, G. L. c. 265, § 23. Doe admitted that he had twice forced a four year old girl to perform oral sex on him. He agreed to enter the plea in reliance on statutory provisions holding juvenile adjudications **confidential**.[3] He was placed on probation, and has completed his probation and the required counseling. Doe has not been accused of committing any other offenses either prior to or since this delinquency

adjudication.

Approximately three years after his delinquency adjudication, Doe was served with notice that an application for a complaint had been filed in the Wrentham Division of the District Court Department, seeking to commence prosecution against him for failing to register as a sex offender.[4] Doe thereupon commenced this action in the Superior Court seeking declaratory and injunctive relief. He claimed that the act is unconstitutional under the Federal and Massachusetts Constitutions on its face and as applied to him[5] and that confidentiality provisions governing juvenile adjudications prohibit the defendants (collectively, the Commonwealth) from requiring him to register and from disseminating any sex offender registry information about him.

The Commonwealth agreed to defer enforcement against Doe pending a ruling on his motion for a preliminary injunction. A judge in the Superior Court denied Doe's motion, but issued a temporary stay pending appeal. Doe filed a petition, pursuant to G. L. c. 23 1, § 118, for review of that decision by a single justice of the Appeals Court. A single justice continued the stay preventing registration and dissemination of Doe's registration information until further order of the Appeals Court and ordered Doe to file his notice of appeal within two weeks. Doe thereafter took an appeal from the denial of his motion for a preliminary injunction. We transferred the case here on our own motion.

In response to our decision in Doe v. Attorney Gen., 426 Mass. 136 (1997) (Doe [No. 3]), the Commonwealth filed a motion to remand the case to the Superior Court to allow it to submit additional evidence.[6] The Commonwealth sought to introduce evidence demonstrating that the Legislature's decision to subject every person adjudicated delinquent or convicted under G. L. c. 265, ' 23, to the provisions of the act was justified, and that no individualized hearing is required in such cases. The motion was allowed by a single justice of this court. The parties thereafter filed in this court a joint supplemental appendix containing additional evidence introduced in the Superior Court.[7]

We conclude that an individualized hearing is required, as a condition of registration as a sex offender, for persons adjudicated delinquent or convicted under G. L. c. 265, ' 23, absent the promulgation of carefully tailored regulations we discuss more fully below. We remand the case to the Superior Court for further proceedings consistent with this opinion. We do not reach the question whether the act imposes constitutionally impermissible punishment on the plaintiff. Id. at 137.[8]

1. Background. Because of the nature of Doe's delinquency adjudication in 1993, § 178E (h) of the act requires him to register as a sex offender. Registration will continue for a minimum of fifteen years beyond the date of his adjudication as a sex offender. G. L. c. 6, ' 178G. Once a sex offender registers with the criminal history systems board (board), the sex offender registry board (sex offender board) must classify him as a level one, two, or three offender, based on the risk that he will reoffend. G. L. c. 6, ' 178K.[9] Doe has not registered, and therefore has not been classified. If Doe registered prior to classification, he would nevertheless be subject to the public dissemination provisions of G. L. c. 6, §§ 178I and 178J.[10]

The act requires that the board transmit registry information on all offenders to the "police departments where the sex offender intends to live and work and where the offense was committed and to the Federal Bureau of Investigation." G. L. c. 6, ' 178K (2) (e). Section 178I allows any person over the age of eighteen to receive registry information about a specific individual.[11] Section 1785 allows a person over the age of eighteen years, for his or her "own protection or for the protection of a child under the age of eighteen or another person for whom [he or she] has responsibility, care or custody," to inquire "whether any sex offenders live or work within a one mile radius of a specific address," or "whether any sex offenders live or work on a specific street." [12] These public dissemination provisions apply to all levels of sex offenders; those classified as level two and level three offenders are subject to additional, more extensive community notification provisions. G. L. c. 6, ' 178K (2).

The judge, who treated Doe as a level one sex offender for purposes of her decision, ruled that Doe had not established a likelihood of success on the merits of his ex post facto, double jeopardy, or cruel and unusual punishment claims because, she concluded, the act is not penal as applied to level one juvenile sex offenders. The judge also ruled that Doe had not established a likelihood of success on the merits of his procedural due process claim because (1) he had no constitutionally protected liberty interest in the privacy of his juvenile adjudication and (2) he was not entitled to a hearing prior to being classified initially as a level one offender. Finally, the judge concluded that the registration and notification provisions did not violate Doe's negotiated plea agreement because the act is remedial and not punitive, and therefore its provisions are collateral to that agreement.

The judge denied Doe's request for injunctive relief in April, 1997. Accordingly, she did not have the benefit of several of

our recent decisions addressing various challenges to the act. See note 6, supra. We review briefly those developments relevant to Doe's claims. In Doe v. Attorney Gen. (No. 2), 425 Mass. 217, 219, 222 (1997) (Doe [No. 2]), we upheld the grant of a preliminary injunction on the ground that the notification provisions of '1781, as opposed to those in '1785, might impose constitutionally impermissible punishment on a person convicted before the act's effective date. We noted the "absence of any apparent remedial purpose to be served by the general availability of information pursuant to '1781." Id. at 222. In that case, the plaintiff twice had been convicted of open and gross lewdness, G. L. c. 272, '16, a crime we noted "ranks at or near the bottom in seriousness" in a ranking of the sex offenses defined in G. L. c. 6, '178C. Id. at 221 n.7, citing Commonwealth v. Fitta, 391 Mass. 394,396 (1984).

Later in 1997, in Doe (No. 3), supra at 137, we concluded that the act denied the plaintiff procedural due process guaranteed by art. 12 of the Massachusetts Declaration of Rights by failing "to grant him a hearing and fail[ing] to require a finding, if a hearing is held, as to whether he presents a risk to children and other vulnerable persons for whose protection the Legislature adopted the registration and notification requirements of the act." In that case, the registrant, an adult, had been convicted of indecent assault and battery on a person fourteen years or older, G. L. c. 265, '13H, after an undercover police officer arrested him in a wooded area near a rest stop "reputed to be a locale for consensual sexual activity between males." Id. at 138. He challenged, on due process grounds, "the absence of any statutory procedure that would permit or require a determination that a low level sex offender should not be required to register at all." Id. at 139. We held that the plaintiff, whom we presumed to be a level one offender (id.), had "sufficient liberty and privacy interests constitutionally protected by art. 12 that he is entitled to procedural due process before he may be required to register and before information may properly be publicly disclosed about him" (emphasis added). Id. at 143. We said that the Commonwealth could not deprive him of those interests without "a hearing and a determination as to whether he must register under the act and, if so, whether sex offender information concerning him should be available on request." Id. at 146. The plaintiff, we held, had a right to show that he was not presently a threat to children and other vulnerable persons whom the act seeks to protect before he could be required to register. Id.

Finally, in Doe. Sex Offender Registry Bd. No. 972 v. Sex Offender Registry Bd., 428 Mass. 90, 91 (1998) (Doe [No. 4]), we considered whether "an offender's constitutionally required evidentiary hearing" could be held before the sex offender registry board, and the appropriate level of proof of "the board's classification" of an offender. We concluded that such an evidentiary hearing:

"should be held before the [sex offender registry] board pursuant to G. L. c. 30A, that the appropriateness of an offender's risk classification must be proved by a preponderance of the evidence, and that the board must make specific, written, detailed, and individualized findings to support the appropriateness of each offender's risk classification."

Id. Both registrants in that consolidated case had been convicted of rape of a child, G. L. c. 265, § 23, and indecent assault and battery of a child under the age of fourteen, G. L. c. 265, '13B, and each had been classified by the sex offender registry board as a level three offender. Id. at 95-96. We also said in that case that "[w]hether a hearing is required as a condition of registration for those convicted of any, or only some, of the listed offenses is not a question that has been resolved by this court" (emphasis added). Id. at 97 n.8. We now address those of Doe's claims not resolved by our earlier decisions.

2. Procedural due process. Doe claims here that, because he has protected liberty and privacy interests implicated by the registration and attendant notification provisions of the act, he must have the opportunity to be heard on the issue whether he currently is a threat to children before the Commonwealth may require him to register as a sex offender or make available to the public any of his registration information. Our function on review of the denial of a preliminary injunction is to determine whether the judge abused her discretion. Packaging Indus. Group, Inc. v. Cheney, 380 Mass. 609,615 (1980). We "focus on whether the lower court applied the proper legal standard and whether the record reasonably supports the lower court's factual determinations." T & D Video, Inc. v. Revere, 423 Mass. 577,580 (1996), citing Packaging Indus. Group, Inc. v. Cheney, supra. As we described above, the judge denied injunctive relief before we had issued several decisions addressing various and similar challenges to the act. In addition, while there was no testimony given in the Superior Court before the judge denied the request for injunctive relief, and therefore no credibility issue on which we would defer to her, Packaging Indus. Group, Inc. v. Cheney, supra at 616, the judge did not reconsider her order after she took additional evidence on remand of this case to her by a single justice of this court.[13] We therefore deal with a question of law in light of an expanded factual record, but without the benefit of the judge's views concerning widely conflicting evidence.

Registration -- the requirement that a citizen regularly report to the police for an extended term of years -- engages serious liberty interests, and presents an "importantly distinct kind of constitutional danger." Doe (No. 3), supra at 149 (Fried, J.,

concurring). It is

“a continuing, intrusive, and humiliating regulation of the person himself. To require registration of persons not in connection with any particular activity asserts a relationship between government and the individual that is in principle quite alien to our traditions, a relationship which when generalized has been the hallmark of totalitarian government.”

Id. at 149-150 (Fried, J., concurring).[14] See Doe (No. 4), supra at 100-101 (sex offenders “have a constitutionally protected liberty and privacy interest in avoiding registration and public dissemination of registration information”).

In the case of a level one offender, the engagement of that liberty interest is heightened by the public access to his registration information that the statute permits.[ 15] Contrary to the Commonwealth’s claim, the public notification provisions of G. L. c. 6, §§ 1781 and 1785, do burden the liberty and privacy interests of those whom the government seeks to regulate. Moreover, we have already concluded that a level one offender has a liberty and privacy interest protected by the Constitution of the Commonwealth implicated by the requirement that he register, the disclosure of his accumulated personal information on request, and the statutory branding of him as a public danger: a sex offender. Doe (No. 3), supra at 144. Those same concerns are applicable here. The burden of registration, combined with public dissemination provisions applicable to all registrants, triggers liberty and privacy interests protected by the Constitution of the Commonwealth that the Commonwealth may not impinge without procedural due process.[ 16] We need not pass on Doe’s Federal procedural due process claim. See Doe MO. 3), supra at 144 & n.9.

We now consider whether Doe, adjudicated delinquent by reason of G. L. c. 265, ' 23, must be afforded an individualized hearing as a condition of registration.[ 17] We do so by balancing “the individual interest at stake and the risk of an erroneous deprivation of liberty or property under the procedures that the State seeks to use against the governmental interest in achieving its goals.” Doe (No. 3), supra at 140, citing Aime v. Commonwealth, 414 Mass. 667,675 (1993). The Commonwealth apparently concedes -- as it must -- that for persons convicted of certain offenses enumerated in the act (it does not specify or suggest which) an individualized hearing is required, notwithstanding the legislative decision to enact a general regulatory rule applicable to all offenders in those categories. See Doe (No. 4), supra at 97 n.8; Doe (No. 3), supra at 143, 146. But, it argues, the legislative decision to enact a general rule governing the entire class of persons adjudicated delinquent or convicted under G. L. c. 265, ' 23, affords all the process that is due in those cases,

The crime of rape of a child, G. L. c. 265, ' 23, encompasses a range of very different kinds of offenses. That crime includes any number of acts whose seriousness we well recognize, and for which general subcategories, without further particularization to the individual case, may justify regulation without an individualized hearing of the kind we described in Doe (No. 4), supra. But the statute also encompasses acts such as sexual experimentation among underage peers and consensual sexual activity between teenagers (commonly referred to as statutory rape). In either of these latter circumstances, the State’s interest in protecting children from recidivist sex offenders might not be sufficiently urgent to warrant subjecting to registration every person convicted of those acts. Doe (No. 3), supra at 139 (premise underlying sex offender act is that disclosure will help protect minors and other persons vulnerable to becoming victims of sex crimes). Indeed, the expert evidence makes plain that the data concerning recidivism rates change significantly depending on circumstances just such as these. We glean from that evidence that uncertainties surround many aspects of the subject of sex offender recidivism. We cannot presume, and are not able to conclude on the basis of the record before us, that every person convicted under G. L. c. 265, § 23, will present the same risk of reoffense or a significant threat to children. While the Commonwealth sought to demonstrate that there are high recidivism rates for “child rapists and molesters,” it failed to establish that there are high recidivism rates for all of the subcategories of offenders who have engaged in one of the various conducts that supports conviction under G. L. c. 265, ' 23. It is not clear, for example, that the Commonwealths use of the term “child molester” refers to an individual adjudicated delinquent by reason of G. L. c. 265, ' 23, based on sexual experimentation with an underage peer. Because we can envision situations, some of which we have suggested, where the risk of reoffense by one convicted under G. L. c. 265, ' 23, may be minimal and the present danger of that person to children not significant, the general legislative category does not adequately specify offenders by risk so as to warrant automatic registration of every person convicted under that statute.

The question remains whether an individualized hearing is required in every case. Where the State seeks to impinge on a recognized liberty interest, triggering the right to procedural due process, we have held that the requirements of due process are notice and the opportunity to be heard. Matter of Kenney, 399 Mass. 431,435 (1987), citing Goldberg v. Kelly, 397 U.S. 254,267 (1980). See Mathews v. Eldridge, 424 U.S. 319, 332-335 (1976). Situations may exist, however, where the danger to be prevented is grave, and the risk of reoffense great, such that the promulgation of regulations narrowly tailored to allow for automatic registration may clarify and simplify the enforcement of the sex offender registration act in a manner that comports with procedural due process.

Such regulations may treat certain offenders -- for example, those convicted of repeated crimes of violence against young children -- as automatically presenting a threat to vulnerable populations. Those offenders may not be entitled to individualized hearings before being required to register. But because the deprivation of protected liberty interests in those cases will occur without an opportunity to be heard, the burden will be on the sex offender registry board to demonstrate, through appropriately promulgated regulations, that the offender is in a category that poses a grave threat to children and other vulnerable populations and that the risk of reoffense in those circumstances is **compelling**.<sup>[18]</sup> Offenders who fall within this category will, in any event, be entitled to a hearing in connection with their classification, Doe (No. 4), supra at 91.

