

2003 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB59)

Received: 03/06/2003

Received By: mdsida

Wanted: As time permits

Identical to LRB:

For: Mark Gundrum (608) 267-5158

By/Representing: Don Dyke

This file may be shown to any legislator: NO

Drafter: mdsida

May Contact:

Addl. Drafters:

Subject: Correctional System - misc
Criminal Law - sex offenses

Extra Copies: rpn

Submit via email: YES

Requester's email: Rep.Gundrum@legis.state.wi.us

Carbon copy (CC:) to: Don.dyke@legis.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Prohibit a sex offender from changing his or her name or using another name

Instructions:

See Attached plus add provision require DOC to make reasonable efforts to notify registrants of this requirement

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|----------------------|---------------------|------------------------|----------------|------------------------|----------------------------|---------------------------|
| /? | mdsida 03/06/2003 | jdyer 03/07/2003 | | _____ | | | S&L Crime |
| /1 | | | pgreensl 03/07/2003 | _____ | sbasford 03/07/2003 | _____ lemery | - jacket was not sent. |

Vers: Drafted Reviewed Typed Proofed Submitted Jacketed Required

03/11/2003

FE Sent For:

<END>

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| /1 | | | pgreensl 03/07/2003 | _____ | sbasford 03/07/2003 | sbasford 03/07/2003 | |

(not sent out)

Was not jacketed
there will changes
to be made

FE Sent For:

<END>

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|--------------|----------------------|-------------------------|--------------|----------------|------------------|-----------------|-----------------|
| /? | mdsida 03/06/2003 | lrb_editor 1/3/7 jld | 3/7 PS | 3/7 PS/cpl | | | |
| FE Sent For: | | | | | | | |

<END>

P/c ~~Don Dyke~~
from Don Dyke

~~Don Dyke~~

~~Don Dyke~~

59 - underlying off - mis \Rightarrow penalty = misd.
(see 30.45(2)(a) 3. = "of a misd.")

~~2d off~~

Class H for ^{any} 1st off if ~~off~~ ^{underlying offense} is a felony
2d off misd.



State of Wisconsin
2003 - 2004 LEGISLATURE

5 002711
LRB: ~~AB3312~~

MGD&PJK: ~~cm&nm~~:rs

FRIDAY
5 PM

ASA to
AB-59

↑
JLd

2003 ASSEMBLY BILL 59

February 13, 2003 - Introduced by Representatives GUNDRUM, GRONEMUS, ZIEGELBAUER, GUNDERSON, LADWIG, GROTHMAN, GIELOW, ALBERS, KRAWCZYK, STONE, HINES, MUSSER, STASKUNAS, OLSEN, PLOUFF, TOWNSEND, NISCHKE, LASSA, WASSERMAN, HUEBSCH, PETTIS, J. FITZGERALD, SUDER, JESKEWITZ, VAN ROY, FREESE, VRAKAS and COGGS, cosponsored by Senators DARLING, HARSDORF, REYNOLDS, LAZICH, KEDZIE, STEPE, ROESSLER, KANAVAS, HANSEN and LEIBHAM. Referred to Committee on Judiciary.

reger cat

- 1 AN ACT to amend 69.11 (4) (b), 69.12 (1), 69.15 (4) (b), 301.45 (6) (ag), 767.20 and
- 2 786.36 (1) (intro.); and to create 301.45 (4u) of the statutes; relating to: name
- 3 changes and names used by sex offenders and providing a penalty. ies

Analysis by the Legislative Reference Bureau

Under current law, a person may change his or her name by consistently and continuously using another name, by petitioning a court to have his or her name changed, or, after being granted a divorce, by asking the court to permit him or her to use a former surname. This bill prohibits a person required to register as a sex offender from changing his or her name or using a name other than one by which the person is identified with the Department of Corrections. This prohibition also applies to a person who has been found to have committed ^{an} ~~a sex~~ offense for which registration will be, but is not yet, required. A person who violates this prohibition ~~may be fined not more than \$10,000 or imprisoned for not more than nine months~~ ~~or both~~.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

With one exception,

INS A

ASSEMBLY BILL 59

For further information see the *state and local* 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:

1 **SECTION 1.** 69.11 (4) (b) [✓] of the statutes is amended to read:

2 69.11 (4) (b) The state registrar may amend an item on a birth certificate that
3 affects information about the name, sex, date of birth, place of birth, parent's name,
4 or marital status of the mother if 365 days have elapsed since the occurrence of the
5 event that is the subject of the birth certificate, if the amendment is at the request
6 of a person with a direct and tangible interest in the record and is on a request form
7 supplied by the state registrar, and if the amendment is accompanied by 2 items of
8 documentary evidence from early childhood that are sufficient to prove that the item
9 to be changed is in error and by the affidavit of the person requesting the
10 amendment. A change in the marital status on the birth certificate may be made
11 under this paragraph only if the marital status is inconsistent with information
12 concerning the father or husband that appears on the birth certificate. This
13 paragraph may not be used to add to or delete from a birth certificate the name of a
14 parent ~~or~~, to change the identity of a parent named on the birth certificate, or to effect
15 a name change prohibited under s. 301.45⁴⁷(1)(a).

