

**2009 DRAFTING REQUEST**

**Bill**

Received: **02/15/2010**

Received By: **chanaman**

Wanted: **As time permits**

Identical to LRB:

For: **Mary Williams (608) 266-7506**

By/Representing: **Jon Hoelter**

This file may be shown to any legislator: **NO**

Drafter: **chanaman**

May Contact:

Addl. Drafters:

Subject: **Correctional System - misc  
Criminal Law - crimes agnst kids  
Criminal Law - sex offenses  
Mental Health - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.WilliamsM@legis.wisconsin.gov**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Notice of sex offenders release

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**Instructions:**

See attached

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**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> |
|--------------|------------------------|----------------------|------------------------|----------------|-----------------------|------------------------|-----------------|
| /?           | chanaman<br>02/16/2010 | bkraft<br>02/16/2010 |                        | _____          |                       |                        | S&L             |
| /1           |                        |                      | jfrantze<br>02/16/2010 | _____          | mbarman<br>02/16/2010 | sbasford<br>03/12/2010 |                 |

FE Sent For:

*at  
intro*

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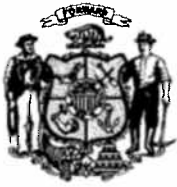
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|--------------|----------------|-----------------|--------------|---|------------------|-----------------|-----------------|
| /?           | chanaman       | /1 bjk 2/1b     |              |  |                  |                 |                 |

FE Sent For:

<END>



State of Wisconsin  
2009 - 2010 LEGISLATURE

4338/1  
LRB 4108/2  
From -4108/2  
CMH:bjk:rs  
stays

2009 BILL

SA  
x-ref

Refer cat

1 AN ACT *to amend* 51.20 (13) (ct) 1m., 301.45 (1m) (be), 301.45 (1m) (bm), 301.45  
2 (1m) (bv), 301.45 (1m) (d) 1., 301.45 (1m) (e) (intro.), 301.45 (2) (a) 5., 301.45 (7)  
3 (a), 301.46 (2) (b) 5., 301.46 (5) (bm) 3., 938.34 (15m) (am) and 973.048 (1m); and  
4 *to create* 51.20 (13) (ct) 2d., 301.45 (2) (a) 3m., 301.46 (2) (b) 3m., 301.46 (2m)  
5 (ap), 301.46 (5) (bm) 5m., 938.34 (15m) (bd) and 973.048 (2d) of the statutes;  
6 **relating to:** information on a person who is required to register as a sex  
7 offender and sex offender registry requirements following certain plea  
8 agreements

notification of law enforcement when certain sex offenders change residential addresses

**Analysis by the Legislative Reference Bureau**

Under current law, a person must register with the Department of Corrections (DOC) as a sex offender if he or she has been convicted of certain sex offenses, found not guilty of certain sex offenses by reason of mental disease or defect, or adjudicated delinquent on the basis of certain sex offenses. These sex offenses include sexual assault of a child and repeated sexual assault of a child (child sex offense) and first-degree, second-degree, and third-degree sexual assault. In addition, the person must register with DOC as a sex offender if he or she commits other offenses and the court determines that the underlying conduct was sexually motivated and it would be in the interest of public protection for the person to register. These

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offenses include fourth-degree sexual assault. Under this bill, a person must register with DOC as a sex offender, without a court determination, if a child sex offense was dismissed or uncharged as part of a plea agreement for fourth-degree sexual assault.

Under current law, the sex offender registry contains specific information about a person required to register (registrant), such as the registrant's name, appearance, offense, address, and place of employment and any school in which the registrant is enrolled. When a registrant is released DOC or the Department of Health Services (DHS), whichever agency has authority over the registrant, may notify the police chief of the community, and the sheriff of the county, in which the registrant will be residing, employed, or attending school if the person has been convicted, or found not guilty by reason of mental defect or disease, of a sex offense only one time and must notify the police chief of the community, and the sheriff of the county, in which the registrant will be residing, employed, or attending school or through which the registrant will be traveling if the person has been convicted, or found not guilty by reason of mental disease or defect, of a sex offense or if the person has been found to be a sexually violent person. The notification must include the registrant's residential address. This bill requires DOC or DHS, if the agency provided notice, to notify the same persons if the registrant moves.

Under current law, DOC must provide the general public with Internet access to certain information on the registry, such as a registrant's name, physical description, address, and crime that led to the requirement to register. This bill requires the registry to include, and make available to the general public, the following addition information for each registrant: 1) any offense that was uncharged or that was dismissed as part of a plea agreement if the plea agreement led to the requirement for the registrant to register, and 2) all addresses at which a registrant will reside. In addition, the general public Internet site must indicate all addresses for each entry in the sex offender register, whether the entry is a registrant's name or an alias a registrant uses.