Offenders who fall into other categories will be entitled, prior to registration, to an individualized hearing. See Doe (No. 4), supra at 91. The burden will be on the sex offender board to establish at the hearing that the offender poses a risk to vulnerable **populations**.<sup>[19]</sup> We recognize that our holdings here and in Doe (No. 4), supra, and Doe (No. 3), supra, potentially mandate that the sex offender board hold two such hearings -- one prior to requiring an offender to register and one prior to classifying that same offender. We leave to that board's discretion the determination whether to consolidate the two **hearings**.<sup>[20]</sup> In the absence of such regulations, we express no view regarding which category would include Doe.

Those adjudicated delinquent or convicted under G. L. c. 265, '23, are entitled to an individualized hearing to determine whether they are required to register absent the sex offender boards promulgation of regulations that identify with particularity for each subcategory of offender and offense the fit between the remedial measure sought by the Commonwealth (registration and public dissemination of registry information) and the danger to be averted (protecting children from harm). See Opinion of the Justices, supra at 1224-1225. Registration is a stringent regulatory regime, permissible only "where the danger is great and the measures are carefully calibrated to the needs of the particular case." Doe (No. 3), supra at 148 (Fried, J., concurring). The burden is on the sex offender board to establish that certain conduct justifies automatic registration in each case.

3. Enforcement of the plea agreement. Independent of his constitutional claims, Doe contends that he is entitled to enforcement of his plea agreement. He argues that he agreed to waive his constitutional right to seek an acquittal in exchange for an agreement by the Commonwealth to treat him as a juvenile. Doe makes no claim that there was any express promise by any prosecutor that his records would be treated as confidential. Rather, he says, the confidentiality of his records was "an immediate, automatic and inescapable consequence" of that "exchange," and the confidentiality provisions mandated by various statutes governing juvenile adjudications, in effect at the time of his plea **agreement**,<sup>[21]</sup> constituted "an element" of his plea agreement that he is entitled to enforce. We conclude that the operation of the statutes did not create an enforceable term of Doe's plea agreement.

Our decision in Doe v. Attorney Gen. (No. 12,425 Mass. 210 (1997) (Doe [No. 1]), informs our resolution of this issue. In that case we addressed the apparent conflict between G. L. c. 119, '60A, providing for the confidentiality of juvenile adjudications, and the notification provisions of the **act**.<sup>[22]</sup> We concluded that "[t]he explicit legislative requirement that a discrete portion of juvenile court records be disclosed pursuant to the disclosure provisions of the sex offender act must prevail over the more general rule of confidentiality afforded to delinquent juveniles in G. L. c. 119, '60A." Doe (No. 1), supra at 216. We determined that the plaintiffs due process claim in that case "depended on the continued existence of a statutory right of confidentiality as to his delinquency conviction." Id. We rejected his claim that he had such a right. Id.

Although that case involved a statutory challenge to the notification provisions, rather than a contractual challenge based on a plea agreement, Doe's claim here is, in essence, the same. While he fashions his argument in contractual terms, he relies on nothing more than the content of the applicable **statutes**.<sup>[23]</sup> The record gives no indication that the prosecutor made either an express or an implied promise of confidentiality. Because we have already concluded that there is no continuing statutory right to the confidentiality of a juvenile adjudication in the face of the act's dissemination provisions, Doe's contractual challenge also fails.

4. Conclusion. A judgment shall enter in the Superior Court declaring that the registration requirements and notification provisions of G. L. c. 6, §§ 178C-178O, are unconstitutional as applied to Doe in the absence of either an individualized hearing to determine whether he is a present threat to children because of the likelihood that he will reoffend or the promulgation of regulations identifying with particularity as to offender and offense the fit between the remedial measure sought by the Commonwealth (registration) and the danger to be averted. An injunction shall be entered in the Superior Court enjoining the Commonwealth from requiring Doe to register under the sex offender act and from distributing or releasing any information concerning him pursuant to that act pending either a determination adverse to him following an

individualized hearing before the sex offender board or that board's promulgation of such regulations and the application of those regulations to him.

So ordered.

#### FOOTNOTES:

[1] Criminal History Systems Board, Department of Youth Services, the district attorney for the Norfolk district, the chief of police of the town where John Doe resides, and the clerk of the Wrentham Division of the District Court Department.

[2] We acknowledge the amicus brief filed jointly by the Committee for Public Counsel Services and the American Civil Liberties Union of Massachusetts.

[3] For example, at the time of Doe's adjudication of delinquency, G. L. c. 119, '60A, as amended through St. 1985, c. 425, stated:

“The records of the court, including those of a juvenile appeals session, in all cases of delinquency arising under sections fifty-two to fifty-nine, inclusive, shall be withheld from public inspection except with the consent of a justice of such court, but such records in any such case against any particular child shall be open, at all reasonable times, to the inspection of the child, his or her parent or parents, guardian and attorney, or any of them.

“Notwithstanding the provisions of this section, the name of a child shall be made available to the public by the probation officer without such consent if the child is: alleged to have committed an offense while between his fourteenth and seventeenth birthdays; and has previously been adjudicated delinquent on at least two occasions for acts which would have been punishable by imprisonment in the state prison if such child had been age seventeen or older; and is charged with delinquency by reason of an act which would be punishable by imprisonment in the state prison if such child were age seventeen or older.”

[4] Section 178H provides that a “sex offender who knowingly fails to register . . . shall, upon a first conviction, be punished by imprisonment for not more than two and one-half years in a house of correction or by a fine of not more than one thousand dollars, or by both a fine and imprisonment.”

[5] Doe claimed that the act is not a proper exercise of the police power under the Massachusetts Constitution, denies him equal protection of the laws and due process of law, subjects him to ex post facto and cruel and unusual punishment, and deprives him of his right to travel, his right to privacy, and his statutorily created right to confidentiality in juvenile adjudications.

[6] Since the denial of Doe's motion for a preliminary injunction, we have addressed various provisions of the act,

discussed infra. See Doe, Sex Offender Registry Bd. No. 972 v. Sex Offender Registry Bd., 428 Mass. 90 (1998) (Doe [No. 4]); Doe v. Attorney Gen., 426 Mass. 136 (1997) (Doe [No. 3]); Doe v. Attorney Gen. (No. 2), 425 Mass. 217 (1997) (Doe [No. 2]); Doe v. Attorney Gen. (No. 1), 425 Mass. 210 (1997) (Doe [No. 1]).

[7] The judge made no further ruling on Doe's motion for a preliminary injunction after taking this evidence.

[8] We previously have indicated that "furnishing sex offender information, except in circumstances that serve the act's remedial purposes, might constitute constitutionally impermissible punishment as to a person convicted of a sex crime committed before the act's effective date." Doe (No. 3), supra at 137 n.3, citing Doe (No. 2), supra at 221-222, and Opinion of the Justices, 423 Mass. 1220, 1223-1224 (1996).

[9] The sex offender board is a subdivision of the board which

"shall promulgate guidelines for determining the level of risk of reoffense of sex offenders, apply the guidelines to assess the risk level of particular offenders, develop guidelines for use by city and town police departments in disseminating sex offender registry information, and make recommendations to the superior court regarding risk levels and community notification plans in the cases where the offender has a right to judicial review and has requested a hearing as provided in section 178M."

G. L. c. 6, 178K (1).

[10] See notes 11 and 12, infra.

[ 11] Section 1781 provides in pertinent part: "Any person who is eighteen years of age or older, upon the verification of his age and identity, shall receive at no cost from the board a report which indicates whether an individual identified by name, date of birth or sufficient personal identifying characteristics is a sex offender as defined in [178C], the offenses for which he or she was convicted or adjudicated, and the dates of said convictions or adjudications."

[12] Section 1785 provides in pertinent part: "(a) A person who requests sex offender registry information shall: . . .(iii) state that he requests sex offender registry information for his own protection or for the protection of a child under the age of eighteen or another person for whom said inquirer has responsibility, care or custody . . . . (b) The person making the inquiry may either: (i) identify a specific individual by name or provide personal identifying information sufficient to allow the police to identify the subject of the inquiry; or (ii) inquire whether any sex offenders live or work within a one mile radius of a specific address, including, but not limited to, a residential address, a business address; school, after-school program, day care center, playground, recreational area, or other identified address; or (iii) inquire whether any sex offenders live or work on a specific street."

[ 13] It is unclear why the judge did not reconsider Doe's due process claim on remand in light of our holding in Doe (No. 3), supra at 137, and the taking of additional evidence. The Commonwealth requested remand "in order to reconsider the plaintiffs motion for a preliminary injunction in light of the empirical data that the State Defendants intend to submit in support of the Legislature's classification, as well as the individual facts of [Doe's] case." The single justice allowed the motion, limiting the evidence to that which the judge deemed relevant in view of Doe (No. 3), supra. A hearing was held before the same judge who had denied Doe's motion for a preliminary injunction. An expert witness for the Commonwealth was examined and cross-examined and each side submitted numerous exhibits. The judge apparently was not asked to, nor did she, reconsider her earlier ruling.

[ 14] The burden of registration also subjects an offender to possible additional criminal sanctions and incarceration for failing to comply with affirmative duties of annually appearing in person before local police officials and maintaining the accuracy of registration information. See note 4, supra.

[ 15] By way of contrast, for example, under the cognate New Jersey law ("Megan's Law"), no information is available to the public concerning a person classified as a low or tier one risk. N.J. Stat. Ann. '2C:7-8c (West 1995). Only law enforcement agencies likely to encounter the registrant receive notification. Id. See Doe (No. 3), supra at 141.

[ 16] We do not conclude that Doe's protected liberty interest is based on a statutory right to confidentiality of juvenile adjudications. See part 3, infra.

[ 17] We frame the issue as one of registration because, as noted above, all sex offenders who are required to register are classified as either level one, level two, or level three offenders, and there is dissemination to the public of registry information about all offenders, including those classified as level one.

[ 18] Even as to such conduct, due process may require some opportunity to show that for some reason -- a long passage of time without reoffense, for example -- the offender should be exempted from some or all of the regulations. See G. L. c. 6, ' 178K (1) (a)-(l). The cognate New York act has such a provision, N.Y. Correct. Law ' 168-o (**McKinney Supp. 1997**), and we have observed that "[t]he availability of this opportunity to seek relief from the registration requirement appears to provide an offender adequate procedural due process." Doe (No. 3), *supra* at 145. See Wash. Rev. Code ' **9A.44.140(3)**, (4) (West 1994) (allowing offender to petition for relief from duty to register given ten consecutive years in the community without conviction of new offenses or if offense was committed when offender was juvenile).

[ 19] We do not address the details of the plethora of scientific research submitted in the Superior Court regarding the statistical likelihood that a convicted sex offender will reoffend. We leave to the boards, through their legislatively delegated rulemaking authority, which subcategories of conduct, based on the likelihood of recidivism by particular offenders, are appropriate for the procedures we have identified.

[20] We recognize that the act delegates to the sex offender board the authority to promulgate guidelines in the context of classification. Our conclusion that an individualized hearing before the sex offender board is required, absent regulations promulgated by that board, in our view is consistent with the act, given the inextricable link between the regulations we suggest and the classification guidelines, and given that the classification hearing is held before the sex offender board. See Doe (No. 4), *supra* at 91.

[21] Doe makes reference at various times to G. L. c. 119, ' 53 (juvenile proceedings not criminal), ' 60 (delinquency adjudication inadmissible in subsequent proceedings), ' 60A (juvenile records withheld from public inspection), and ' 65 (juvenile session separate).

[22] Effective October 1, 1996, the Legislature amended G. L. c. 119, ' **60A**, reducing certain protections available to juvenile offenders. Doe (No. 1), *supra* at 212-213 & n.7. The amendment preserved the confidentiality of a delinquent juvenile's court record applicable at the time of Doe's plea agreement. Id. at 213. Effective October 1, 1996, the Legislature also enacted the sex offender act. The act requires the dissemination of juveniles' sex offender information. The plaintiff in Doe (No. 1), *supra* at 211, like the plaintiff in this case, was adjudicated delinquent prior to the effective date of the amendment to G. L. c. 119, ' 60A.

[23] Doe's claim that the statute affords him absolute confidentiality of his juvenile record is belied by the text of the statute. At the time Doe entered into his plea agreement, G. L. c. 119, ' **60A**, stated that Juvenile Court records "shall be withheld from public inspection except with the consent of a justice of such court" (emphasis added).

**NON-BUDGET STATUTORY LANGUAGE PROPOSAL**  
Division of Program Planning and Movement  
Bureau of Offender Programs

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1405

**TOPIC:** Polygraph Law (effects ss. 301.132).

**CURRENT LANGUAGE:** Current law allow? the department to require, as a condition of probation or parole, a sex offender (as defined as anyone required to register as a sex offender) to submit to a lie detector test.

**PROPOSED CHANGE and EXPLANATION:**

- Recommend expanding the department's authority to require a sex offender to undergo lie detector testing as part of correctional programming.

This change would allow the department to use the polygraph as part of programming that is conducted in an institution setting. Current law would prohibit this, unless the offender is in an institution setting as an alternative to revocation. There is a need to use this assessment tool as part of the base standard of sex offender treatment within the institution. Although the offender would not be "forced" to undergo polygraph testing, it would become part of the program participation standards. Use of the polygraph in treatment and monitoring of sexual offenders has become an expected standard of assessment and treatment for this offender population. Use of this tool in an institution setting treatment program will enhance the department's capability to better assess the offender's risk and level of programming, as well as provide a means for measuring treatment impact (pre- and post-testing).

**CONTACT PERSON:** Anthony Streveler, Director, BOP      608-266-3831

**DATE:** December 15, 1998

Jefren

Streveler, Anthony J. DOC  
Friday, August 27, 1999 8:40 AM  
Olsen, Jefren  
Margolies, Robert S. DOC; Anderson, Kitty R. DOC  
RE: Draft Leg Changes

subject:

Jefren:

The attached e-mail from our legal counsel is the final feedback on the draft you prepared (LRB-1405/P1) adding/changing some of the language allowing the Department to use the polygraph as a condition of supervision. For your reference, I have also attached the document that contained the original language change request.

please feel free to contact me if you have any questions... thanks

Kitty.. thanks for your help..



1999 Leg

Changes-Polygraph.doc..