16 **SECTION 2.** 69.12 (1) [✓] of the statutes is amended to read:

17 69.12 (1) If the state registrar cannot make an amendment to a vital record
18 under s. 69.11 and a person with a direct and tangible interest in the vital record
19 alleges that information on the vital record does not represent the actual facts in
20 effect at the time the record was filed, the person may petition the circuit court of the
21 county in which the event which is the subject of the vital record is alleged to have

ASSEMBLY BILL 59

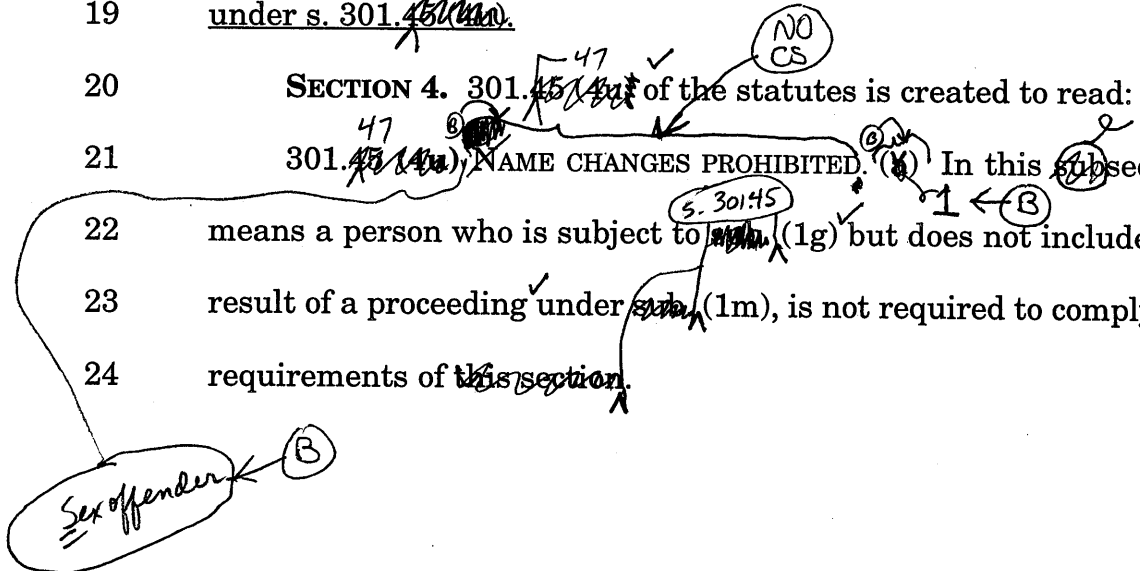
1 occurred. The petition shall be accompanied by a certified copy of the original vital
 2 record. If the court finds that the petitioner has established the actual facts of the
 3 event in effect when the record was filed, the clerk of court shall report the court's
 4 determination to the state registrar on a form prescribed by the state registrar, along
 5 with the fee required under s. 69.22 (5) (a) 2. Upon receipt of the report, the state
 6 registrar shall, if information as to the cause of death on the original certificate of
 7 death is changed, act under sub. (4), or shall change the record under s. 69.11 (5) and
 8 send a notice of the change to the local registrar who shall make the change in the
 9 record filed in his or her office. This subsection does not apply to a name change
 10 prohibited under s. 301.45(1a).

11 SECTION 3. 69.15 (4) (b) of the statutes is amended to read:

12 69.15 (4) (b) Any person with a direct and tangible interest in a birth certificate
 13 registered in this state may petition a court to change the name and sex of the
 14 registrant on the certificate due to a surgical sex-change procedure. If the state
 15 registrar receives an order which provides for such a change the state registrar shall
 16 change the name and sex on the original certificate, except that if the court orders
 17 the state registrar to prepare a new certificate the state registrar shall prepare a new
 18 certificate under sub. (6). This subsection does not apply to a name change prohibited
 19 under s. 301.45(1a).

20 SECTION 4. 301.45(1a) of the statutes is created to read:

21 301.45(1a) NAME CHANGES PROHIBITED. In this subsection, "sex offender"
 22 means a person who is subject to s. 301.45 (1g) but does not include a person who, as a
 23 result of a proceeding under sub. (1m), is not required to comply with the reporting
 24 requirements of this section.