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:***

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

51.20 (13) (ct) 1m. Except as provided in subd. subds. 2d. and 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

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

5 **SECTION 2.** 51.20 (13) (ct) 2d. of the statutes is created to read:

6 51.20 **(13)** (ct) 2d. If the subject individual is before the court on a petition filed  
7 under a court order under s. 938.30 (5) (c) 1. and an offense under s. 948.02 or 948.025  
8 was uncharged or dismissed as part of a plea agreement resulting in a delinquency  
9 adjudication for a violation of s. 940.225 (3m), the court shall require the individual  
10 to comply with the reporting requirements under s. 301.45 unless the court  
11 determines, after a hearing on a motion made by the individual, that the individual  
12 is not required to comply under s. 301.45 (1m).

13 **SECTION 3.** 301.45 (1m) (be) of the statutes is amended to read:

14 301.45 **(1m)** (be) A person who files a motion under par. (b) or s. 51.20 (13) (ct)  
15 2d. or 2m., 938.34 (15m) (bd) or (bm), 971.17 (1m) (b) 2m., or 973.048 (2d) or (2m)  
16 requesting a determination of whether the person is required to comply with the  
17 reporting requirements under this section shall send a copy of the motion to the  
18 district attorney for the county in which the motion is filed. The district attorney  
19 shall make a reasonable attempt to contact the victim of the crime that is the subject  
20 of the person's motion to inform the victim of his or her right to make or provide a  
21 statement under par. (bv).

22 **SECTION 4.** 301.45 (1m) (bm) of the statutes is amended to read:

23 301.45 **(1m)** (bm) A court shall hold a hearing on a motion made by a person  
24 under par. (b) or s. 51.20 (13) (ct) 2d. or 2m., 938.34 (15m) (bd) or (bm), 971.17 (1m)  
25 (b) 2m., or 973.048 (2d) or (2m) requesting a determination of whether the person is

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1 required to comply with the reporting requirements under this section. The district  
2 attorney who receives a copy of a motion under par. (be) may appear at the hearing.

3 **SECTION 5.** 301.45 (1m) (bv) of the statutes is amended to read:

4 301.45 **(1m)** (bv) Before deciding a motion filed under par. (b) or s. 51.20 (13)  
5 (ct) 2d. or 2m., 938.34 (15m) (bd) or (bm), 971.17 (1m) (b) 2m., or 973.048 (2d) or (2m)  
6 requesting a determination of whether the person is required to comply with the  
7 reporting requirements under this section, the court shall allow the victim of the  
8 crime that is the subject of the motion to make a statement in court at the hearing  
9 under par. (bm) or to submit a written statement to the court. A statement under this  
10 paragraph must be relevant to whether the person satisfies the criteria specified in  
11 par. (a).

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

13 301.45 **(1m)** (d) 1. Before deciding a motion filed by a person under par. (b) or  
14 s. 51.20 (13) (ct) 2d. or 2m., 938.34 (15m) (bd) or (bm), 971.17 (1m) (b) 2m., or 973.048  
15 (2d) or (2m) requesting a determination of whether the person is required to comply  
16 with the reporting requirements under this section, a court may request the person  
17 to be examined by a physician, psychologist or other expert approved by the court.  
18 If the person refuses to undergo an examination requested by the court under this  
19 subdivision, the court shall deny the person's motion without prejudice.

20 **SECTION 7.** 301.45 (1m) (e) (intro.) of the statutes is amended to read:

21 301.45 **(1m)** (e) (intro.) At the hearing held under par. (bm), the person who  
22 filed the motion under par. (b) or s. 51.20 (13) (ct) 2d. or 2m., 938.34 (15m) (bd) or (bm),  
23 971.17 (1m) (b) 2m., or 973.048 (2d) or (2m) has the burden of proving by clear and  
24 convincing evidence that he or she satisfies the criteria specified in par. (a). In

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1 deciding whether the person has satisfied the criterion specified in par. (a) 3., the  
2 court may consider any of the following:

3 **SECTION 8.** 301.45 (2) (a) 3m. of the statutes is created to read:

4 301.45 (2) (a) 3m. a. Any offense that was uncharged or that was dismissed as  
5 part of a plea agreement if the judgment of conviction that the plea agreement  
6 covered led to the offender being subject to the requirements of this section.

7 b. Any offense that was uncharged or that was dismissed as part of a plea  
8 agreement if the delinquency adjudication that the plea agreement covered led to the  
9 person being subject to the requirements of this section.

10 **SECTION 9.** 301.45 (2) (a) 5. of the statutes is amended to read:

11 301.45 (2) (a) 5. ~~The address~~ All addresses at which the person is or will be  
12 residing.

13 **SECTION 10.** 301.45 (7) (a) of the statutes is amended to read:

14 301.45 (7) (a) The department shall maintain information provided under sub.  
15 (2). The department shall keep the information confidential except as provided in  
16 ss. 301.03 (14) and 301.46, except as needed for law enforcement purposes and except  
17 to provide, in response to a request for information under s. 49.22 (2m) made by the  
18 department of children and families or a county child support agency under s. 59.53  
19 (5), the name and ~~address~~ all residential addresses of an individual registered under  
20 this section, the name and address of the individual's employer and financial  
21 information related to the individual.

22 **SECTION 11.** 301.46 (2) (b) 3m. of the statutes is created to read:

23 301.46 (2) (b) 3m. a. Any offense that was uncharged or that was dismissed as  
24 part of a plea agreement if the judgment of conviction that the plea agreement  
25 covered led to the offender being subject to the registration requirements of s. 301.45.



