

## 2003 SENATE BILL 14

1     **AN ACT** *to renumber and amend* 938.355 (4m), 942.08 (2) and 973.015 (1); **to**  
2             *amend* 51.20 (13) (ct) 1m., 301.45 (1m) (title), 938.34 (15m) (am), 938.345 (3)  
3             (a) (intro.), 942.08 (1) (b), 971.17 (1m) (b) 1m., 973.015 (2) and 973.048 (1m); and  
4             **to create** 301.45 (1p), 301.45 (7) (e), 938.355 (4m) (b), 942.08 (2) (b), 942.08 (2)  
5             (c), 942.08 (2) (d) and 973.015 (1) (b) of the statutes; **relating to:** invasion of  
6             privacy and providing a penalty.

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

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

7             **SECTION 1.** 51.20 (13) (ct) 1m. of the statutes is amended to read:  
8             51.20 **(13)** (ct) 1m. Except as provided in subd. 2m., if the subject individual is  
9             before the court on a petition filed under a court order under s. 938.30 (5) (c) 1. and  
10            is found to have committed any violation, or to have solicited, conspired, or attempted

**SENATE BILL 14****SECTION 1**

1 to commit any violation, of ch. 940, 944, or 948 or ss. 942.08 or 943.01 to 943.15, the  
2 court may require the subject individual to comply with the reporting requirements  
3 under s. 301.45 if the court determines that the underlying conduct was sexually  
4 motivated, as defined in s. 980.01 (5), and that it would be in the interest of public  
5 protection to have the subject individual report under s. 301.45.

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

7 301.45 **(1m)** (title) EXCEPTION TO REGISTRATION REQUIREMENT; UNDERAGE SEXUAL  
8 ACTIVITY.

9 **SECTION 3.** 301.45 (1p) of the statutes is created to read:

10 301.45 **(1p)** EXCEPTION TO REGISTRATION REQUIREMENT; EXPUNGEMENT OF INVASION  
11 OF PRIVACY ADJUDICATION OR CONVICTION. If a person is covered under sub. (1g) based  
12 solely on an order that was entered under s. 938.34 (15m) (am) or 973.048 (1m) in  
13 connection with a delinquency adjudication or a conviction for a violation of s. 942.08  
14 (2) (b), (c), or (d), the person is not required to comply with the reporting requirements  
15 under this section if the delinquency adjudication is expunged under s. 938.355 (4m)  
16 (b) or if the conviction is expunged under s. 973.015 (2).

17 **SECTION 4.** 301.45 (7) (e) of the statutes is created to read:

18 301.45 **(7)** (e) The department shall purge all of the information maintained  
19 in the registry under sub. (2) concerning a person to whom sub. (1p) applies if any  
20 of the following occurs:

21 1. The department receives notice under s. 938.355 (4m) (b) that a court has  
22 expunged the record of the person's delinquency adjudication for the violation  
23 described in sub. (1p).

24 2. The department issues a certificate of discharge under s. 973.015 (2).

**SENATE BILL 14**

1           3. The department receives a certificate of discharge issued under s. 973.015  
2           (2) by the detaining authority.

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

4           938.34 **(15m)** (am) Except as provided in par. (bm), if the juvenile is adjudicated  
5           delinquent on the basis of any violation, or the solicitation, conspiracy, or attempt to  
6           commit any violation, under ch. 940, 944, or 948 or ss. 942.08 or 943.01 to 943.15, the  
7           court may require the juvenile to comply with the reporting requirements under s.  
8           301.45 if the court determines that the underlying conduct was sexually motivated,  
9           as defined in s. 980.01 (5), and that it would be in the interest of public protection to  
10          have the juvenile report under s. 301.45.

11          **SECTION 6.** 938.345 (3) (a) (intro.) of the statutes is amended to read:

12          938.345 **(3)** (a) (intro.) If the court finds that a juvenile is in need of protection  
13          or services on the basis of a violation, or the solicitation, conspiracy, or attempt to  
14          commit a violation, under ch. 940, 944, or 948 or ss. 942.08 or 943.01 to 943.15, the  
15          court may require the juvenile to comply with the reporting requirements under s.  
16          301.45 if the court determines that the underlying conduct was sexually motivated,  
17          as defined in s. 980.01 (5), and that it would be in the interest of public protection to  
18          have the juvenile report under s. 301.45. In determining whether it would be in the  
19          interest of public protection to have the juvenile report under s. 301.45, the court may  
20          consider any of the following:

21          **SECTION 7.** 938.355 (4m) of the statutes is renumbered 938.355 (4m) (a) and  
22          amended to read:

23          938.355 **(4m)** (a) A juvenile who has been adjudged delinquent may, on  
24          attaining 17 years of age, petition the court to expunge the court's record of the  
25          juvenile's adjudication. ~~The Subject to par. (b), the~~ court may expunge the court's

**SENATE BILL 14****SECTION 7**

1 record of the juvenile's adjudication if the court determines that the juvenile has  
2 satisfactorily complied with the conditions of his or her dispositional order and that  
3 the juvenile will benefit and society will not be harmed by the expungement.

4 **SECTION 8.** 938.355 (4m) (b) of the statutes is created to read:

5 938.355 **(4m)** (b) The court shall expunge the court's record of a juvenile's  
6 adjudication if it was the juvenile's first adjudication based on a violation of s. 942.08  
7 (2) (b), (c), or (d), and if the court determines that the juvenile has satisfactorily  
8 complied with the conditions of his or her dispositional order. Notwithstanding s.  
9 938.396 (2) (a), the court shall notify the department promptly of any expungement  
10 under this paragraph.