ASSEMBLY BILL 59

1 ⁸ (2) A sex offender may not do any of the following before he or she is released,
2 under ~~s. 301.45~~ (5) or (5m), from the reporting requirements of ~~this section~~:

3 1. Change his or her name.

4 2. Identify himself or herself by a name unless the name is one by which the
5 person is identified with the department.

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

7 301.45 (6) (ag) Whoever intentionally violates sub. (4r) or (4u) may be fined not
8 more than \$10,000 or imprisoned for not more than 9 months or both.

9 **SECTION 6.** 767.20 of the statutes is amended to read:

10 **767.20 Name of spouse.** The Except as provided in s. 301.45(4a), the court,
11 upon granting a divorce, shall allow either spouse, upon request, to resume a former
12 legal surname, if any.

13 **SECTION 7.** 786.36 (1) (intro.) of the statutes is amended to read:


14 786.36 (1) (intro.) Any Except as provided in sub. (3) or s. 301.45(4a), any
15 resident of this state, whether a minor or adult, may upon petition to the circuit court
16 of the county where he or she resides and upon filing a copy of the notice, with proof
17 of publication, as required by s. 786.37, if no sufficient cause is shown to the contrary,
18 have his or her name changed or established by order of the court. If the person
19 whose name is to be changed is a minor under the age of 14 years, the petition may
20 be made by whichever of the following is applicable:

21 (END)

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0027/lins
MGD:.....

1 analysis INSERT A

2  is guilty of a Class H felony, for which he or she may be fined not more than
3 \$10,000, sentenced to a term of imprisonment (consisting of a term of confinement
4 in state prison followed by a term of extended supervision) of up to six years, or both.
5 The exception applies to registrants who are required to register as sex offenders
6 based on their committing misdemeanors. If such a person violates the prohibition
7 regarding a name change or using another name but has not been convicted of that
8 offense previously, he or she is guilty of a misdemeanor and may be fined not more
9 than \$10,000, sentenced to the county jail for up to nine months, or both. Any
10 subsequent offense, however, is a Class H felony.

11 INSERT 4/5

12 (3) Whoever intentionally violates sub. (2) is subject to the following penalties:

13 (a) Except as provided in par. (b), the person is guilty of a Class H felony.

14 (b) The person may be fined not more than \$10,000 or imprisoned for not more
15 than 9 months or both if all of the following apply:

16 1. The person was ordered under s. 51.20 (13) (ct) 1m., 938.34 (15m) (am),
17 938.345 (3), 971.17 (1m) (b) 1m., or 973.048 (1m) to comply with the reporting
18 requirements under s. 301.45 based on a finding that he or she committed or
19 solicited, conspired, or attempted to commit a misdemeanor.

20 2. The person was not convicted of another offense under this section before
21 committing the present violation.

22 (4) The department shall make a reasonable attempt to notify each person
23 required to comply with the reporting requirements under s. 301.45 of the



1 prohibition in sub. (2)[✓], but neither the department's failure to make such an attempt
2 nor the department's failure to notify a person of that prohibition is a defense to a
3 prosecution under this section.[✓]

(end ins)

Barman, Mike

From: Barman, Mike
Sent: Wednesday, March 12, 2003 2:16 PM
To: Rep.Gundrum
Subject: Corrected Copies (LRBs0021 & LRB s0027)



03s0021/1



03s0027/1

Mike Barman

Mike Barman - Senior Program Asst. (PH. 608-266-3561)
(E-Mail: mike.barman@legis.state.wi.us) (FAX: 608-264-6948)

State of Wisconsin
Legislative Reference Bureau - Legal Section - Front Office
100 N. Hamilton Street - 5th Floor
Madison, WI 53703

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2003 ASSEMBLY BILL 59**

March 12, 2003 – Offered by Representative GUNDRUM.

1 **AN ACT** *to amend* 69.11 (4) (b), 69.12 (1), 69.15 (4) (b), 767.20 and 786.36 (1)
2 (intro.); and *to create* 301.47 of the statutes; **relating to:** name changes and
3 names used by sex offenders and providing penalties.

Analysis by the Legislative Reference Bureau

Under current law, a person may change his or her name by consistently and continuously using another name, by petitioning a court to have his or her name changed, or, after being granted a divorce, by asking the court to permit him or her to use a former surname. This bill prohibits a person required to register as a sex offender from changing his or her name or using a name other than one by which the person is identified with the Department of Corrections. This prohibition also applies to a person who has been found to have committed an offense for which registration will be, but is not yet, required. With one exception, a person who violates this prohibition is guilty of a Class H felony, for which he or she may be fined not more than \$10,000, sentenced to a term of imprisonment (consisting of a term of confinement in state prison followed by a term of extended supervision) of up to six years, or both. The exception applies to registrants who are required to register as sex offenders based on their committing misdemeanors. If such a person violates the prohibition regarding a name change or using another name but has not been convicted of that offense previously, he or she is guilty of a misdemeanor and may be fined not more than \$10,000, sentenced to the county jail for up to nine months, or both. Any subsequent offense, however, is a Class H felony.