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From: Anderson, Kitty R. DOC  
Sent: Thursday, August 26, 1999 10: 13 AM  
To: Streveler, Anthony J. DOC  
cc: Margolies, Robert S. DOC  
Subject: RE: Draft Leg Changes

Tony, yesterday Jenny gave me complete copy of the preliminary draft of the amendments to the polygraph language (LRB-1405/P1). You had sent me a copy to review but had omitted the second page. Here are my thoughts:

1. **Section 1. 301.132(2)** I am concerned that the second sentence of the paragraph (new language) does not use the phrase "correctional programming or care and treatment," but only uses the phrase "correctional programming." The former phrase is used in the criminal law section (s. 942.06(2q)(a)2, Stats.). Changing the phrase may be seen to limit the DOC. Thus, I think the paragraph should read:

**301.132(2)** The department may require, e 6  
~~extended supervision, that a probationer, parolee or person on extended supervision~~  
~~who is a sex offender to submit to a lie detector test when directed to do so by the~~  
department. The department may require submission to a lie detector test under  
this subsection as part of a sex offender's correctional programina or care and  
treatment, as a condition of a sex offender's probation, parole or extended  
supervision or both as part of a sex offender's correctional proarammina or care  
and treatment and as a condition of the sex offender's probation, parole or extended  
supervision.

Changes made in Italics.

2. S. **301.132(3)** The drafter asked if the DOC wanted to have s. 301.132(3) changed to give the DOC rule-making authority in the area of inmates as well are probationers and parolees. As you can see from my earlier email I think that the authority ought to be given. Here is a suggested version:

(3) The department shall promulgate rules establishing a lie detector test program for ~~probationers, parolees and persons on extended supervision who are~~ sex offenders. The rules shall provide for assessment of fees upon ~~probationers, parolees and persons on extended supervision~~ sex offenders to partially offset the costs of the program.



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-1407/PZ  
JEO:kmg:mrc

Wed. 10/13  
Tues. 10/12, if possible

EMGD

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

, honesty testing of sex offenders,  
making an appropriation  
and providing a penalty

regenerate catalog

1 AN ACT to renumber and amend 301.45 (1) and 301.46 (1); to amend 48.396  
2 (2) (f), 51.20 (13) (ct) 2m., 51.375 (1) (d), 301.132 (1) (c), 301.45 (1m) (a) l., 301.45  
3 (1m) (b), 301.45 (2) (a) (intro.), 301.45 (2) (b), 301.45 (2) (c), 301.45 (2) (d), 301.45  
4 (2) (e) (intro.), 301.45 (3) (a) (intro.), 301.45 (3) (b) l., 301.45 (3) (b) lm., 301.45  
5 (3) (b) 2., 301.45 (3) (b) 3., 301.45 (3) (b) 3m., 301.45 (4m), 301.45 (5) (a) (intro.),  
6 301.45 (5) (b) (intro.), 301.45 (5) (b) l., 301.46 (2m) (a), 301.46 (2m) (am), 938.34  
7 (15m) (bm), 938.396 (2) (em), 971.17 (1m) (b) 2m. and 973.048 (2m); and to  
8 create 51.20 (13) (ct) 4., 301.45 (ld), 301.45 (lg) (dj), 301.45 (lg) (dL), 301.45  
9 (lg) (f), 301.45 (lg) (g), 301.45 (2) (f), 301.45 (5) (am), 301.45 (5) (b) 3., 301.46  
10 (1) (b), 938.34 (15m) (d), 939.615 (6) (i), 971.17 (1m) (b) 4. and 973.048 (4) of the  
11 statutes; relating to: sex offender registration.

**Analysis by the Legislative Reference Bureau**

This is a preliminary draft. An analysis will be provided in a later version of the draft.

For further information see the **state** 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:*

**SECTION 1.** 48.396 (2) (f) of the statutes is amended to read:

48.396 (2) (f) Upon request of the department of corrections to review court records for the purpose of obtaining information concerning a child required to register under s. 301.45, the court shall open for inspection by authorized representatives of the department of corrections the records of the court relating to any child who has been found in need of protection or services for an offense specified in s. 301.45 ~~(1)~~ (1g) (a). The department of corrections may disclose information that it obtains under this paragraph as provided under s. 301.46.

**SECTION 2.** 51.20 (13) (ct) 2m. of the statutes is amended to read:

51.20 (13) (ct) 2m. If the subject individual is before the court on a petition filed under a court order under s. 938.30 (5) (c) 1. and is found to have committed a violation, or to have solicited, conspired or attempted to commit a violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.095, 948.11 (2) (a) or (am), 948.12, 948.13 or 948.30, or of s. 940.30 or 940.31 if the victim was a minor and the subject individual was not the victim's parent, the court shall require the individual to comply with the reporting requirements under s. 301.45 unless the court determines, after a hearing on a motion made by the individual, that the individual is not required to comply under s. 301.45 (lm).

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

INS  
2-1  
(From  
1405)

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1 51.20 (13) (ct) 4. If the court orders a subject individual to comply with the  
2 reporting requirements under s. 301.45, the court may order the subject individual  
3 to continue to comply with the reporting requirements until his or her death.

INS  
3/3

4 **SECTION 4.** 51.375 (1) (d) of the statutes is amended to read:

5 51.375 (1) (d) "Sex offender" means a person committed to the department who  
6 meets any of the criteria specified in s. 301.45 ~~(1)~~ (1g).

7 **SECTION 5.** 71.78 (4) (q) of the statutes is created to read:

8 '71.78 (4) (q) Employes of the department of corrections involved in the  
9 administration of the sex offender registry under s. 301.45, for the purpose of  
10 verifying information provided by a person required to register as a sex offender.

11 **SECTION 6.** 71.78 (5) of the statutes is amended to read:

12 71.78 (5) **AGREEMENT** WITH DEPARTMENT. Copies of returns and claims specified  
13 in sub. (1) and related schedules, exhibits, writings or audit reports shall not be  
14 furnished to the persons listed under sub. (4), except persons under sub. (4) (e), (k),  
15 (n) and, (o) and (q) or under an agreement between the department of revenue and  
16 another agency of government.

17 **SECTION 7.** 301.132 (1) (c) of the statutes is amended to read:

18 **301.132 (1)** (c) "Sex offender" means a person in the custody of the department  
19 **who meets any** of the criteria specified in s. 301.45 ~~(1)~~ (1a).

INS  
3-19  
(from  
1405)

20 **SECTION 8.** 301.29 (4) of the statutes is created to read:

21 301.29 (4) The secretary may designate employes of the department who have  
22 duties primarily related to operation and maintenance of the sex offender registry  
23 under s. 301.45 to exercise general police powers with respect to enforcement of the  
24 sex offender registration requirements under s. 301.45.

SECTION 9

(Intro.)

INS  
4-2  
1  
2  
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SECTION 9. 301.45 (1) of the statutes is renumbered 301.45 (lg), and 301.45 (lg)

(a), (b), (bm), (c), (d), (dd), (dh) and (e), as renumbered, are amended to read:

~~301.45 (1g)~~ (a) Is convicted, or adjudicated delinquent or found in need of protection or services on or after December 25, 1993, for any violation, or for the solicitation, conspiracy or attempt to commit any violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the victim was a minor and the person was not the victim's parent a sex offense.

(b) Is in prison, a secured correctional facility, as defined in s. 938.02 (15m), or a secured child caring institution, as defined in s. 938.02 (15g), or on probation, extended supervision, parole, supervision or aftercare supervision on or after December 25, 1993, for any violation, or for the solicitation, conspiracy or attempt to commit any violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the victim was a minor and the person was not the victim's parent a sex offense.

(bm) Is in prison, a secured correctional facility, as defined in s. 938.02 (15m), or a secured child caring institution, as defined in s. 938.02 (15g), or on probation, extended supervision, parole, supervision or aftercare supervision on or after December 25, 1993, for a violation, or for the solicitation, conspiracy or attempt to commit a violation, of a law of this state that is comparable to s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 or 948.30 or that is comparable to a violation of s. 940.30 or 940.31 if the victim was a minor and the person was not the victim's parent a sex offense.

1 (c) Is found not guilty or not responsible by reason of mental disease or defect  
2 on or after December 25, 1993, and committed under s. 51.20 or 971.17 for ~~any~~  
3 ~~violation, or for the solicitation, conspiracy or attempt to commit any violation, of s.~~  
4 ~~940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055,~~  
5 ~~948.06, 948.07, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the victim was~~  
6 ~~a minor and the person was not the victim's parent~~ a sex offense.

7 (d) Is in institutional care or on conditional transfer under s. 51.35 (1) or  
8 conditional release under s. 971.17 on or after December 25, 1993, for ~~any violation,~~  
9 ~~or for the solicitation, conspiracy or attempt to commit any violation, of s. 940.22 (2),~~  
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 person was not the victim's parent~~ a sex offense.

13 (dd) Is in institutional care or on conditional transfer under s. 51.35 (1) or  
14 conditional release under s. 971.17 on or after December 25, 1993, for a violation, or  
15 for the solicitation, conspiracy or attempt to commit a violation, of a law of this state  
16 that is comparable to s. ~~940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2),~~  
17 ~~948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 or 948.30 or that is~~  
18 ~~comparable to a violation of s. 940.30 or 940.31 if the victim was a minor and the~~  
19 ~~person was not the victim's parent~~ a sex offense.

20 (dh) Is on parole, extended supervision or probation in this state from another  
21 state under s. 304.13 or 304.135 on or after December 25, 1993, for a violation, or for  
22 the solicitation, conspiracy or attempt to commit a violation, of the law of another  
23 state that is comparable to a ~~violation of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06,~~  
24 ~~948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 or 948.30~~

1 ~~or that is comparable to a violation of s. 940.30 or 940.31 if the victim was a minor~~  
2 ~~and the person was not the victim's parent~~ sex offense.

3 (e) Is ordered by a court under s. 51.20 (13) (ct) lm., 938.34 (15m) (am), ~~938.345~~  
4 (3), 971.17 (lm) (b)lm. or 973.048 (1m) to comply with the reporting requirements  
5 under this section.

6 **SECTION 10.** 301.45 (Id) of the statutes is created to read:

7 301.45 (1d) **DEFINITIONS.** In this section:

8 (a) "Employed or carrying on a vocation" means employment or vocational  
9 activity that is full-time or part-time for a continuous period of time exceeding 14  
10 days or for an aggregate period of time exceeding 30 days during any calendar year,  
11 whether financially compensated, volunteered or for the purpose of government or  
12 educational benefit.

13 (b) "Sex offense" means a violation, or the solicitation, conspiracy or attempt  
14 to commit a violation, of s. 940.22 (2), 940.225 (1), (2) or (3), ~~944.06~~, 948.02 (1) or (2),  
15 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.095, 948.11 (2) (a) or (am),  
16 948.12, 948.13 or 948.30, or of s. 940.30 or 940.31 if the victim was a minor and the  
17 person who committed the violation was not the victim's parent.

18 (c) "Student" means a person who is enrolled on a full-time or part-time basis  
19 in any public or private educational institution, including a secondary school, a  
20 business, trade, technical or vocational school or an institution of higher education.

21 **SECTION 11.** 301.45 (lg) (dj) of the statutes is created to read:

22 301.45 (1g) (dj) Is a juvenile in this state on or after the effective date of this  
23 paragraph . . . [revisor inserts date], and is on supervision in this state from another  
24 state pursuant to the interstate compact on the placement of children under s.  
25 938.988 for a violation of a law of another state that is comparable to a sex offense.

*NOTE: Do we need the comparability language here?*

1 SECTION 12. 301.45 (lg) (dL) of the statutes is created to read:

2 301.45 (lg) (dL) Is placed on lifetime supervision under s. 939.615 on or after  
3 June 26, 1998.

4 SECTION 13. 301.45 (lg) (f) of the statutes is created to read:

*is registered as a sex offender*

5 301.45 (lg) (f) Is registered as a sex offender in another state or with the federal  
6 bureau of investigation under 42 USC 14072, has been convicted of a violation of  
7 federal law that is comparable to a sex offense, has been convicted in the tribal court  
8 of a federally recognized American Indian tribe or band of a violation that is  
9 comparable to a sex offense or has been sentenced by a court martial for a violation  
10 that is comparable to a sex offense, and, on or after the effective date of this  
11 paragraph . . . [revisor inserts date], is a resident of this state, a student in this state  
12 or employed or carrying on a vocation in this state.

13 SECTION 14. 301.45 (lg) (g) of the statutes is created to read:

14 301.45 (lg) (g) Is registered as a sex offender in another state and, on or after  
15 the effective date of this paragraph . . . [revisor inserts date], is a resident of this state,  
16 a student in this state or employed or carrying on a vocation in this state.

17 SECTION 15. 301.45 (lm) (a) 1. of the statutes is amended to read:

18 301.45 (lm) (a) 1. The person meets the criteria under sub. (1) (a) to ~~(dh)~~ (dd)  
19 based on any violation, or on the solicitation, conspiracy or attempt to commit any  
20 violation, of s. 948.02 (1) or (2) or 948.025 ~~or of 8 law of another state that is~~  
21 ~~comparable to s. 948.02 (1) or (2) or 948.025.~~

22 SECTION 16. 301.45 (lm) (a) lg. of the statutes is created to read:

23 301.45 (lm) (a) lg. The violation, or the solicitation, conspiracy or attempt to  
24 commit the violation, of s. 948.02 (1) or (2) or 948.025 ~~in violation of s. 948.02 (1) or (2) or 948.025~~

or with a victim under the age of 12 years

1

of age or older and did not involve ~~either~~ sexual intercourse, as defined in s. 948.01.

2

(6), ~~or~~ either by the use or threat of force or violence.

3

**SECTION 17.** 301.45 (lm) (a) 2. of the statutes is amended to read:

4

301.45 (lm) (a) 2. At the time of the violation, or of the solicitation, conspiracy or attempt to commit the violation, of s. 948.02 (1) or (2) or 948.025 ~~or of a law of another state that is comparable to s. 948.02 (1) or (2) or 948.025~~, the person had not attained the age of 19 years and was not more than 4 years older or not more than 4 years younger than the child.

9

**SECTION 18.** 301.45 (lm) (b) of the statutes is amended to read:

10

301.45 (lm) (b) If a person believes that he or she is not required under par. (a) to comply with the reporting requirements under this section and the person is not before the court under s. 51.20 (13) (ct), 938.34 (15m), 971.17 (1m) (b) or 973.048, the person may move a court to make a determination of whether the person satisfies the criteria specified in par. (a). A motion made under this paragraph shall be filed with the circuit court for the county in which the person was convicted, adjudicated delinquent, ~~found in need of protection or services~~ or found not guilty or not responsible by reason of mental disease or defect, ~~except that if the person meets the criteria of sub. (1) (dh) the person shall file the motion in the circuit court for the county in which he or she resides.~~

20

**SECTION 19.** 301.45 (2) (a) (intro.) of the statutes is amended to read:

21

301.45 (2) (a) (intro.) The department shall maintain a registry of all persons subject to sub. (1) (1g). The registry shall contain all of the following with respect to each person:

24

**SECTION 20.** 301.45 (2) (a) 7. of the statutes is repealed.

25

**SECTION 21.** 301.45 (2) (a) 9m. of the statutes is created to read:

1           301.45 (2) (a) **9m.** For a person covered under sub. (lg) (dt), a notation  
2 concerning the treatment that the person has received for his or her mental disorder,  
3 as defined in s. 980.01 (2).