11 **SECTION 9.** 942.08 (1) (b) of the statutes is amended to read:

12 942.08 **(1)** (b) "Private place" means a place where a person may reasonably  
13 expect to be safe from surveillance being observed without his or her knowledge and  
14 consent.

15 **SECTION 10.** 942.08 (2) of the statutes is renumbered 942.08 (2) (intro.) and  
16 amended to read:

17 942.08 **(2)** (intro.) Whoever knowingly does any of the following is guilty of a  
18 Class A misdemeanor:

19 (a) Knowingly installs a surveillance device in any private place, or uses a  
20 surveillance device that has been installed in a private place, with the intent to  
21 observe any nude or partially nude person without the consent of the person observed  
22 ~~is guilty of a Class A misdemeanor.~~

23 **SECTION 11.** 942.08 (2) (b) of the statutes is created to read:

24 942.08 **(2)** (b) For the purpose of sexual arousal or gratification and without the  
25 consent of each person who is present in the private place, looks into a private place

**SENATE BILL 14**

1 that is, or is part of, a public accommodation, as defined in s. 134.48 (1) (b), and in  
2 which a person may reasonably be expected to be nude or partially nude.

3 **SECTION 12.** 942.08 (2) (c) of the statutes is created to read:

4 942.08 (2) (c) For the purpose of sexual arousal or gratification, looks into a  
5 private place that is, or is part of, a public accommodation, as defined in s. 134.48 (1)  
6 (b), and in which a person may reasonably be expected to be nude or partially nude  
7 but in which no person is present.

8 **SECTION 13m.** 942.08 (2) (d) of the statutes is created to read:

9 942.08 (2) (d) Enters another person's private property without that person's  
10 consent and looks into any individual's dwelling unit if all of the following apply:

11 1. The actor looks into the dwelling unit for the purpose of sexual arousal or  
12 gratification and with the intent to intrude upon or interfere with an individual's  
13 privacy.

14 2. The actor looks into a part of the dwelling unit in which an individual is  
15 present.

16 3. The individual has a reasonable expectation of privacy in that part of the  
17 dwelling unit.

18 4. The individual does not consent to the actor looking into that part of the  
19 dwelling.

20 **SECTION 15.** 971.17 (1m) (b) 1m. of the statutes is amended to read:

21 971.17 (1m) (b) 1m. Except as provided in subd. 2m., if the defendant under  
22 sub. (1) is found not guilty by reason of mental disease or defect for any violation, or  
23 for the solicitation, conspiracy, or attempt to commit any violation, of ch. 940, 944,  
24 or 948 or ss. 942.08 or 943.01 to 943.15, the court may require the defendant to  
25 comply with the reporting requirements under s. 301.45 if the court determines that

**SENATE BILL 14****SECTION 15**

1 the underlying conduct was sexually motivated, as defined in s. 980.01 (5), and that  
2 it would be in the interest of public protection to have the defendant report under s.  
3 301.45.

4 **SECTION 16.** 973.015 (1) of the statutes is renumbered 973.015 (1) (a) and  
5 amended to read:

6 973.015 (1) (a) When Subject to par. (b), when a person is under the age of 21  
7 at the time of the commission of an offense for which the person has been found guilty  
8 in a court for violation of a law for which the maximum penalty is imprisonment for  
9 one year or less in the county jail, the court may order at the time of sentencing that  
10 the record be expunged upon successful completion of the sentence if the court  
11 determines the person will benefit and society will not be harmed by this disposition.

12 **SECTION 17.** 973.015 (1) (b) of the statutes is created to read:

13 973.015 (1) (b) The court shall order at the time of sentencing that the record  
14 be expunged upon successful completion of the sentence if the offense was a violation  
15 of s. 942.08 (2) (b), (c), or (d), and the person was under the age of 18 when he or she  
16 committed it.

17 **SECTION 18.** 973.015 (2) of the statutes is amended to read:

18 973.015 (2) A person has successfully completed the sentence if the person has  
19 not been convicted of a subsequent offense and, if on probation, the probation has not  
20 been revoked and the probationer has satisfied the conditions of probation. Upon  
21 successful completion of the sentence the detaining or probationary authority shall  
22 issue a certificate of discharge which shall be forwarded to the court of record and  
23 which shall have the effect of expunging the record. If the person has been  
24 imprisoned, the detaining authority shall also forward a copy of the certificate of  
25 discharge to the department.

**SENATE BILL 14**

1           **SECTION 19.** 973.048 (1m) of the statutes is amended to read:

2           973.048 **(1m)** Except as provided in sub. (2m), if a court imposes a sentence or  
3 places a person on probation for any violation, or for the solicitation, conspiracy, or  
4 attempt to commit any violation, under ch. 940, 944, or 948 or ss. 942.08 or 943.01  
5 to 943.15, the court may require the person to comply with the reporting  
6 requirements under s. 301.45 if the court determines that the underlying conduct  
7 was sexually motivated, as defined in s. 980.01 (5), and that it would be in the interest  
8 of public protection to have the person report under s. 301.45.

9           **SECTION 20. Initial applicability.**

10           (1) This act first applies to offenses committed on the effective date of this  
11 subsection.

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(END)