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b. Any offense that was uncharged or that was dismissed as part of a plea agreement if the delinquency adjudication that the plea agreement covered led to the person being subject to the requirements of s. 301.45.

**SECTION 12.** 301.46 (2) (b) 5. of the statutes is amended to read:

301.46 (2) (b) 5. The address All addresses at which the person is residing.

**SECTION 13.** 301.46 (2m) (ap) of the statutes is created to read:

301.46 (2m) (ap) If the subject of the notification under par. (a) or (am) changes his or her residential address, the agency with jurisdiction shall notify the police chief of any community, and the sheriff of any county, in which the person will be residing, employed, or attending school. Notification under this paragraph shall be in the form of a written bulletin and shall be in addition to providing access to information under sub. (2) and to any other notification that an agency with jurisdiction is authorized to provide.

**SECTION 14.** 301.46 (5) (bm) 3. of the statutes is amended to read:

301.46 (5) (bm) 3. The person's name and home address any aliases the person uses, indicating for each name and each alias all addresses at which the person is residing.

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

301.46 (5) (bm) 5m. a. Any offense that was uncharged or that was dismissed as part of a plea agreement if the judgment of conviction that the plea agreement covered led to the offender being subject to the registration requirements of s. 301.45.

b. Any offense that was uncharged or that was dismissed as part of a plea agreement if the delinquency adjudication that the plea agreement covered led to the person being subject to the requirements of s. 301.45.

**SECTION 16.** 938.34 (15m) (am) of the statutes is amended to read:

## BILL

1 938.34 (15m) (am) Except as provided in ~~par. pars. (bd) and (bm)~~, if the juvenile  
2 is adjudicated delinquent on the basis of any violation, or the solicitation, conspiracy,  
3 or attempt to commit any violation, under ch. 940, 944, or 948 or ss. 942.08 or 943.01  
4 to 943.15, the court may require the juvenile to comply with the reporting  
5 requirements under s. 301.45 if the court determines that the underlying conduct  
6 was sexually motivated, as defined in s. 980.01 (5), and that it would be in the interest  
7 of public protection to have the juvenile report under s. 301.45.

8 SECTION 17. 938.34 (15m) (bd) of the statutes is created to read:

9 938.34 (15m) (bd) If an offense under s. 948.02 or 948.025 was uncharged or  
10 dismissed as part of a plea agreement that resulted in the delinquency adjudication  
11 for a violation of s. 940.225 (3m), the court shall require the juvenile to comply with  
12 the reporting requirements under s. 301.45 unless the court determines, after a  
13 hearing on a motion made by the juvenile, that the juvenile is not required to comply  
14 under s. 301.45 (1m).

15 SECTION 18. 973.048 (1m) of the statutes is amended to read:

16 973.048 (1m) Except as provided in ~~sub. subs. (2d) and (2m)~~, if a court imposes  
17 a sentence or places a person on probation for any violation, or for the solicitation,  
18 conspiracy, or attempt to commit any violation, under ch. 940, 944, or 948 or ss.  
19 942.08 or 943.01 to 943.15, the court may require the person to comply with the  
20 reporting requirements under s. 301.45 if the court determines that the underlying  
21 conduct was sexually motivated, as defined in s. 980.01 (5), and that it would be in  
22 the interest of public protection to have the person report under s. 301.45.

23 SECTION 19. 973.048 (2d) of the statutes is created to read:

24 973.048 (2d) If an offense under s. 948.02 or 948.025 was uncharged or  
25 dismissed as part of a plea agreement that resulted in the judgment of conviction for

**BILL**

1 a violation of s. 940.225 (3m), the court shall require the person to comply with the  
2 reporting requirements under s. 301.45 unless the court determines, after a hearing  
3 on a motion made by the person, that the person is not required to comply under s.  
4 301.45 (1m).

5 **SECTION 20. Initial applicability.**

6 (1) The treatment of sections 51.20 (13) (ct) 2d. and 938.34 (15m) (bd) of the  
7 statutes first applies to a delinquency adjudication occurring on the effective date of  
8 this subsection.

9 (2) The treatment of sections 301.45 (2) (a) 3m. and 301.46 (2) (b) 3m. and (5)  
10 (bm) 5m. of the statutes first applies to persons required to register on the effective  
11 date of this subsection.

12 (3) The treatment of section 973.048 (2d) of the statutes first applies to a  
13 judgment of conviction entered on the effective date of this subsection.

14 **SECTION 21. Effective dates.** This act takes effect on the day after publication,  
15 except as follows:

16 (1) The treatment of sections 301.45 (2) (a) 5. and 301.46 (2) (b) 5. and (5) (bm)  
17 3. of the statutes takes effect on the first day of the 2nd month beginning after  
18 publication.

**Basford, Sarah**

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**From:** Hoelter, Jon  
**Sent:** Friday, March 12, 2010 9:21 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 09-4335/1 Topic: Notice of sex offenders release

Please Jacket LRB 09-4335/1 for the ASSEMBLY.