4           **SECTION 22.** 301.45 (2) (b) of the statutes is amended to read:

5           301.45 (2) (b) If the department has supervision over a person subject to sub.  
6 ~~(1)~~ (la), the department shall enter into the registry under this section the  
7 information specified in par. (a) concerning the person.

8           **SECTION 23.** 301.45 (2) (c) of the statutes is amended to read:

9           301.45 (2) (c) If the department of health and family services has supervision  
10 over a person subject to sub. ~~(1)~~ (1g), that department, with the assistance of the  
11 person, shall provide the information specified in par. (a) to the department of  
12 corrections in accordance with the rules under sub. (8).

13           **SECTION 24.** 301.45 (2) (d) of the statutes is amended to read:

14           301.45 (2) (d) A person subject to sub. ~~(1)~~ (la) who is not under the supervision  
15 of the department of corrections or the department of health and family services shall  
16 provide the information specified in par. (a) to the department of corrections in  
17 accordance with the rules under sub. (8). If the person is unable to provide an item  
18 of information specified in par. (a), the department of corrections may request  
19 assistance from a circuit court or the department of health and family services in  
20 obtaining that item of information. A circuit court and the department of health and  
21 family services shall assist the department of corrections when requested to do so  
22 under this paragraph.

23           **SECTION 25.** 301.45 (2) (e) (intro.) of the statutes is amended to read:

24           301.45 (2) (e) (intro.) The department of health and family services shall  
25 provide the information required under par. (c) or the person subject to sub. ~~(1)~~ (la)

1 shall provide the information required under par. (d) in accordance with whichever  
2 of the following is applicable:

3 **SECTION 26.** 301.45 (2) (e) 2. of the statutes is amended to read:

4 301.45 (2) (e) 2. If the person is on parole, extended supervision ~~or~~, probation  
5 or other supervision from another state under s. 304.13 ~~or~~, 304.135 or 938.988, within  
6 10 days after the person enters this state.

7 **SECTION 27.** 301.45 (2) (e) 2m. of the statutes is created to read:

8 **301.45 (2) (e) 2m.** If the person is registered as a sex offender in another state  
9 is registered as a sex offender  
10 or with the federal bureau of investigation under 42 USC 14072, within 10 days after  
the person enters this state.

11 **SECTION 28.** 301.45 (2) (e) 5. of the statutes is amended to read:

12 301.45 (2) (e) 5. If subd. 1., 2., 2m., 3. or 4. does not apply, within 10 days after  
13 the person is sentenced or receives a disposition.

14 **SECTION 29.** 301.45 (2) (f) of the statutes is created to read:

15 301.45 (2) (f) The department may require a person covered under sub. (lg) to  
16 provide the department with his or her fingerprints, a recent photograph of the  
17 person and any other information required under par. (a) that the person has not  
18 previously provided. The department may require the person to report to a place  
19 designated by the department, including an office or station of a law enforcement  
20 agency, for the purpose of obtaining the person's fingerprints, the photograph or  
21 other information.

22 **SECTION 30.** 301.45 (2) (g) of the statutes is created to read:

23 301.45 (2) (g) The department may send a person subject to sub. (lg) a notice  
24 or other communication requesting the person to verify the accuracy of any  
25 information contained in the registry. A person subject to sub. (lg) who receives a

1 notice or communication sent by the department under this paragraph shall, no later  
2 than 10 days after receiving the notice or other communication, provide verification  
3 of the accuracy of the information to the department in the form and manner  
4 specified by the department.

5 **SECTION 31.** 301.45 (3) (a) (intro.) of the statutes is amended to read:

6 301.45 (3) (a) (intro.) A person covered under sub. ~~(1)~~ (la) is subject to the  
7 annual registration requirements under par. (b) as follows:

8 **SECTION 32.** 301.45 (3) (a) lm. of the statutes is amended to read:

9 301.45 (3) (a) lm. If the person is on parole, extended supervision ~~or~~, probation  
10 or other supervision from another state under s. 304.13 ~~or~~, 304.135 or 938.988, he or  
11 she is subject to this subsection upon entering this state.

12 **SECTION 33.** 301.45 (3) (a) lr. of the statutes is created to read:

13 301.45 (3) (a) 1r. If the person is registered as a sex offender in another state  
14 is registered as a sex offender  
14 or with the federal bureau of investigation under 42 USC 14072, within 10 days after  
15 the person enters this state.

16 **SECTION 34.** 301.45 (3) (a) 4. of the statutes is amended to read:

17 301.45 (3) (a) 4. If subd. l., lm., 1r., 2., 2m., 3., 3g. or 3r. does not apply, the  
18 person is subject to this subsection after he or she is sentenced or receives a  
19 disposition.

20 **SECTION 35.** 301.45 (3) (b) 1. of the statutes is amended to read:

21 301.45 (3) (b) 1. Except as provided in subd. lm., a person who is subject to par.  
22 (a) shall notify the department once each calendar year, as directed by the  
23 department, of his or her current information specified in sub. (2) (a). The  
24 department shall annually notify registrants of their need to comply with this  
25 requirement. If the registrant is a person under the age of 18. the denartment may

1 also annually notify the registrant's parent: guardian or legal custodian of the  
2 registrant's need to comply with this requirement.

3 **SECTION 36.** 301.45 (3) (b) 1m. of the statutes is amended to read:

4 ~~301.45 (3) (b) 1m. A person who is subject to par. (a) because he or she is covered  
5 under sub. (1) (1g) (dt) shall notify the department once each 90 days, as directed by  
6 the department, of his or her current information specified in sub. (2) (a). Every 90  
7 days, the department shall notify registrants subject to this subdivision of their need  
8 to comply with this requirement. If the registrant covered under sub. (1g) (dt) is a  
9 person under the age of 18, the department may also notify the registrant's parent,  
10 guardian or legal custodian every 90 days of the registrant's need to comply with this  
11 requirement.~~

12 **SECTION 37.** 301.45 (3) (b) 2. of the statutes is amended to read:

13 301.45 (3) (b) 2. The department shall notify a person who is being released  
14 from prison because he or she has reached the expiration date of his or her sentence  
15 and who is covered under sub. (1) (1a) of the need to comply with the requirements  
16 of this section. Also, probation, extended supervision and parole agents, aftercare  
17 agents and agencies providing supervision shall notify any client who is covered  
18 under sub. (1) (1g) of the need to comply with the requirements of this section at the  
19 time the client is placed on probation, extended supervision, parole, supervision or  
20 aftercare supervision or, if the client is on probation, extended supervision ~~or~~, parole  
21 or other supervision from another state under s. 304.13 ~~or~~, 304.135 or 938.988, when  
22 the client enters this state.

23 **SECTION 38.** 301.45 (3) (b) 3. of the statutes is amended to read:

24 301.45 (3) (b) 3. The department of health and family services shall notify a  
25 person who is being placed on conditional release, conditional transfer or parole, or

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1 is being terminated or discharged from a commitment, under s. 51.20, 51.35 or  
2 971.17 or ch. 975 or 980 and who is covered under sub. ~~(1)~~ (1a) of the need to comply  
3 with the requirements of this section.

4 **SECTION 39.** 301.45 (3) (b) 3m. of the statutes is amended to read:

5 301.45 (3) (b) 3m. After notifying a person under subd. 2. or 3. of the need to  
6 comply with this section, the person who is providing the notification shall require  
7 the person who is covered under sub. ~~(1)~~ (1g) to read and sign a form stating that he  
8 or she has been informed of the requirements of this section.

9 **SECTION 40.** 301.45 (3) (b) 4. of the statutes is amended to read:

10 301.45 (3) (b) 4. ~~Failure to~~ It is not a defense to liability under sub. (6) (a) that  
11 the person subject to sub. (1g) was not required to read and sign a form under subd.  
12 3m., was not provided with a form to read and sign under subd. 3m. or failed or  
13 refused to read or sign a form under subd. 3m. It is not a defense to liability under  
14 sub. (6) (a) that the person subject to sub. (1g) did not receive notice under this  
15 paragraph from the department of health and family services, the department of  
16 corrections, a probation, extended supervision and parole agent, an aftercare agent  
17 or an agency providing supervision is not a defense to liability under sub (6).

18 **SECTION 41.** 301.45 (4m) of the statutes is renumbered 301.45 (4m) (intro.) and  
19 amended to read:

20 **301.45 (4m) INFORMATION CONCERNING A MOVE TO OR SCHOOLING OR EMPLOYMENT**  
21 **IN ANOTHER STATE.** (intro.) In addition to the requirements under subs. (3) and (4), a  
22 person who is covered under sub. ~~(1)~~ (1g) and who is changing his or her residence  
23 from this state to another state, is becoming a student in another state or is to be  
24 emnlved or carrying on a vocation in another state shall, no later than 10 days  
25 before he or she moves out of this state, begins school or begins employment or his

1 or her vocation, notify the department that he or she is changing his or her residence  
2 from this state ~~and~~, is beginning school in another state or is beginning employment  
3 or the carrying on of a vocation in another state. The person shall also inform the  
4 department of the state to which he or she is moving his or her residence, the state  
5 in which he or she will be in school or the state in which he or she will be employed  
6 or carrying on a vocation. Upon receiving notification from a person under this  
7 subsection, the department shall ~~inform~~ do all of the following:

8 (a) Inform the person whether the state to which the person is moving, the state  
9 in which the person will be in school or the state in which the person will be employed  
10 or carrying on a vocation has sex offender registration requirements to which the  
11 person may be subject and, if so, the name of the agency to contact in that state for  
12 information concerning those requirements.

13 **SECTION 42.** 301.45 (4m) (b) of the statutes is created to read:

14 301.45 (4m) (b) Inform the agency responsible for sex offender registration in  
15 the state to which the person is moving, in which the person will be in school or in  
16 which the person will be employed or carrying on a vocation that the person is moving  
17 to the state, beginning school in the state or beginning employment or carrying on  
18 a vocation in the state, and provide the agency of the other state with all of the  
19 information specified in sub. (2) (a).

20 **SECTION 43.** 301.45 (5) (title) of the statutes is amended to read:

21 301.45 (@(title) RELEASEFROMREQUIREMENTSFORPERSONSWHOCOMMITTEDASEX  
22 OFFENSE IN THIS STATE.

23 **SECTION 44.** 301.45 (5) (a) (intro.) of the statutes is amended to read:

1 301.45 (5) (a) (intro.) Except as provided in ~~pars. (am) and (b)~~, a person who  
2 is covered under sub. ~~(1) (1g) (a), (b), (bm), (c), (d), (dd), (dp) or (e)~~ no longer has to  
3 comply with this section when the following applicable criterion is met:

4 SECTION 45. 301.45 (5) (a) 1. of the statutes is amended to read:

5 301.45 (5) (a) 1. If the person has been placed on probation or supervision for  
6 a sex offense, 15 years after discharge from the probation or supervision imposed for  
7 the sex offense.

8 SECTION 46. 301.45 (5) (a) 1m. of the statutes is renumbered 301.45 (5m) (a)  
9 1. and amended to read:

10 301.45 (5m) (a) 1. If the person is on parole, extended supervision ~~or~~, probation  
11 or other sunervision from another state under s. 304.13 ~~or~~, 304.135 or 938.988, 15  
12 years after discharge from that parole, extended supervision ~~or~~, probation or other  
13 sunervision or the period of time that the person is in this state, whichever is less *plain period*

~~14 For purposes of this subdivision, the period of time that the person is in this state is  
15 the period of time that the person is on any kind of supervision under s. 304.13,  
16 304.135 or 938.988 plus the period of time that the person remains in this state after  
17 discharge from that supervision.~~

18 SECTION 47. 301.45 (5) (a) 2. of the statutes is amended to read:

19 301.45 (5) (a) 2. If the person has been sentenced to prison or placed in a secured  
20 correctional facility or a secured child caring institution for a sex offense, 15 years  
21 after discharge from parole, extended sunervision or aftercare supervision for the sex  
22 offense.

23 SECTION 48. 301.45 (5) (a) 2m. of the statutes is amended to read:

24 301.45 (5) (a) 2m. If the person has been sentenced to prison for a sex offense  
25 and is being released from prison because he or she has reached the expiration date

1 of his ~~or her~~ the sentence for the sex offense, 15 years after being released from  
2 prison.

3 **SECTION 49.** 301.45 (5) (a) 3. of the statutes is amended to read:

4 301.45 (5) (a) 3. If the person has been committed to the department of health  
5 and family services under s. 51.20 or 971.17 and is in institutional care or on  
6 conditional transfer under s. 51.35 (1) or conditional release under s. 971.17 for a sex  
7 offense, 15 years after termination of the commitment for the sex offense under s.  
8 971.17 (5) or discharge from the commitment for the sex offense under s. 51.35 (4)  
9 or 971.17 (6).

10 **SECTION 50.** 301.45 (5) (a) 4. of the statutes is amended to read:

11 301.45 (5) (a) 4. If subd. 1., ~~1m.~~, 2., 2m., 3. or 3m. does not apply, 15 years after  
12 the date of conviction for the sex offense or 15 years after the date of disposition of  
13 the sex offense, whichever is later.

14 **SECTION 51.** 301.45 (5) (am) of the statutes is created to read:

15 301.45 (5) (am) 1. Except as provided in subd. 2., a person who is covered under  
16 sub. (lg) (dL) shall continue to comply with the requirements of this section until his  
17 or her death.

18 2. A person who is covered under sub. (lg) (dL) is not required to comply with  
19 the requirements of this section if a court orders that the person is no longer required  
20 to comply under s. 939.615 (6) (i).

21 **SECTION 52.** 301.45 (5) (b) (intro.) of the statutes is amended to read:

22 301.45 (5) (b) (intro.) A person who is covered under sub. ~~(1) (1g) (a), (b), (bm),~~  
23 (c), (d), (dd), (dp) or (e) shall continue to comply with the requirements of this section  
24 until his or her death if any of the following apply applies:

25 **SECTION 53.** 301.45 (5) (b) 1. of the statutes is amended to read:

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301.45 (5) (b) 1. The person has, on 2 or more separate occasions, been convicted or found not guilty or not responsible by reason of mental disease or defect for ~~any~~ a violation, or ~~for~~ the solicitation, conspiracy or attempt to commit ~~any a~~ a violation, of s. 940.22 (2), 940.225 (1), ~~(2) or (3)~~, 944.06, ~~948.02 (1) or (2)~~, 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, ~~948.11 or 948.30~~, or of s. 940.30 or 940.31 if the victim was a minor and the person was not the victim's parent, or for ~~any a~~ a violation, or ~~for~~ the solicitation, conspiracy or attempt to commit ~~any a~~ a violation, of a federal law, a military law, a tribal law or a law of this state or any ~~other~~ state that is comparable to a violation of s. 940.22 (2), 940.225 (1), ~~(2) or (3)~~, 944.06, ~~948.02 (1) or (2)~~, 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 or 948.30 or that is comparable to a violation of s. 940.30 or 940.31 if the victim was a minor and the person was not the victim's parent. A conviction or finding of not guilty or not responsible by reason of mental disease or defect that has been reversed, set aside or vacated is not a conviction or finding for purposes of determining under this subdivision whether a person has been convicted on 2 or more separate occasions.

SECTION 54. 301.45 (5) (b) lm. of the statutes is created to read:

301.45 (5) (b) lm. The person has been convicted or found not guilty or not responsible by reason of mental disease or defect for a violation, or for the solicitation, conspiracy or attempt to commit a violation, of s. 940.225 (1) or (2), 948.02 (1) or (2) or 948.025, ~~or for a violation~~, or for the solicitation, conspiracy or attempt to commit a violation, of a federal law, a military law, a tribal law or a law of any state that is comparable to a violation of s. 940.225 (1) or (2), 948.02 (1) or (2) or 948.025. A conviction or finding of not guilty or not responsible by reason of mental disease or defect that has been reversed, set aside or vacated is not a conviction or finding for purposes of this subdivision.

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1 SECTION 55. 301.45 (5) (b) 2. of the statutes is amended to read:

2 301.45 (5) (b) 2. The person has been found to be a sexually violent person under  
3 ch. 980, regardless of whether the person is discharged under s. 980.09 or 980.10  
4 from the sexually violent person commitment, except that the person no longer has  
5 to comply with this section if the finding that the person is a sexually violent person  
6 has been reversed? set aside or vacated.

7 SECTION 56. 301.45 (5) (b) 3. of the statutes is created to read:

8 301.45 (5) (b) 3. The court that ordered the person to comply with the reporting  
9 requirements of this section under s. 51.20 (13) (ct), 938.34 (15m), 938.345 (3), 971.17  
10 (lm) (b) or 973.048 also ordered the person to comply with the requirements until his  
11 or her death.

12 SECTION 57. 301.45 (5m) of the statutes is created to read:

13 301.45 (5m) RELEASE FROM REQUIREMENTS FOR PERSONS WHO COMMITTED A SEX  
14 OFFENSE IN ANOTHER JURISDICTION. (a) Except as provided in <sup>par.</sup> (b), <sup>(and cc)</sup> a person who  
15 is covered under sub. (lg) (dh), <sup>(dj)</sup> (f) or (g) no longer has to comply with this section  
16 when the following applicable criterion is met:

17 2. If the person is registered as a sex offender in another state or <sup>is registered as a sex offender</sup> with the  
18 federal bureau of investigation under 42 USC 14072, whichever of the following is  
19 less:

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20 a. ~~Fifteen~~ years after discharge from parole, extended supervision, probation  
21 or any other supervision, ~~sentence or disposition imposed~~ for the offense for which  
22 he or she was required to register as a sex offender.

23 b. The period of time that the person is a resident of this state, a student in this  
24 state or employed or carrying on a vocation in this state.

(dj),

1

(b) A person who is covered under sub. (1g) (dh), (f) or (g) shall continue to comply with the requirements of this section for as long as the person is a resident

2

3

of this state, a student in this state or employed or carrying on a vocation in this state

4

if ~~any~~ of the following applies:

one or more

apply

is registered as a sex offender

5

1. The person is registered as a sex offender in another state or with the federal

6

bureau of investigation under 42 USC 14072 and ~~is~~ <sup>the person</sup> required to register with that

7

other state or with the federal bureau of investigation until his or her death.

8

2. The person ~~is on parole, extended supervision, probation or other supervision~~

9

~~from another state under s. 304.13, 304.135 or 938.988 and the person~~ has been

10

convicted or found not guilty or not responsible by reason of mental disease or defect

~~of s. 940.225 (1) or (2), 948.02 (1) or (2) or 948.025~~

11

for a violation, or for the solicitation, conspiracy or attempt to commit a violation, of

12

a federal law, a military law, a tribal law or a law of any state that is comparable to

13

a violation of s. 940.225 (1) or (2), 948.02 (1) or (2) or 948.025. A conviction or finding

14

of not guilty or not responsible by reason of mental disease or defect that has been

15

reversed, set aside or vacated is not a conviction or finding for purposes of this

16

subdivision.

17

3. The person ~~is on parole, extended supervision, probation or other supervision~~

18

~~from another state under s. 304.13, 304.135 or 938.988 and the person~~ has, on 2 or

19

more separate occasions, been convicted or found not guilty or not responsible by

~~reason of mental disease or defect~~ <sup>for a sex offense or</sup>

20

reason of mental disease or defect for a violation, or the solicitation, conspiracy or

21

attempt to commit a violation, of a federal law, military law, tribal law or law of any

22

state that is comparable to ~~s. 940.22 (2), 940.225 (3), 944.06, 948.05, 948.055, 948.06,~~

23

~~948.07, 948.08, 948.11 or 948.3D, or to s. 940.30 or 940.31 if the victim was a minor~~

~~and the person was not the victim's parent~~ <sup>a sex offense</sup>

24

A conviction or finding of not guilty or

25

not responsible by reason of mental disease or defect that has been reversed, set aside

INS  
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1 or vacated is not a conviction or finding for purposes of determining under this  
2 **subdivision** whether a person has been convicted on 2 or more separate occasions.

3 **SECTION 58.** 301.45 (6) (a) of the statutes is renumbered 301.45 (6) (a) (intro.)  
4 and amended to read:

5 301.45 (6) (a) (intro.) Whoever- knowingly fails to comply with any  
6 requirement to provide information under subs. (2) to (4) is subject to the following  
7 penalties:

8 1. For a first offense. the person may be fined not more than \$10,000 or  
9 imprisoned for not more than 9 months or both.

10 (am) Subject to s. 971.19 (9), a district attorney or, upon the request of a district  
11 attorney, the department of justice may prosecute a ~~violation of this subsection~~  
12 knowing failure to comply with any requirement to provide information under subs.  
13 (2) to (4) if the department of corrections determines that there is probable cause  
14 to believe that a person has ~~intentionally~~ knowingly failed to comply with any  
15 requirement to provide information under subs. (2) to (4), the department shall  
16 forward a certified copy of all pertinent departmental information to the applicable  
17 district attorney. The department shall certify the copy in accordance with s. 889.08.

18 **SECTION 59.** 301.45 (6) (a) 2. of the statutes is created to read:

19 301.45 (6) (a) 2. For a 2nd or subsequent offense, the person may be fined not  
20 more than \$10,000 or imprisoned for not more than 10 years or both. For purposes  
21 of this subdivision, an offense is a 2nd or subsequent offense if, prior to committing  
22 the offense, the person has at any time been convicted of knowingly failing to comply  
23 with any requirement to provide information under subs. (2) to (4).

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24 **SECTION 60.** 301.45 (6m) of the statutes is created to read:

1           301.45 **(6m)** NOTICE TO OTHER JURISDICTIONS CONCERNING NONCOMPLIANCE. If the  
2 department has reasonable grounds to believe that a person who is covered under  
3 sub. (lg) (f) or (g) is residing in this state, is a student in this state or is employed or  
4 carrying on a vocation in this state and that the person is not complying with the  
5 requirements of this section, the department shall notify the state agency  
6 responsible for the registration of sex offenders in any state in which the person is  
7 registered that it believes the person is not complying with the requirements of this  
8 section.

9           **SECTION 61.** 301.46 (1) of the statutes is renumbered 301.46 (1) (intro.) and  
10 amended to read:

11           301.46 (1) **DEFINITIONS.** (intro.) In this section ~~“agency:~~

12           (a) “Agency with jurisdiction” means the state agency with the authority or  
13 duty to confine or supervise a person or release or discharge a person from  
14 confinement.

15           **SECTION 62.** 301.46 (1) (b) of the statutes is created to read:

16           301.46 (1) (b) “Sex offense” has the meaning given in s. 301.45 (Id) (b).

17           **SECTION 63.** 301.46 (2) (b) 7. of the statutes is repealed.

18           **SECTION 64.** 301.46 (2m) (a) of the statutes is amended to read:

19           301.46 **(2m)** (a) If an agency with jurisdiction confines a person under s.  
20 301.046, provides a person entering the intensive sanctions program under s.  
21 301.048 with a sanction other than a placement in a Type 1 prison or a jail, or releases  
22 a person from confinement in a state correctional institution or institutional care,  
23 and the person has, on one occasion only, been convicted or found not guilty **or not**  
24 responsible by reason of mental disease or defect for ~~any violation, or for the~~  
25 ~~solicitation, conspiracy or attempt to commit any violation, of s. 940.22 (2), 940.225~~

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1 ~~1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07,~~  
 2 ~~948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the victim was a minor and the~~  
 3 ~~person was not the victim's parent, a sex offense or for a violation of a law of this state~~  
 4 ~~that is comparable to s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2),~~  
 5 ~~948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 or 948.30, or that is~~  
 6 ~~comparable to s. 940.30 or 940.31 if the victim was a minor and the person was not~~  
 7 ~~the victim's parent a sex offense,~~ the agency with jurisdiction may notify the police  
 8 chief of any community and the sheriff of any county in which the person will be  
 9 residing, employed or attending school if the agency with jurisdiction determines  
 10 that such notification is necessary to protect the public. Notification under this  
 11 paragraph may be in addition to providing access to information under sub. (2) or to  
 12 any other notification that an agency with jurisdiction is authorized to provide.

13 **SECTION 65.** 301.46 (2m) (am) of the statutes is amended to read:

14 301.46 (2m) (am) If an agency with jurisdiction confines a person under s.  
 15 301.046, provides a person entering the intensive sanctions program under s.  
 16 301.048 with a sanction other than a placement in a Type 1 prison or a jail, or releases  
 17 a person from confinement in a state correctional institution or institutional care,  
 18 and the person has been found to be a sexually violent person under ch. 980 or has,  
 19 on 2 or more separate occasions, been convicted or found not guilty or not responsible  
 20 by reason of mental disease or defect for ~~any violation, or the solicitation,~~  
 21 ~~conspiracy or attempt to commit any violation, of s. 940.22 (2), 940.225 (1), (2) or (3),~~  
 22 ~~944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08 or 948.11~~  
 23 ~~or a sex offense or for a violation of a law of this state that is comparable to s. 940.22~~  
 24 ~~(2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, a n ;~~  
 25 ~~948.07, 948.08 or 948.11~~ a sex offense, the agency with jurisdiction shall notify the

1 police chief of any community and the sheriff of any county in which the person will  
2 be residing, employed or attending school. Notification under this paragraph shall  
3 be in addition to providing access to information under sub. (2) and to any other  
4 notification that an agency with jurisdiction is authorized to provide.

5 **SECTION 66.** 301.46 (3) (c) of the statutes is amended to read:

6 301.46 (3) (c) The notice under par. (b) shall be a written notice to the victim  
7 or member of the victim's family that the person required to register under s. 301.45  
8 and specified in the information provided under par. (d) has been registered or, if  
9 applicable, has provided the department with updated information under s. 301.45  
10 (4). The notice shall contain the information specified in sub. (2) (b) l., 5., 6., 7. and  
11 10. or, if applicable, the updated information.

12 **SECTION 67.** 301.46 (4) (b) 3. of the statutes is repealed.

13 **SECTION 68.** 301.46 (5) (b) 2. of the statutes is repealed.

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14 **SECTION 69.** 301.46 (6) (a) of the statutes is amended to read:

15 301.46 (6) (a) Except as provided in par. (b), the department or an agency with  
16 jurisdiction may provide notice of or access to information under subs. (2) to (5)  
17 concerning a person registered under s. 301.45 only during the period under s. 301.45  
18 (5) or (5m) for which the person is required to comply with s. 301.45.

19 **SECTION 70.** 343.237 (4g) of the statutes is created to read:

20 ~~343.237 (4g) The department of transportation shall provide the department~~  
21 ~~of corrections with a copy of a photograph taken on or after September 1, 1997, of an~~  
22 ~~applicant under s. 343.14 (3) or 343.50 (4) if the department of transportation~~  
23 ~~receives a written request from the department of corrections that contains all of the~~  
24 ~~following:~~

25 ~~(a) The name of the person whose photograph is requested.~~

1 (b) A statement signed by an employe of the department of corrections whose  
2 duties relate primarily to the sex offender registry under s. 301.45 that the person  
3 named under par. (a) is required to register under s. 301.45 and that the photograph  
4 is being requested for inclusion in the information contained in the sex offender  
5 registry about the person.

6 SECTION 71. 343.237 (5) of the statutes is renumbered 343.237 (5) (a).

7 SECTION 72. 343.237 (5) (b) of the statutes is created to read:

8 343.237 (5) (b) If the department of corrections has in its possession a copy of  
9 a photograph provided to it under sub. (4g), it shall destroy any copies of the  
0 photograph in its possession when the photograph is no longer necessary for  
1 inclusion in the information contained in the sex offender registry.

2 SECTION 73. 343.237 (6) of the statutes is amended to read:

3 343.237 (6) For each copy of a photograph provided under sub. (3) or (4) or (4g),  
4 the department shall record and maintain the written request for the copy of the  
5 photograph and may not disclose any record or other information concerning or  
6 relating to the written request to any person other than a court, district attorney,  
7 county corporation counsel, city, village or town attorney, law enforcement agency,  
8 the applicant or identification card holder or, if the applicant or identification card  
9 holder is under 18 years of age, his or her parent or guardian.

10 SECTION 74. 343.237 (7) of the statutes is amended to read:

11 343.237 (7) The department may not charge a fee for providing a copy of any  
12 photograph to the department of corrections or a Wisconsin law enforcement agency  
13 under this section.

14 SECTION 75. 343.237 (8m) of the statutes is created to read:

1 343.237 (8m) (a) The department of corrections shall keep the copy of a  
2 photograph provided to it under this section confidential and may disclose it only if  
3 disclosure is necessary for purposes related to the sex offender registry under s.  
4 301.45, to community notification concerning sex offenders under s. 301.46 or to  
5 performance of a law enforcement function. Before the department of corrections  
6 discloses a copy of a photograph under this paragraph to another person for purposes  
7 related to performance of a law enforcement function, the person to whom the copy  
8 of the photograph is disclosed must agree to comply with par. (c).

9 (b) If the department of corrections discloses a copy of a photograph to another  
10 person under par. (a), the copy of the photograph shall have attached to it the  
11 notation specified in sub. (4m).

12 (c) Any person who receives a copy of a photograph from the department of  
13 corrections under par. (a) shall destroy any copies of the photograph in his or her  
14 possession when the photograph is no longer necessary to perform the law  
15 enforcement function for which the photograph was disclosed.

16 **SECTION 76.** 343.50 (8) (b) of the statutes is amended to read:

17 343.50 (8) (b) The department may not disclose any record or other information  
18 concerning or relating to an applicant or identification card holder to any person  
19 other than a court, district attorney, county corporation counsel, city, village or town  
20 attorney, law enforcement agency, the applicant or identification card holder or, if the  
21 applicant or identification card holder is under 18 years of age, his or her parent or  
22 guardian. Except for photographs disclosed to the department of corrections or a law  
23 enforcement agency under s. 343.237, persons entitled to receive any record or other  
24 information under this paragraph shall not disclose the record or other information  
25 to other persons or agencies. This paragraph does not prohibit the disclosure of a

1 person's name or address, of the name or address of a person's employer or of  
 2 financial information that relates to a person when requested under s. 49.22 (2m) by  
 3 the department of workforce development or a county child support agency under s.  
 4 ~~59.53 (5).~~

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5 SECTION 77. ~~938.185 (3)~~ of the statutes is amended to read:

6 938.185 (3) Venue for a proceeding under s. 938.12 or 938.13 (12) based on an  
 7 alleged violation of s. 301.45 (6) (a) may be in the juvenile's county of residence at the  
 8 time that the petition is filed or, if if the juvenile does not have a county of residence  
 9 in this state at the time that the petition is filed, any or if the juvenile's county of  
 10 residence is unknown at the time that the petition is filed, venue for the proceeding  
 11 may be in the county in which the juvenile has resided while subject to s. 301.45 was  
 12 adjudicated delinquent or found not responsible by reason of mental disease or defect  
 13 for the sex offense that requires the juvenile to register under s. 301.45, or, if  
 14 applicable, the county in which the juvenile was found to be a sexually violent person  
 15 under ch. 980.

16 SECTION 78. 938.34 (15m) (bm) of the statutes is amended to read:

17 938.34 (15m) (bm) If the juvenile is adjudicated delinquent on the basis of a  
 18 violation, or the solicitation, conspiracy or attempt to commit a violation, of s. 940.22  
 19 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06,  
 20 948.07, 948.08, 948.095, 948.11 (2) (a) or (am), 948.12, 948.13 or 948.30, or ofs. 940.30  
 21 or 940.31 if the victim was a minor and the juvenile was not the victim's parent, the  
 22 court shall require the juvenile to comply with the reporting requirements under s.  
 23 301.45 unless the court determines, after a hearing on a motion made by the juvenile,  
 24 that the juvenile is not required to comply under s. 301.45 (1m).

25 SECTION 79. 938.34 (15m) (d) of the statutes is created to read:

1 938.34 (15m) (d) If the court orders a juvenile to comply with the reporting  
2 requirements under s. 301.45, the court may order the juvenile to continue to comply  
3 with the reporting requirements until his or her death.

4 **SECTION 80. 938.345 (3)** of the statutes is created to read:

5 938.345 (3) (a) If the court finds that a juvenile is in need of protection or  
6 services on the basis of a violation, or the solicitation, conspiracy or attempt to  
7 commit a violation, under ch. 940,944 or 948 or ss. 943.01 to 943.15, the court may  
8 require the juvenile 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 juvenile report under s. 301.45. In determining whether it would be in the interest  
12 of public protection to have the juvenile report under s. 301.45, the court may  
13 consider any of the following:

- 14 1. The ages, at the time of the violation, of the juvenile and the victim of the  
15 violation.
- 16 2. The relationship between the juvenile and the victim of the violation.
- 17 3. Whether the violation resulted in bodily harm, as defined in s. 939.22 (4), to  
18 the victim.
- 19 4. Whether the victim suffered from a mental illness or mental deficiency that  
20 rendered him or her temporarily or permanently incapable of understanding or  
21 evaluating the consequences of his or her actions.
- 22 5. The probability that the juvenile will commit other violations in the future.
- 23 6. Any other factor that the court determines may be relevant to the particular  
24 case.

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27/3

1 (b) If the court orders a juvenile to comply with the reporting requirements  
2 under s. 301.45, the court may order the juvenile to continue to comply with the  
3 reporting requirements until his or her death.

IWS  
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4 SECTION 81. 938.396 (2) (em) of the statutes is amended to read:

5 938.396 (2) (em) Upon request of the department to review court records for the  
6 purpose of obtaining information concerning a child required to register under s.  
7 301.45, the court shall open for inspection by authorized representatives of the  
8 department the records of the court relating to any child who has been adjudicated  
9 delinquent or found not responsible by reason of mental disease or defect for an  
10 offense specified in s. 301.45 ~~(1)~~ (1g) (a). The department may disclose information  
11 that it obtains under this paragraph as provided under s. 301.46.

12 SECTION 82. 939.615 (6) (i) of the statutes is created to read:

13 939.615 (6) (i) If the court grants a petition requesting termination of lifetime  
14 supervision and the person is registered with the department under s. 301.45, the  
15 court may also order that the person is no longer required to comply with the  
16 reporting requirements under s. 301.45.

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17 SECTION 83. 971.17 (1m) (b) 2m. of the statutes is amended to read:

18 971.17 (1m) (b) 2m. If the defendant under sub. (1) is found not guilty by reason  
19 of mental disease or defect for a violation, or for the solicitation, conspiracy or  
20 attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02  
21 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.095, 948.11 (2) (a) or  
22 (am), 948.12.948.13 or 948.30, or of s. 940.30 or 940.31 if the victim was a minor and  
23 the defendant was not the victim's parent, the court shall require the defendant to  
24 comply with the reporting requirements under s. 301.45 unless the court determines,

1 after a hearing on a motion made by the defendant, that the defendant is not required  
2 to comply under s. 301.45 (1m).

3 SECTION 84. 971.17 (1m) (b) 4. of the statutes is created to read:

4 971.17 (1m) (b) 4. If the court orders a defendant to comply with the reporting  
5 requirements under s. 301.45, the court may order the defendant to continue to  
6 comply with the reporting requirements until his or her death.

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7 SECTION 85. 971.19 (9) of the statutes is amended to read:

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8

~~9 971.19(9) In an action under s. 301.45 (6) (a), the defendant may be tried in  
10 the defendant's county of residence at the time that the complaint is filed or, if, If the  
11 defendant does not have a county of residence in this state at the time that the  
12 complaint is filed, any or if the defendant's county of residence is unknown at the  
13 time that the complaint is filed, the defendant may be tried in the county in which  
14 he or she has resided while subject to s. 301.45 was convicted, found not guilty or not  
15 responsible by reason of mental disease or defect or adjudicated delinquent for the  
16 sex offense that requires the person to register under s. 301.45, or, if applicable, the  
17 county in which the person was found to be a sexually violent person under ch. 980.~~

17 SECTION 86. 973.048 (2m) of the statutes is amended to read:

18 973.048 (2m) If a court imposes a sentence or places a person on probation for  
19 a violation, or for the solicitation, conspiracy or attempt to commit a violation, of s.  
20 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055,  
21 948.06, 948.07, 948.08, 948.095, 948.11 (2) (a) or (am). 948.12. 948.13 or 948.30, or  
22 of s. 940.30 or 940.31 if the victim was a minor and the person was not the victim's  
23 parent, the court shall require the person to comply with the reporting requirements  
24 under s. 301.45 unless the court determines, after a hearing on a motion made by the  
25 person, that the person is not required to comply under s. 301.45 (1m).

1 SECTION 87. 973.048 (4) of the statutes is created to read:

2 973.048 (4) If the court orders a person to comply with the reporting  
3 requirements under s. 301.45, the court may order the person to continue to comply  
4 with the reporting requirements until his or her death.

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5 SECTION 88. Nonstatutory provisions.

AS SEX OFFENDERS

6 (1) PERSONS REGISTERED BASED ON BEING FOUND IN NEED OF PROTECTION OR  
7 SERVICES.

8 (a) Notwithstanding section 301.45 (1) (a), 1997 stats., no later than the first  
9 day of the 7th month beginning after the effective date of this paragraph, the  
10 department of corrections shall, except as provided in paragraph (b), purge all of the  
11 information maintained in the sex offender registry under section 301.45 of the  
12 statutes, as affected by this act, concerning a person who is registered as a sex  
13 offender on the effective date of this paragraph solely because the person had been  
14 found in need of protection or services on or after December 25, 1993, for an offense  
15 specified in section 301.45 (1) (a), 1997 stats.

16 (b) If the department of corrections believes that purging the information  
17 concerning a registered sex offender under paragraph (a) would not be in the interest  
18 of public protection, the department may file a petition in the court in which the

INS  
30-8

19 person was found in need of protection or services requesting the court to order the  
20 person to continue complying with the reporting requirements under section 301.45  
21 of the statutes, as affected by this act. If the department decides to file a petition  
22 under this paragraph, it shall file the petition no later than the first day of the 4th  
23 month beginning after the effective date of this paragraph. The department shall  
24 serve a copy of the petition on the person and, if the person has not attained the age  
25 of 18 years, on the parents, guardian or legal custodian of the person. The court may

1 act on the petition with or without holding a hearing, and if the court holds a hearing  
 2 on the petition it may allow both the department and the person to present evidence  
 3 on whether it is in the interest of public protection to have the person continue to  
 4 register as a sex offender. In deciding a petition filed under this paragraph, the court  
 5 may consider any of the factors specified under section 938.345 (3) (a) of the statutes,  
 6 as created by this act. If the court grants the petition, the department shall continue  
 7 to maintain the information in the sex offender registry about the person as provided  
 8 under section 301.45 of the statutes, as affected by this act, and may not purge the  
 9 information under paragraph (a). If the court denies the petition, the department  
 10 shall purge the information in the sex offender registry about the person as provided  
 11 under paragraph (a). of corrections

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~~\*\*\*NOTE: I just made this procedure up, it can be changed if you want.~~

**SECTION 89. Initial applicability.**

13 (1) The treatment of section 301.45 (6) (a) 2. of the statutes first applies to  
 14 offenses committed on the effective date of this subsection, but does not preclude the  
 15 counting of previous offenses for purposes of determining whether the person is  
 16 subject to the penalties under section 301.45 (6) (a) 2. of the statutes, as created by  
 17 this act.

(END)

1999-2000 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1407/P3ins  
MGD&JEO:.....

1 **INSERT 3/3** ✓

2 SECTION 1. 51.20 (13) (ct) 5. of the statutes is created to read:

3 51.20 (13) (ct) 5. If the court orders a subject individual to comply with the  
4 reporting requirements under s. 301.45, the clerk of the court in which the order is  
5 entered shall promptly forward a copy of the order to the department of corrections.  
6 If the finding under s. 938.30 (5) (c) (intro.) on which the order is based is reversed,  
7 set aside or vacated, the clerk of the court shall promptly forward to the department  
8 of corrections a certificate stating that the finding has been reversed, set aside or  
9 vacated.

10 **INSERT 4/2** ✓

11 301.45 (ig) (intro.) Except as provided in sub. (1m), a person shall comply with  
12 the reporting requirements under this section if he or she meets any one or more of  
13 the following criteria:

14 History: 1995 a. 440 ss. 26 to 49, 53 to 74; Stats. 1995 s.301.45; 1997 a.3. 35, 130, 191, 237, 283.

15 **INSERT 12/3** ✓

16 301.45 (3) (b) 1m. A person who is subject to par. ~~(a) because he or she is covered~~  
17 under sub. (1) (dt) lifetime registration under sub. (5) (b) 2. or (5m) (b) 4. shall notify  
18 the department once each 90 days, as directed by the department, of his or her  
19 current information specified in sub. (2) (a). Every 90 days, the department shall  
20 notify registrants subject to this subdivision of their need to comply with this  
21 requirement. If the registrant subject to this subdivision is a person under the age  
22 of 18, the department may also notify the registrant's parent, guardian or legal  
23 custodian every 90 days of the registrant's need to comply with this requirement.

**INSERT 17/1** ✓

SECTION 2. 301.45 (5) (b) 1. of the statutes is amended to read:

301.45 (5) (b) 1. The person has, on 2 or more separate occasions, been convicted or found not guilty or not responsible by reason of mental disease or defect for ~~any violation, or for the solicitation, conspiracy or attempt to commit any violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the victim was a minor and the person was not the victim's parent~~ a sex offense, or for ~~any a~~ violation, or ~~for~~ the solicitation, conspiracy or attempt to commit ~~any a~~ violation, of a federal law, a military law, a tribal law or a law of ~~this state or any other~~ state that is comparable to a ~~violation of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 or 948.30 or that is comparable to a violation of s. 940.30 or 940.31 if the victim was a minor and the person was not the victim's parent~~ sex offense. A conviction or finding of not guilty or not responsible by reason of mental disease or defect that has been reversed, set aside or vacated is not a conviction or finding for purposes of determining under this subdivision whether a person has been convicted on 2 or more separate occasions.

History: 1995 s. 440 ss. 26 to 49, 53 to 74; Stats. 1995 s. 301.45; 1997 a 3, 35, 130, 191, 237, 283.

**INSERT 18/20** ✓

a. The period of time that the person is a resident of this state, a student in this state or employed or carrying on a vocation in this state and is registered as a sex offender in another state or with the federal bureau of investigation.

**INSERT 20/2** ✓

4. A determination has been made as provided under 42 USC 14071 (a) (2) (A) or (B) that the person is a sexually violent predator, or lifetime registration by the

1 person is required under measures approved by the attorney general of the United  
2 States under 42 USC 14071 (a) (2) (C).

3 (c) If a person is required to register as a sex offender under one or more of the  
4 criteria specified in sub. (lg) (a), (b), (bm), (c), <sup>(ca),</sup> ~~(dd)~~, (dp) or (e) and one or more of the  
5 criteria specified in sub. (lg) (dh), (dj), (f) and (g), the person may be released from  
6 the requirements only as provided under sub. (5).

7 **INSERT 20/23** ✓

8 **SECTION 3.** 301.45 (6) (d) of the statutes is created to read:

9 301.45 (6) (d) Notwithstanding par. (a), a person who first became subject to  
10 subs. (2) to (4) under 1999 Wisconsin Act . . . . (this act) and who was in prison or a  
11 secured correctional facility or a secured child caring institution, in institutional  
12 care, or on probation, parole, supervision, aftercare supervision, corrective sanctions  
13 supervision, conditional transfer or conditional release during the period beginning  
14 on December 25, 1993, and ending on the effective date of this paragraph . . . . [revisor  
15 inserts date], shall be allowed until the first day of the 7th month beginning after the  
16 effective date of this paragraph . . . . [revisor inserts date], to comply with the  
17 requirements under subs. (2) to (4).

18 **INSERT 21/8** ✓

19 If the person is registered with the federal bureau of investigation under 42 USC  
20 14072, the department shall also notify the federal bureau of investigation that it  
21 believes the person is not complying with the requirements of this section.

22 **INSERT 23/13** ✓

23 **SECTION 4.** 301.46 (5n) of the statutes is created to read:

24 301.46 (5n) INTERNET ACCESS. The department shall provide access to  
25 information concerning persons registered under s. 301.45 by creating and

1 maintaining an Internet site and by any other means that the department  
 2 determines is appropriate. The information provided through the Internet site shall  
 3 be organized in a manner that allows a person using the Internet site to obtain only  
 4 the information that the department is required to provide the person under sub. (2),  
 5 (2m), (3), (4) or (5). The department shall keep the information provided on the  
 6 Internet site and in other means used to allow access to the information secure  
 7 against unauthorized alteration.

8 **INSE R T 26/5** ✓

9 **SECTION 5.** 938.185 (3) of the statutes is renumbered 938.185 (3) (intro.) and  
 10 amended to read:

11 938.185 (3) (intro.) Venue for a proceeding under s. 938.12 or 938.13 (12) based  
 12 on an alleged violation of s. 301.45 (6) (a) may be in the juvenile's county of residence  
 13 at the time that the petition is filed ~~or, if,~~ If the juvenile does not have a county of  
 14 residence in this state at the time that the petition is filed, ~~any or if the juvenile's~~  
 15 county of residence is unknown at the time that the netition is filed. venue for the  
 16 proceeding may be in any of the following counties:

17 (a) Any county in which the juvenile has resided while subject to s. 301.45.

18 **SECTION 6.** 938.185 (3) (b), (c) and (d) of the statutes are created to read:

19 938.185 (3) (b) The county in which the juvenile was adjudicated delinquent  
 20 or found not responsible by reason of mental disease or defect for the sex offense that  
 21 requires the juvenile to register under s. 301.45.

22 (c) If the juvenile is required to register under s. 301.45 (lg) (dt) ✓, the county in  
 23 which the juvenile was found to be a sexually violent person under ch. 980.

1 (d) If the juvenile is required to register only under s. 301.45 (lg) (f) or (g), any  
2 county in which the juvenile has been a student in this state or has been employed  
3 or carrying on a vocation in this state.

4 INSERT 27/3 ✓

5 SECTION 7. 938.34 (15m) (e) of the statutes is created to read:

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

13 INSERT 28/3 ✓

14 (c) If the court orders a juvenile to comply with the reporting requirements  
15 under s. 301.45, the clerk of the court in which the order is entered shall promptly  
16 forward a copy of the order to the department of corrections. If the finding of need  
17 of protection or service<sup>(S)</sup> on which the order is based is reversed, set aside or vacated,  
18 the clerk of the court shall promptly forward to the department of corrections a  
19 certificate stating that the finding has been reversed, set aside or vacated.

20 INSERT 29/6 ✓

21 SECTION 8. 971.17 (lm) (b) 5. of the statutes is created to read:

22 971.17 (lm) (b) 5. If the court orders a defendant to comply with the reporting  
23 requirements under s. 301.45, the clerk of the court in which the order is entered  
24 shall promptly forward a copy of the order to the department of corrections. If the  
25 finding of not guilty by reason of mental disease or defect on which the order is based

1 is reversed, set aside or vacated, the clerk of the court shall promptly forward to the  
2 department of corrections a certificate stating that the finding has been reversed, set  
3 aside or vacated.

4 **INSERT 29/8** ✓

5 **SECTION 9.** 971.19 (9) of the statutes is renumbered 971.19 (9) (intro.) and  
6 amended to read:

7 971.19 (9) (intro.) In an action under s. 301.45 (6) (a), the defendant may be  
8 tried in the defendant's county of residence at the time that the complaint is filed ~~or~~  
9 ~~if.~~ **If** the defendant does not have a county of residence in this state at the time that  
10 the complaint is filed, ~~any or if the defendant's county of residence is unknown at the~~  
11 ~~time that the complaint is filed, the defendant may be tried in any of the following~~  
12 counties:

13 (a) Anp county in which he or she has resided while subject to s. 301.45.

History: 1987 a. 332; 1993 a. 98,486; 1995 a. 440; 1997 a. 198.

14 **SECTION 10.** 971.19 (9) (b), (c) and (d) of the statutes are created to read:

15 971.19 (9) (b) The county in which he or she was convicted, found not guilty or  
16 not responsible by reason of mental disease or defect or adjudicated delinquent for  
17 the sex offense that requires the person to register under s. 301.45.

18 (c) If the <sup>✓</sup>defendant is required to register under s. 301.45 (lg) (dt), the county  
19 in which the <sup>✓</sup>person was found to be a sexually violent <sup>✓</sup>person under ch. 980.

20 (d) If the <sup>✓</sup>person is required to register only under s. 301.45 (lg) (f) or (g), any  
21 county in which the person has been a student in this state or has been employed or  
22 carrying on a vocation in this state.

23 **INSERT 30/4** ✓

24 **SECTION 11 .** 973.048 (5) of the statutes is created to read:

1 973.048 (5) If the court orders a person to comply with the reporting  
2 requirements under s. 301.45, the clerk of the court in which the order is entered  
3 shall promptly forward a copy of the order to the department of corrections. If the  
4 conviction on which the order is based is reversed, set aside or vacated, the clerk of  
5 the court shall promptly forward to the department of corrections a certificate stating  
6 that the conviction has been reversed, set aside or vacated.

7 I INSERT 30/18 ] ✓

8 the department shall notify the office of the district attorney or corporation counsel  
9 that prosecuted the proceedings in which the the person was found to be in need of  
10 protection or services. The notification shall be in writing and shall state the reasons  
11 why the department believes that purging the information would not be in the  
12 interest of public protection. If department decides to notify a district attorney or  
13 corporation counsel under this paragraph, it shall send the notice no later than the  
14 first day of the 4th month beginning after the effective date of this paragraph.

15 <sup>#</sup>(a) A district attorney or corporation counsel who receives notice from the  
16 WPS: autoref, par. (b) on p. 30, l. 16 of 1407  
17 department of corrections under paragraph (a) concerning a person registered as a  
18 sex offender may file a petition in the court in which the person was found in need  
19 of protection or services requesting the court to order the person to continue  
20 complying with the reporting requirements under section 301.45 of the statutes, as  
21 affected by this act. If a district attorney or corporation counsel decides to file a  
22 petition under this paragraph, he or she shall file the petition no later than the first  
23 day of the 7th month beginning after the effective date of this paragraph. The district  
24 attorney or corporation counsel shall serve a copy of the petition on the person and,  
25 if the person has not attained the age of 18 years, on the parents, guardian or legal  
custodian of the person.

acc to  
ref. 17  
"KA" 18

LRB-1407/P3ins  
MGD&JEO.....  
WPO: auto.ref. "KA"

① (b) The court in which a petition is filed under paragraph (a) shall hold a hearing on the petition, at which it may allow the department of corrections, the district attorney or corporation counsel and the person to present evidence on whether it is in the interest of public protection to have the person continue to register as a sex offender. The court shall decide whether to grant or deny the petition and shall provide written notification of its decision to the department of corrections no later than the first day of the 10th month beginning after the effective date of this paragraph. In deciding whether to grant or deny the petition, the court may consider any of the factors specified under section 938.345 (3) (a) of the statutes, as created by this act.

INSERT 31/12 ✓

**SECTION 12. Appropriation changes.**

(1) APPROPRIATION INCREASE; CORRECTIONS. In the schedule under section 20.005

(3) of the statutes for the appropriation to the department of corrections under section 20.410 (1) (a) of the statutes, as affected by the acts of 1999, the dollar amount

is increased by \$~~2,???,???~~<sup>0</sup> for fiscal year 1999-00 and the dollar amount is increased

by \$~~?,???,???~~<sup>0</sup> for fiscal year 2000-01 for performing duties relating to sex offender

registration under section 301.45 of the statutes, as affected by this act, and

community notification concerning sex offenders under section 301.46 of the

statutes, as affected by this act.

\*\*\*NOTE: Dollar amounts will be provided by DOC for the final version of the draft.

①⑥  
①⑦

/

INSERTS FROM 1405, p. 1 of 3

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

1 **AN ACT to amend** 20.410 (1) (gc), 301.132 (2), 301.132 (3), 942.06 (2m) (a) and  
2 942.06 (2q) (a) (intro.) of the statutes; **relating to:** honesty testing of sex  
3 offenders.

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

This is a preliminary draft. An analysis will be provided in a later version of the draft.

For further information see the **state** 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:***

✓  
INS  
2-1

4 **SECTION 1.** 20.410 (1) (gc) of the statutes is amended to read:  
5 20.410 (1) (gc) *Sex offender honesty testing.* All moneys received from  
6 ~~probation, extended supervision and parole clients~~ sex offenders who are required  
7 to pay for polygraph examinations, as prescribed by rule in accordance with s.  
8 301.132 (3), for expenditures related to the lie detector test program for ~~probationers,~~  
9 ~~extended supervision and parolees~~ sex offenders under s. 301.132.





INSERTS FROM 1405, p. 2 of 3

INS 3-19

1 SECTION 2. 301.132 (2) of the statutes is amended to read:

2 301.132 (2) The department may require, ~~as a condition of probation, parole~~  
3 ~~or extended supervision, that a probationer, parolee or person on extended~~  
4 ~~supervision who is~~ a sex offender to submit to a lie detector test when directed to do  
5 so by the department. The department may require submission to a lie detector test  
6 under this subsection as part of a sex offender's correctional programming or care  
7 and treatment. as a condition of a sex offender's probation, parole or extended  
8 supervision. or both as part of a sex offender's correctional programming or care and  
9 treatment and as a condition of the sex offender's probation, parole or extended  
10 supervision.

11 SECTION 3. 301.132 (3) of the statutes is amended to read:

12 301.132 (3) The department shall promulgate rules establishing a lie detector  
13 test program for ~~probationers, parolees and persons on extended supervision who are~~  
14 sex offenders. The rules shall provide for assessment of fees upon ~~probationers,~~  
15 ~~parolees and persons on extended supervision~~ sex offenders to partially offset the  
16 costs of the program.

INS 28-16

17 SECTION 4. 942.06 (2m) (a) of the statutes is amended to read:

18 942.06 (2m) (a) An employe or agent of the department of corrections who  
19 conducts a lie detector test of a ~~probationer, parolee or person on extended~~  
20 ~~supervision under the rules promulgated~~ sex offender under s. 301.132.

21 SECTION 5. 942.06 (2q) (a) (intro.) of the statutes is amended to read:

22 942.06 (2q) (a) (intro.) An employe or agent of the department of corrections  
23 who discloses, to any of the following, the fact that a ~~probationer, parolee or person~~



INSERTS FROM 1405, e- 3 of 3

INS  
28-  
161  
cont'd

1  
2  
3

~~on extended supervision~~ sex offender has had a lie detector test ~~under the rules~~  
~~promulgated~~ under s. 301.132 or the results of such a lie detector test:

~~(END)~~

Olsen. Jefren

---

From: Streveler, Anthony J. DOC  
Sent: Thursday, October 14, 1999 5:12 PM  
To: Olsen, Jefren  
Subject: RE:

Jefren.. looks great.. keeping in mind you have a few changes in this draft.. couple comments/thoughts..

page 4, line 24... would like to make it clear that we can use this in an institution setting.. so.. ". ..as part of a sex offender's *institutional* correctional programming,...." *I think this is ok; q. 942.06 / Also PSI (972.15(5))*

~~page~~ page 26, line 1... Internet thing.. . . when stating that "only the information..." would this preclude the department from allowing access to the registrants reported home address through the community/public access page.. current law and practices are that we do not provide this information (only to law enforcement and the victim/victim family member).. however, under the proposed plan for the internet site we plan on providing residence information - if the residence is verified.. perhaps the "only" can be removed and the sentence read.. "organized in a manner that allows a person using the Internet site to obtain information that the department is required to provide under sub....., or other information the department determines is necessary for the protection of the public.".. or something like this.. this way we have the directive to give what we already give out, but can give out more if we decide to do so....

although I have not had time to read the whole thing.. just a reminder... I believe we talked about the application timeframe for the CHIPS cases to allow 3 or 6 months for the local county social services to petition the court to rule on whether a CHIPS kid should be required to register.. otherwise all CHIPS cases will be removed/expunged from the registry on "X" date... also, application date for the home seller people (cannot spell reaestate...) needs to coincide with the implementation of the website. . . so.. not sure how to work this.. do not necessarily want to put a date of implementation for the web site, particularly since I am not getting any funding, and will need to go to the Joint Finance for a 13.10 request to transfer funds from one pot to another.. at the same time the home selling people need to have an effective date..... so, if necessary, I would like to be able to say that the department should/must have the website done and available by July 1, 2000... your thoughts

*6 mos.*

otherwise.. we are almost there...; thanks

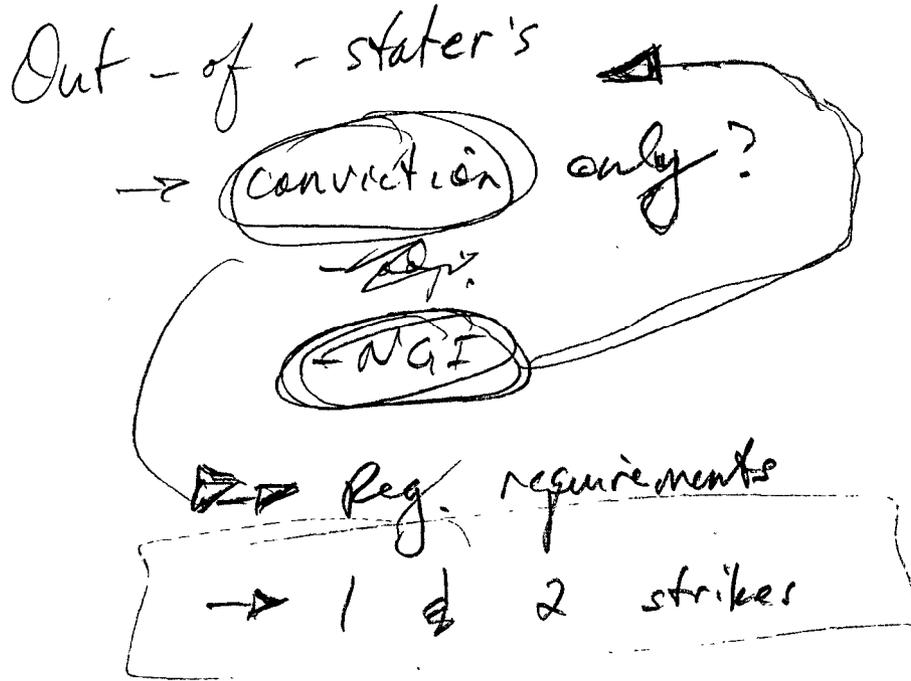
-----Original Message-----

From: Olsen, Jefren  
Sent: Thursday, October 14, 1999 9:34 AM  
To: Streveler, Anthony J. DOC  
Subject:

<< File: 99-1407/P3 >>

Attorney Jefren E. Olsen  
Wisconsin Legislative Reference Bureau  
P.O. Box 2037  
Madison, WI 53701-2037  
Tel: (608) 266-8906  
Fax: (608) 264-8522  
Email: jefren.olsen@legis.state.wi.us

All decisions  
to stay  
→ city social services fee



length of reg.

