

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2005 ASSEMBLY BILL 99**

March 8, 2005 – Offered by Representative STASKUNAS.

1 **AN ACT** *to renumber and amend* 938.14; *to amend* 301.46 (2) (e), 301.46 (2m)
2 (a), 301.46 (2m) (am), 301.46 (2m) (c), 301.46 (4) (ag) (intro.), 301.46 (4) (ag) 1.,
3 301.46 (4) (ag) 2., 301.46 (5) (c) (intro.), 301.46 (5) (c) 1., 301.46 (5) (c) 2. and
4 938.396 (1); and *to create* 301.46 (5g), 938.14 (2) and 938.78 (2) (h) of the
5 statutes; **relating to:** the disclosure of information regarding individuals
6 registered as sex offenders based upon a juvenile delinquency adjudication.

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

7 **SECTION 1.** 301.46 (2) (e) of the statutes is amended to read:
8 301.46 (2) (e) ~~A~~ Subject to sub. (5g), a police chief or sheriff may provide any
9 of the information to which he or she has access under this subsection, ~~other than~~
10 ~~information specified in subs. (4) (ag) and (5) (c),~~ to an entity in the police chief's
11 community or the sheriff's county that is entitled to request information under sub.

1 (4), to any person requesting information under sub. (5) or to members of the general
2 public if, in the opinion of the police chief or sheriff, providing that information is
3 necessary to protect the public.

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

5 301.46 **(2m)** (a) 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 confinement in a state correctional institution or institutional care,
9 and the person has, on one occasion only, been convicted, adjudicated delinquent, or
10 found not guilty or not responsible by reason of mental disease or defect for a sex
11 offense or for a violation of a law of this state that is comparable to a sex offense, the
12 agency with jurisdiction may notify the police chief of any community and the sheriff
13 of any county in which the person will be residing, employed or attending school if
14 the agency with jurisdiction determines that such notification is necessary to protect
15 the public. Notification under this paragraph may be in addition to providing access
16 to information under sub. (2) or to any other notification that an agency with
17 jurisdiction is authorized to provide.

18 **SECTION 3.** 301.46 (2m) (am) of the statutes is amended to read:

19 301.46 **(2m)** (am) 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 been found to be a sexually violent person under ch. 980 or has,
24 on 2 or more separate occasions, been convicted, adjudicated delinquent, or found not
25 guilty or not responsible by reason of mental disease or defect for a sex offense or for

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

7 **SECTION 4.** 301.46 (2m) (c) of the statutes is amended to read:

8 301.46 **(2m)** (c) ~~A~~ Subject to sub. (5g), a police chief or sheriff who receives a
9 bulletin under this subsection may provide any of the information in the bulletin,
10 ~~other than information specified in subs. (4) (ag) and (5) (c),~~ to an entity in the police
11 chief's community or the sheriff's county that is entitled to request information
12 under sub. (4), to any person requesting information under sub. (5) or to members
13 of the general public if, in the opinion of the police chief or sheriff, providing that
14 information is necessary to protect the public.

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

16 301.46 **(4)** (ag) (intro.) The department may not provide any of the following
17 information in response to a request under par. (a) unless authorized to do so under
18 sub. (5g):

19 **SECTION 6.** 301.46 (4) (ag) 1. of the statutes is amended to read:

20 301.46 **(4)** (ag) 1. Any information concerning a ~~child who is required~~
21 delinquency adjudication that requires a person who is less than 17 years of age to
22 register under s. 301.45.

23 **SECTION 7.** 301.46 (4) (ag) 2. of the statutes is amended to read:

1 301.46 (4) (ag) 2. If the person required to register under s. 301.45 is ~~an adult~~
2 17 years of age or older, any information concerning a juvenile proceeding in which
3 the person was involved.

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

5 301.46 (5) (c) (intro.) The department or a police chief or sheriff may not provide
6 any of the following under par. (a) except as authorized under sub. (5g) (d):

7 **SECTION 9.** 301.46 (5) (c) 1. of the statutes is amended to read:

8 301.46 (5) (c) 1. Any information concerning a ~~child who is required~~
9 delinquency adjudication that requires a person who is less than 17 years of age to
10 register under s. 301.45.

11 **SECTION 10.** 301.46 (5) (c) 2. of the statutes is amended to read:

12 301.46 (5) (c) 2. If the person required to register under s. 301.45 is ~~an adult~~
13 17 years of age or older, any information concerning a juvenile proceeding in which
14 the person was involved.

