

2005 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB99)

Received: 03/08/2005

Received By: mdsida

Wanted: As time permits

Identical to LRB:

For: Tony Staskunas (608) 266-0620

By/Representing:

This file may be shown to any legislator: NO

Drafter: mdsida

May Contact:

Addl. Drafters:

Subject: **Criminal Law - law enforcement
Children - juvenile justice
Correctional System - misc**

Extra Copies:

Submit via email: YES

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

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Release of information regarding sex offenders required to register as a result of a delinquency adjudication

Instructions:

See Attached

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 03/08/2005	kfollett 03/08/2005		_____			
/1			rschluet 03/08/2005	_____	lnorthro 03/08/2005	lnorthro 03/08/2005	

FE Sent For:

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/?	mdsida						

FE Sent For:

3/26
5
<END>

Today

0039/1

2003 - 2004 LEGISLATURE

LRBs0336/3
MGD&GMM:kjf/cs/kg:ch

kjf

PWF
as indicated

ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2003 ASSEMBLY BILL 550⁹⁹

Reger

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 (5) (c) (intro.), 301.46 (5) (c) 1. and 938.396 (1); and *to create* 301.46 (5g),
4 938.14 (2) and 938.78 (2) (h) of the statutes; **relating to:** the disclosure of
5 information regarding individuals registered as sex offenders based upon an
6 ~~offense committed as a juvenile~~ *delinquency adjudication*

stat
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.
12 (4), to any person requesting information under sub. (5) or to members of the general

PWF

1 public if, in the opinion of the police chief or sheriff, providing that information is
2 necessary to protect the public.

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

4 301.46 **(2m)** (a) If an agency with jurisdiction confines a person under s.
5 301.046, provides a person entering the intensive sanctions program under s.
6 301.048 with a sanction other than a placement in a Type 1 prison or a jail, or releases
7 a person from confinement in a state correctional institution or institutional care,
8 and the person has, on one occasion only, been convicted, adjudicated delinquent, or
9 found not guilty or not responsible by reason of mental disease or defect for a sex
10 offense or for a violation of a law of this state that is comparable to a sex offense, the
11 agency with jurisdiction may notify the police chief of any community and the sheriff
12 of any county in which the person will be residing, employed or attending school if
13 the agency with jurisdiction determines that such notification is necessary to protect
14 the public. Notification under this paragraph may be in addition to providing access
15 to information under sub. (2) or to any other notification that an agency with
16 jurisdiction is authorized to provide.

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

18 301.46 **(2m)** (am) If an agency with jurisdiction confines a person under s.
19 301.046, provides a person entering the intensive sanctions program under s.
20 301.048 with a sanction other than a placement in a Type 1 prison or a jail, or releases
21 a person from confinement in a state correctional institution or institutional care,
22 and the person has been found to be a sexually violent person under ch. 980 or has,
23 on 2 or more separate occasions, been convicted, adjudicated delinquent, or found not
24 guilty or not responsible by reason of mental disease or defect for a sex offense or for
25 a violation of a law of this state that is comparable to a sex offense, the agency with

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

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

7 301.46 (2m) (c) ~~A Subject to sub. (5g),~~ a police chief or sheriff who receives a
8 bulletin under this subsection may provide any of the information in the bulletin,
9 ~~other than information specified in subs. (4) (ag) and (5) (c),~~ to an entity in the police
10 chief's community or the sheriff's county that is entitled to request information
11 under sub. (4), to any person requesting information under sub. (5) or to members
12 of the general public if, in the opinion of the police chief or sheriff, providing that
13 information is necessary to protect the public.

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

15 301.46 (4) (ag) (intro.) The department may not provide any of the following
16 information in response to a request under par. (a) unless authorized to do so under
17 sub. (5g):

delinquency adjudication that requires a
person who is less than 17 years of age

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

19 301.46 (4) (ag) 1. Any information concerning a child ~~juvenile~~ who is required
20 to register under s. 301.45.

21 SECTION 7. 301.46 (5) (c) (intro.) of the statutes is amended to read:

22 301.46 (5) (c) (intro.) The department or a police chief or sheriff may not provide
23 any of the following under par. (a) except as authorized under sub. (5g) (d):

24 SECTION 8. 301.46 (5) (c) 1. of the statutes is amended to read:

INS 3/20

1 301.46 (5) (c) 1. Any information concerning a child ~~juvenile~~ who is required
2 to register under s. 301.45.