Removed

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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

Removed

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

1 SECTION 1. 69.11 (4) (b) of the statutes is amended to read:

2 69.11 (4) (b) The state registrar may amend an item on a birth certificate that
3 affects information about the name, sex, date of birth, place of birth, parent's name,
4 or marital status of the mother if 365 days have elapsed since the occurrence of the
5 event that is the subject of the birth certificate, if the amendment is at the request
6 of a person with a direct and tangible interest in the record and is on a request form
7 supplied by the state registrar, and if the amendment is accompanied by 2 items of
8 documentary evidence from early childhood that are sufficient to prove that the item
9 to be changed is in error and by the affidavit of the person requesting the
10 amendment. A change in the marital status on the birth certificate may be made
11 under this paragraph only if the marital status is inconsistent with information
12 concerning the father or husband that appears on the birth certificate. This
13 paragraph may not be used to add to or delete from a birth certificate the name of a
14 parent ~~or~~, to change the identity of a parent named on the birth certificate, or to effect
15 a name change prohibited under s. 301.47.

16 SECTION 2. 69.12 (1) of the statutes is amended to read:

17 69.12 (1) If the state registrar cannot make an amendment to a vital record
18 under s. 69.11 and a person with a direct and tangible interest in the vital record
19 alleges that information on the vital record does not represent the actual facts in

1 effect at the time the record was filed, the person may petition the circuit court of the
2 county in which the event which is the subject of the vital record is alleged to have
3 occurred. The petition shall be accompanied by a certified copy of the original vital
4 record. If the court finds that the petitioner has established the actual facts of the
5 event in effect when the record was filed, the clerk of court shall report the court's
6 determination to the state registrar on a form prescribed by the state registrar, along
7 with the fee required under s. 69.22 (5) (a) 2. Upon receipt of the report, the state
8 registrar shall, if information as to the cause of death on the original certificate of
9 death is changed, act under sub. (4), or shall change the record under s. 69.11 (5) and
10 send a notice of the change to the local registrar who shall make the change in the
11 record filed in his or her office. This subsection does not apply to a name change
12 prohibited under s. 301.47.

13 **SECTION 3.** 69.15 (4) (b) of the statutes is amended to read:

14 69.15 (4) (b) Any person with a direct and tangible interest in a birth certificate
15 registered in this state may petition a court to change the name and sex of the
16 registrant on the certificate due to a surgical sex-change procedure. If the state
17 registrar receives an order which provides for such a change the state registrar shall
18 change the name and sex on the original certificate, except that if the court orders
19 the state registrar to prepare a new certificate the state registrar shall prepare a new
20 certificate under sub. (6). This subsection does not apply to a name change prohibited
21 under s. 301.47.

22 **SECTION 4.** 301.47 of the statutes is created to read:

23 **301.47 Sex offender name changes prohibited.** (1) In this section, "sex
24 offender" means a person who is subject to s. 301.45 (1g) but does not include a person

1 who, as a result of a proceeding under s. 301.45 (1m), is not required to comply with
2 the reporting requirements of s. 301.45.

3 (2) A sex offender may not do any of the following before he or she is released,
4 under s. 301.45 (5) or (5m), from the reporting requirements of s. 301.45:

5 1. Change his or her name.

6 2. Identify himself or herself by a name unless the name is one by which the
7 person is identified with the department.

8 (3) Whoever intentionally violates sub. (2) is subject to the following penalties:

9 (a) Except as provided in par. (b), the person is guilty of a Class H felony.

10 (b) The person may be fined not more than \$10,000 or imprisoned for not more
11 than 9 months or both if all of the following apply:

12 1. The person was ordered under s. 51.20 (13) (ct) 1m., 938.34 (15m) (am),
13 938.345 (3), 971.17 (1m) (b) 1m., or 973.048 (1m) to comply with the reporting
14 requirements under s. 301.45 based on a finding that he or she committed or
15 solicited, conspired, or attempted to commit a misdemeanor.

16 2. The person was not convicted of another offense under this section before
17 committing the present violation.

18 (4) The department shall make a reasonable attempt to notify each person
19 required to comply with the reporting requirements under s. 301.45 of the
20 prohibition in sub. (2), but neither the department's failure to make such an attempt
21 nor the department's failure to notify a person of that prohibition is a defense to a
22 prosecution under this section.

23 **SECTION 5.** 767.20 of the statutes is amended to read:

