

2003 Senate Bill 14

Date of enactment: **August 20, 2003**
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2003 WISCONSIN ACT 50

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

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

SECTION 1. 51.20 (13) (ct) 1m. of the statutes is amended to read:

51.20 (13) (ct) 1m. Except as provided in subd. 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 any violation, or to have solicited, conspired, or attempted to commit any violation, of ch. 940, 944, or 948 or ss. ~~942.08~~ or 943.01 to 943.15, the court may require the subject individual to comply with the reporting requirements under s. 301.45 if the court determines that the underlying conduct was sexually motivated, as defined in s. 980.01 (5), and that it would be in the interest of public protection to have the subject individual report under s. 301.45.

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

301.45 (1m) (title) EXCEPTION TO REGISTRATION REQUIREMENT; ~~UNDERAGE SEXUAL ACTIVITY~~

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

301.45 (1p) EXCEPTION TO REGISTRATION REQUIREMENT; EXPUNGEMENT OF INVASION OF PRIVACY ADJUDICA-

TION OR CONVICTION. If a person is covered under sub. (1g) based solely on an order that was entered under s. 938.34 (15m) (am) or 973.048 (1m) in connection with a delinquency adjudication or a conviction for a violation of s. 942.08 (2) (b), (c), or (d), the person is not required to comply with the reporting requirements under this section if the delinquency adjudication is expunged under s. 938.355 (4m) (b) or if the conviction is expunged under s. 973.015 (2).

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

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

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

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

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

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

* Section 991.11, WISCONSIN STATUTES 2001-02 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

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

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

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

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

938.355 (4m) (a) A juvenile who has been adjudged delinquent may, on attaining 17 years of age, petition the court to expunge the court's record of the juvenile's adjudication. ~~The Subject to par. (b), the~~ court may expunge the court's record of the juvenile's adjudication if the court determines that the juvenile has satisfactorily complied with the conditions of his or her dispositional order and that the juvenile will benefit and society will not be harmed by the expungement.

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

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

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

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

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

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

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

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

942.08 (2) (b) For the purpose of sexual arousal or gratification and without the consent of each person who is present in the private place, looks into a private place that is, or is part of, a public accommodation, as defined in s. 134.48 (1) (b), and in which a person may reasonably be expected to be nude or partially nude.

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

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

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

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

1. The actor looks into the dwelling unit for the purpose of sexual arousal or gratification and with the intent to intrude upon or interfere with an individual's privacy.
2. The actor looks into a part of the dwelling unit in which an individual is present.
3. The individual has a reasonable expectation of privacy in that part of the dwelling unit.
4. The individual does not consent to the actor looking into that part of the dwelling.

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

971.17 (1m) (b) 1m. Except as provided in subd. 2m., if the defendant under sub. (1) is found not guilty by reason of mental disease or defect for any violation, or for the solicitation, conspiracy, or attempt to commit any violation, of ch. 940, 944, or 948 or ss. 942.08 or 943.01 to 943.15, the court may require the defendant to comply with the reporting requirements under s. 301.45 if the court determines that the underlying conduct was sexually motivated, as defined in s. 980.01 (5), and that it would be in the interest of public protection to have the defendant report under s. 301.45.

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

973.015 (1) (a) ~~When~~ Subject to par. (b), when a person is under the age of 21 at the time of the commission of an offense for which the person has been found guilty in a court for violation of a law for which the maximum penalty is imprisonment for one year or less in the county jail, the court may order at the time of sentencing that the

record be expunged upon successful completion of the sentence if the court determines the person will benefit and society will not be harmed by this disposition.

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

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

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

973.015 (2) A person has successfully completed the sentence if the person has not been convicted of a subsequent offense and, if on probation, the probation has not been revoked and the probationer has satisfied the conditions of probation. Upon successful completion of the sentence the detaining or probationary authority shall issue a certificate of discharge which shall be forwarded

to the court of record and which shall have the effect of expunging the record. If the person has been imprisoned, the detaining authority shall also forward a copy of the certificate of discharge to the department.

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

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

SECTION 20. Initial applicability.

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