INS 4/1

INS
4/2

3 SECTION 9. 301.46 (5g) of the statutes is created to read:

4 301.46 (5g) INFORMATION REGARDING A PERSON COMMITTING A SEX OFFENSE AS A
5 JUVENILE. (a) In this subsection, "registrant" means a person who is required to
6 register under s. 301.45.

7 (b) Before a police chief, a sheriff, or the department provides any information
8 specified in sub. (4) (ag) or (5) (c) regarding a registrant to members of the general
9 public under sub. (2) (e) or (2m) (c), to an entity entitled to request information under
10 sub. (4), or to a person requesting information under sub. (5), the police chief, the
11 sheriff, or the department shall bring an action requesting authority to do so in the
12 court assigned to exercise jurisdiction under ch. 938. The action shall be filed in the
13 circuit court for the county in which the registrant resides, is employed or carries on
14 a vocation, or attends school. The complaint shall specify the information that the
15 police chief, the sheriff, or the department seeks to release, the persons or entities
16 to whom the information would be released, and how the information would be
17 released.

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

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

1 2. If the court makes the finding described in subd. 1., the court shall authorize
2 the release of part of the information described in the complaint, the release of
3 information to a fewer than all of the persons or entities listed in the complaint, or
4 the release of the information ^{through} in a more discrete method than that described in the
5 complaint unless the court finds, with respect to the more limited or more discrete
6 release of information under this subdivision, that the registrant's interest in
7 maintaining the confidentiality of the information outweighs the benefits of
8 releasing the information that relate to protecting the public.

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

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

17 SECTION 10. 938.14 of the statutes is renumbered 938.14 (intro.) and amended
18 to read:

19 **938.14 Jurisdiction over interstate compact proceedings other**
20 **matters relating to juveniles.** (intro.) The court has exclusive jurisdiction over
21 proceedings all of the following:

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

23 SECTION 11. 938.14 (2) of the statutes is created to read:

24 938.14 **(2)** Proceedings under s. 301.46 (5g) relating to the disclosure of
25 information about a juvenile required to register as a sex offender under s. 301.45

1 or an individual required to register as a sex offender under s. 301.45 based upon a
2 delinquency adjudication.

3 **SECTION 12.** 938.396 (1) of the statutes is amended to read:

4 938.396 (1) Law enforcement officers' records of juveniles shall be kept
5 separate from records of adults. Law enforcement officers' records of juveniles shall
6 not be open to inspection or their contents disclosed except under sub. (1b), (1d), (1g),
7 (1m), (1r), (1t), (1x) or (5) or s. 301.46 (5g) or 938.293 or by order of the court. This
8 subsection does not apply to representatives of the news media who wish to obtain
9 information for the purpose of reporting news without revealing the identity of the
10 juvenile involved, to the confidential exchange of information between the police and
11 officials of the school attended by the juvenile or other law enforcement or social
12 welfare agencies or to juveniles 10 years of age or older who are subject to the
13 jurisdiction of the court of criminal jurisdiction. A public school official who obtains
14 information under this subsection shall keep the information confidential as
15 required under s. 118.125 and a private school official who obtains information under
16 this subsection shall keep the information confidential in the same manner as is
17 required of a public school official under s. 118.125. A law enforcement agency that
18 obtains information under this subsection shall keep the information confidential as
19 required under this subsection and s. 48.396 (1). A social welfare agency that obtains
20 information under this subsection shall keep the information confidential as
21 required under ss. 48.78 and 938.78.

22 **SECTION 13.** 938.78 (2) (h) of the statutes is created to read:

23 938.78 (2) (h) Paragraph (a) does not prohibit the department from disclosing
24 information under s. 301.46 (2), (2m), (3), or (5g) about an individual adjudged

1 delinquent for a sex offense and required to register as a sex offender under s. 301.45 ✓
2 based upon that adjudication.

3 (END)

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-ins
MGD:.....

1 **INSERT 3/20**

2 **SECTION 1.** 301.46 (4) (ag) 2. of the statutes is amended to read:

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

6 **History:** 1995 a. 440; 1997 a. 6, 27, 130, 181, 237, 283; 1999 a. 89; 2001 a. 16; 2003 a. 188.

6 **INSERT 4/1**

7 delinquency adjudication that requires a person who is less than 17 years of age

8 **INSERT 4/2**

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

10 301.46 (5) (c) 2. If the person required to register under s. 301.45 is ~~an adult~~
11 17 years of age or older, any information concerning a juvenile proceeding in which
12 the person was involved.

History: 1995 a. 440; 1997 a. 6, 27, 130, 181, 237, 283; 1999 a. 89; 2001 a. 16; 2003 a. 188.