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

16 301.46 (5g) INFORMATION REGARDING A PERSON COMMITTING A SEX OFFENSE AS A
17 JUVENILE. (a) In this subsection, “registrant” means a person who is required to
18 register under s. 301.45.

19 (b) Before a police chief, a sheriff, or the department provides any information
20 specified in sub. (4) (ag) or (5) (c) regarding a registrant to members of the general
21 public under sub. (2) (e) or (2m) (c), to an entity entitled to request information under
22 sub. (4), or to a person requesting information under sub. (5), the police chief, the
23 sheriff, or the department shall bring an action requesting authority to do so in the
24 court assigned to exercise jurisdiction under ch. 938. The action shall be filed in the
25 circuit court for the county in which the registrant resides, is employed or carries on

1 a vocation, or attends school. The complaint shall specify the information that the
2 police chief, the sheriff, or the department seeks to release, the persons or entities
3 to whom the information would be released, and how the information would be
4 released.

5 (c) Except as provided in par. (e) 1., the court shall presume that the benefits
6 of releasing the information that relate to protecting the public outweigh the
7 registrant's interest in maintaining the confidentiality of the information.

8 (d) 1. Unless the court finds that the registrant's interest in maintaining the
9 confidentiality of the information outweighs the benefits of releasing the information
10 that relate to protecting the public, the court shall authorize the police chief, the
11 sheriff, or the department to release the information.

12 2. If the court makes the finding described in subd. 1., the court shall authorize
13 the release of part of the information described in the complaint, the release of
14 information to fewer than all of the persons or entities listed in the complaint, or the
15 release of the information through a more discrete method than that described in the
16 complaint unless the court finds, with respect to the more limited or more discrete
17 release of information under this subdivision, that the registrant's interest in
18 maintaining the confidentiality of the information outweighs the benefits of
19 releasing the information that relate to protecting the public.

20 (e) 1. If a police chief, a sheriff, or the department has brought an action
21 regarding a registrant under this subsection, no person may bring a substantially
22 similar action unless the complaint includes evidence that there has been a
23 substantial change in circumstances since the other action was brought. The
24 presumption under par. (c) does not apply to an action brought under this paragraph.

1 2. Subdivision 1. does not apply if the registrant has moved to, has become
2 employed or has begun carrying on a vocation in, or has begun attending school in,
3 a different county or municipality.

4 **SECTION 12.** 938.14 of the statutes is renumbered 938.14 (intro.) and amended
5 to read:

6 **938.14 Jurisdiction over interstate compact proceedings other**
7 **matters relating to juveniles.** (intro.) The court has exclusive jurisdiction over
8 proceedings all of the following:

9 **(1) Proceedings** under the interstate compact for juveniles under s. 938.991.

10 **SECTION 13.** 938.14 (2) of the statutes is created to read:

11 938.14 **(2)** Proceedings under s. 301.46 (5g) relating to the disclosure of
12 information about an individual required to register as a sex offender under s. 301.45
13 based upon a delinquency adjudication.

14 **SECTION 14.** 938.396 (1) of the statutes is amended to read:

15 938.396 **(1)** Law enforcement officers' records of juveniles shall be kept
16 separate from records of adults. Law enforcement officers' records of juveniles shall
17 not be open to inspection or their contents disclosed except under sub. (1b), (1d), (1g),
18 (1m), (1r), (1t), (1x) or (5) or s. 301.46 (5g) or 938.293 or by order of the court. This
19 subsection does not apply to representatives of the news media who wish to obtain
20 information for the purpose of reporting news without revealing the identity of the
21 juvenile involved, to the confidential exchange of information between the police and
22 officials of the school attended by the juvenile or other law enforcement or social
23 welfare agencies or to juveniles 10 years of age or older who are subject to the
24 jurisdiction of the court of criminal jurisdiction. A public school official who obtains
25 information under this subsection shall keep the information confidential as

1 required under s. 118.125 and a private school official who obtains information under
2 this subsection shall keep the information confidential in the same manner as is
3 required of a public school official under s. 118.125. A law enforcement agency that
4 obtains information under this subsection shall keep the information confidential as
5 required under this subsection and s. 48.396 (1). A social welfare agency that obtains
6 information under this subsection shall keep the information confidential as
7 required under ss. 48.78 and 938.78.

8 **SECTION 15.** 938.78 (2) (h) of the statutes is created to read:

9 938.78 (2) (h) Paragraph (a) does not prohibit the department from disclosing
10 information under s. 301.46 (2), (2m), (3), or (5g) about an individual adjudged
11 delinquent for a sex offense and required to register as a sex offender under s. 301.45
12 based upon that adjudication.

13

(END)