~~later off requirements?~~

1407

→ delete law enforcement authority

if reg. elsewhere

→ tie reg. period of out-of-staters to:

- 1) time they've here
- 2) 10-yr. fed.
- 3) time they must be registered in other state

→ if not reg., time here or 10 yrs, whichever is less

4.0 FTE GPR positions eff. 1/1/2001  
FY 00-01 \$134,800

301.46 (2m) (5)

→ notice of internet web site

Kahler, Pam

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**From:** Matthias, Mary  
**Sent:** Thursday, October 14, 1999 10:01 AM  
**To:** Kahler, Pam  
**CC:** 'rikstaff@wra.org'  
**Subject:** real estate provisions to add to DOC draft

Hi Pam- this is the draft I did on the sex offender website. Sykora wants the real estate provisions of this draft added to the DOC sex offender registration and website bill. Obviously you can ignore the portions of this draft that establish the website and make changes to the registry statutes. If you have any technical questions I think it would be best to call Rick Staff at 242-2265- he is an attorney for the Realtors Assn and has always been very helpful to me.

I would be happy to help too, and I'd like to review a copy of the draft for Rep. Sykora before it goes out final.

Thanks.



01661.pdf

Mary Matthias  
Senior Staff Attorney  
Wisconsin Legislative Council Staff  
ph.: (608)266-0932; fax: (608)266-3830  
mary.matthias@legis.state.wi.us

MM:rv;ksm

*Add non-residential  
transactions  
----- (Ch. 706?)*

8/05/99

1 **AN ACT to amend** 301.46 (5) (title), 301.46 (5) (a) (intro.), 301.46 (5) (a) 1., 301.46  
 2 (5) (b) (intro.), 301.46 (5) (b) 4., 301.46 (5) (c) (intro.), 301.46 (6) (a) and 709.05  
 3 (1); and **to create** 301.46 (5m), 452.23 (2) (d), 704.04, 709.03 (form) GM. and  
 4 709.09 of the statutes; **relating to:** access to information contained in the sex  
 5 offender registry and disclosures by sellers of real property, landlords and real estate  
 6 brokers concerning the sex offender registry.

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

7 **SECTION 1.** 301.46 (5) (title) of the statutes is amended to read:  
 8 301.46 (5) (title) ACCESS TO INFORMATION FOR GENERAL PUBLIC ~~FROM LOCAL LAW~~  
 9 ENFORCEMENT AGENCIES.

10 **SECTION 2.** 301.46 (5) (a) (intro.) of the statutes is amended to read:  
 11 30 1.46 (5) (a) (intro.) ~~The department or a~~ A police chief or sheriff may provide the  
 12 information specified in par. (b) concerning a specific person required to register under s.  
 13 30 1.45 to a person who is not provided notice or access under subs. (2) to (4) if, in the opinion  
 14 of ~~the department or~~ the police chief or sheriff, providing the information is necessary to  
 15 protect the public and if the person requesting the information does all of the following:

16 **SECTION 3.** 301.46 (5) (a) 1. of the statutes is amended to read:  
 17 301.46 (5) (a) 1. Submits a request for information in a form and manner prescribed by  
 18 ~~the department or~~ the police chief or sheriff. ~~The department or a~~ A police chief or sheriff may  
 19 require that a person state, in his or her request under this subdivision, his or her purpose for  
 20 requesting the information.

1           **SECTION 4.** 301.46 (5) (b) (intro.) of the statutes is amended to read:

2           301.46 (5) (b) (intro.) If ~~the department or~~ a police chief or sheriff provides information  
3 under par. (a), the ~~department or~~ police chief or sheriff shall, subject to par. (c), provide all of  
4 the following concerning the person specified in the request under par. (a) 2.:

5           **SECTION 5.** 301.46 (5) (b) 4. of the statutes is amended to read:

6           **301.46** (5) (b) 4. Any other information concerning the person that ~~the department or~~  
7 the police chief or sheriff determines is appropriate.

8           **SECTION 6.** 301.46 (5) (c) (intro.) of the statutes is amended to read:

9           301.46 (5) (c) (intro.) ~~The department or a~~ A police chief or sheriff may not provide any  
10 of the following under par. (a):

11           **SECTION 7.** 301.46 (5m) of the statutes is created to read:

1 2           **301.46 (5m) ACCESS TO INFORMATION FOR GENERAL PUBLIC FROM THE DEPARTMENT.** (a)

13 Except as provided in par. (b), the department shall provide the general public with access to  
14 all of the following information concerning each person specified under par. (b):

15           1. The name of the person, including any aliases used by the person.

16           2. The statute the person violated and a brief description of the person's offense.

17           3. The date of the person's conviction, adjudication or commitment, and the county or,  
18 if the state is not this state, the state in which the person was convicted, adjudicated or  
19 committed.

20           4. The person's date of birth.

21           5. The address at which the person is residing.

22           6. The name and address of the place at which the person is employed.

23           7. The name and location of any school in which the person is enrolled.

24           8. The most recent date on which the person provided updated information.

1           9. Any other information concerning the person that the department determines is  
2 appropriate to protect the public.

3           (b) The information under par. (a) shall be provided concerning the following persons:

4           1. Any person required to register under s. 301.45 who has absconded from supervision.

5           2. Any person required to register under s. 301.45 who has been determined to be out  
6 of compliance with the registration requirements in s. 301.45.

7           3. Any person regarding whom a local law enforcement agency has determined that  
8 providing information to the general public is necessary to protect the public.

**NOTE:** Does par. (b) sufficiently identify the offenders regarding whom  
          information should be made available to the general public over the  
          internet?

9           (c) The department may not provide access to any of the following under par. (a):

10          1. Any information concerning a child who is required to register under s. 301.45.

11          2. If the person required to register under s. 301.45 is an adult, any information  
12 concerning a juvenile proceeding in which the person was involved.

13          (d) The department shall provide access to the information under par. (a) by creating  
14 and maintaining an internet site and by any other means that the department determines is  
15 appropriate. The information shall be organized in a manner that allows a person using the  
16 internet site or other information source to do all of the following:

17          1. Determine whether a specific person is registered under s. 301.45.

18          2. Compile or otherwise have access to a list of persons registered under s. 301.45 who  
19 reside in a specific city, village or town.

20          3. Compile or otherwise have access to a list of persons registered under s. 301.45 who  
21 reside in an area that is assigned a specific zip code.

1 (e) The internet site and other means of providing access to information under par. (c)  
 2 shall be updated within a reasonable time after the department is notified that information in  
 3 the registry has changed.

4 (f) The department shall keep the information provided on the internet site and in other  
 5 means of providing access to information under par. (c) secure against unauthorized alteration.

6 **SECTION 8.** 301.46 (6) (a) of the statutes is amended to read:

7 301.46 (6) (a) Except as provided in par. (b), the department or an agency with  
 8 jurisdiction may provide notice of or access to information under subs. (2) to ~~(5)~~ (5m)  
 9 concerning a person registered under s. 301.45 only during the period under s. 30 1.45 (5) for  
 10 which the person is required to comply with s. 301.45.

11 **SECTION 9.** 452.23 (2) (d) of the statutes is created to read:

12 452.23 (2) (d) The fact that any person is required to register as a sex offender under  
 13 s. 301.45.

14 **SECTION 10.** 704.04 of the statutes is created to read:

15 **704.04 Notice of tenant access to sex offender registry; no duty to disclose**  
 16 **information.** (1) A landlord or his or her agent has no duty to disclose *any information related to* to a tenant or a *the fact*  
 17 prospective tenant the fact that any person is required to register under s. 301.45 if, before the *- & L &*  
 18 tenant entered into a lease or rental agreement, the landlord or his or her agent provided to the  
 19 prospective tenant the notice specified in sub. (3).

20 (2) A landlord or his or her agent is not liable to a tenant or a guest of a tenant for any  
 21 actions of a person required to register under s. 30 1.45 if, before the tenant entered into a lease  
 22 or rental agreement with the landlord, the landlord or his or her agent provided to the  
 23 prospective tenant the notice specified in sub. (3).

1 (3) The notice referred to in subs. (1) and (2) shall, if provided, be in substantially the  
2 following form:

3 NOTICE REGARDING ACCESS TO THE  
4 SEX OFFENDER REGISTRY

5 Anyone may obtain information from the department of corrections about certain  
6 persons required to register with the sex offender registry under section 301.45, Wisconsin  
7 Statutes. The department of corrections provides access to the information on the internet and  
8 by other means. THE PROSPECTIVE TENANT MAY WISH TO OBTAIN  
9 INFORMATION ABOUT ANY PERSON REGISTERED WITH THE SEX OFFENDER  
10 REGISTRY WHO RESIDES IN THE NEIGHBORHOOD OR COMMUNITY IN WHICH  
11 THIS PROPERTY IS LOCATED. FOR MORE INFORMATION, CONTACT THE  
12 DEPARTMENT OF CORRECTIONS AT (ADDRESS), (TELEPHONE NUMBER),  
13 (INTERNET ADDRESS).

14 (4) This section shall not be construed to impose any liability upon a landlord or his or  
15 her agent which did not exist under common law at the time this section was enacted. This  
16 section shall not be construed to protect a landlord or his or her agent from liability for any  
17 damage, loss or injury caused by the intentional or ~~wilful~~ and wanton misconduct of the  
18 landlord or his or her agent.

most places have an "or"

19 **SECTION 11.** 709.03 (form) GM. of the statutes is created to read:  
20 709.03 (form) GM.

21 NOTICE REGARDING ACCESS TO THE  
22 SEX OFFENDER REGISTRY

23 GM. Anyone may obtain information from the department of corrections about persons  
24 required to register with the sex offender registry under section 301.45, Wisconsin Statutes.

1 The department of corrections provides access to the information on the internet and by other  
2 means. THE PROSPECTIVE BUYER MAY WISH TO OBTAIN INFORMATION ABOUT  
3 ANY PERSON REGISTERED WITH THE SEX OFFENDER REGISTRY WHO RESIDES  
4 IN THE NEIGHBORHOOD OR COMMUNITY IN WHICH THIS PROPERTY IS  
5 LOCATED. FOR MORE INFORMATION, CONTACT THE DEPARTMENT OF  
6 CORRECTIONS AT (ADDRESS), (TELEPHONE NUMBER), (INTERNET ADDRESS).

7 **SECTION 12.** 709.05 (1) of the statutes is amended to read:

8 **709.05 Right to rescind.** (1) Except as provided in sub. (2) (b), if a buyer receives a  
9 report after submission of a contract of sale or option contract to the owner or the owner's  
10 agent, the buyer may, after receipt of that report by the prospective buyer and before the  
11 applicable deadline, rescind in writing a contract of sale or option contract if a defect, as  
12 defined in the report, is disclosed, or if the buyer learns that a person who is required to register  
13 under s. 301.45 resides. is employed or attends school within one-fourth mile of the property,  
14 without any liability on his or her part, and a buyer is entitled to the return of any deposits or  
15 option fees paid in the transaction. A prospective buyer who receives a report that is  
16 incomplete or that contains an inaccurate assertion that an item is not applicable and who is  
17 not aware of the defects that the owner failed to disclose may, within 2 business days after  
18 receipt of that report, rescind in writing a contract of sale or option contract without any  
19 liability on his or her part and is entitled to the return of any deposits or option fees paid in the  
20 transaction.

21 **SECTION 13.** 709.09 of the statutes is created to read:

22 **709.09 No duty to disclose information.** In regard to transfers described in s. 709.01,  
23 the owner of the property or his or her agent has no duty to disclose to a prospective buyer the  
24 fact that any person is required to register under s. 301.45 and may not be held liable for the

1 acts of any person required to register under s. 30 1.45 if the information specified in s. 709.03  
2 (form) GM is provided to the prospective buyer before the prospective buyer submits a  
3 contract of sale. This section shall not be construed to impose any liability upon the owner  
4 of the property or his or her agent which did not exist under common law at the time this section  
5 was enacted. This section shall not be construed to protect the owner of the property or his  
6 or her agent from liability for any damage, loss or injury caused by the intentional or wilful  
7 and wanton misconduct of the owner of the property or his or her agent.

8 **SECTION 14. Initial applicability.**

9 (1) **REAL ESTATE CONDITION REPORTS.** The treatment of section 709.03 (form) GM. of  
10 the statutes first applies to reports that are furnished after a contract of sale or option contract  
11 acceptance that occurs on January 1, 2000.

12 **SECTION 15. Effective dates.** This act takes effect on the day after publication, except  
13 as follows:

14 (1) The treatment of sections 301.46 (5) (a) (intro.) and 1., (b) (intro.) and 4. and (c)  
15 (intro.), (5m) and (6) (a) of the statutes takes effect on January 1, 2000.

16 **(END)**