
Wisconsin Legislative Council

ACT MEMO



Prepared by: David Moore, Principal Attorney

May 3, 2024

2023 Wisconsin Act 254
[2023 Senate Bill 874]

**Counting Sex Offense
Convictions for Certain Purposes**

2023 Wisconsin Act 254 modifies the circumstances under which certain agencies must issue a law enforcement bulletin with respect to a person with multiple sex offense convictions. It also modifies the circumstances under which a person with multiple convictions for sex offenses is subject to lifetime compliance with the sex offender registry. Both changes are retroactive to September 2, 2017.

BACKGROUND

Prior law imposed certain requirements on individuals who have “on 2 or more separate occasions, been convicted or found not guilty or not responsible by reason of mental disease or defect for a sex offense, or the solicitation, conspiracy or attempt to commit a violation, of a federal law, a military law, a tribal law or a law of any state that is comparable to a sex offense.” These requirements pertained to: (1) whether an agency was required to issue a “law enforcement bulletin” regarding such an individual; and (2) whether such an individual was subject to lifetime compliance with the sex offender registry.

Requirements Related to Law Enforcement Bulletins

State law requires an agency with jurisdiction, commonly the Department of Corrections (DOC), to issue a “law enforcement bulletin” with respect to certain persons when the person will enter the community, such as when the person is released from confinement in a state correctional institution.¹ A person regarding whom an agency issued a mandatory law enforcement bulletin is subject to lifetime GPS tracking.²

Prior law specified that an agency with jurisdiction must issue a law enforcement bulletin when a person is entering the community in one of the situations specified in statute and that person has either: (1) been found to be a sexually violent person under ch. 980, Stats.; or (2) “on 2 or more separate occasions, been convicted or found not guilty or not responsible by reason of mental disease or defect for a sex offense or for a violation of a law of this state that is comparable to a sex offense.” Prior law also required DOC to issue a law enforcement bulletin with respect to an individual who becomes a resident of this state from another state and who has on two or more separate occasions been convicted

¹ Specifically, state law contemplates the use of law enforcement bulletins when: an agency confines the person under the community residential confinement program, provides the person entering the intensive sanctions program with a sanction other than placement in a Type 1 prison or jail, or releases the person from confinement in a state correctional institution or institutional care. Depending on whether an individual meets certain conditions, state law either requires an agency to issue a bulletin or, alternatively, grants the agency discretion to issue a bulletin when the agency determines that such notification is necessary to protect the public.

² Having been the subject of a mandatory law enforcement bulletin is one reason a person may be subject to lifetime GPS tracking, though a person may also be subject to lifetime GPS tracking for other reasons.

or found not guilty or not responsible by reason of mental disease or defect for a violation of a law in another jurisdiction that is comparable to a sex offense.³

On September 1, 2017, Attorney General Brad Schimel issued [OAG-02-17](#), in response to a request from DOC regarding whether DOC's obligation to issue a law enforcement bulletin with respect to an individual who has multiple convictions for sex offenses applies if the convictions occur at the same time or stem from the same complaint. In his opinion, Attorney General Schimel advised that, for this purpose, convictions on "separate occasions" refers to "multiple convictions, regardless of whether they were part of the same proceeding, occurred on the same date, or were included in the same criminal complaint."

Requirements Related to Sex Offender Registry

State law requires a person who is convicted of a sex offense, as defined for this purpose, to comply with sex offender registration requirements. The period of compliance is either 15 years after discharge from the probation or supervision imposed for the sex offense or until the person's death (lifetime registration), depending on the circumstances. Prior law provided that a person is subject to lifetime registration, among other circumstances, if the person has "on 2 or more separate occasions, been convicted or found not guilty or not responsible by reason of mental disease or defect for a sex offense, or the solicitation, conspiracy or attempt to commit a violation, of a federal law, a military law, a tribal law or a law of any state that is comparable to a sex offense."

In 2023, the Wisconsin Supreme Court interpreted the meaning of "2 or more separate occasions" for the purposes of whether lifetime registration is required and determined that "the plain and ordinary meaning of 'separate occasions'" in this context does not refer solely to the number of convictions. In contrast with the Attorney General's opinion discussed above, the Court concluded that a person who had been convicted of multiple counts of a sex offense, "based on charges filed in a single case during the same hearing," was not convicted on "separate occasions." [*State v. Rector*, [2023 WI 41](#).]

2023 WISCONSIN ACT 254

2023 Wisconsin Act 254 eliminates the language referring to two or more separate occasions, both for the purposes of when lifetime sex offender registration applies and for the purposes of whether an agency with jurisdiction must issue a law enforcement bulletin. Under the act, a person is subject to lifetime sex offender registration requirements and an agency must issue a law enforcement bulletin when a person "has been convicted 2 or more times, including convictions that were part of the same proceeding, occurred on the same date, or were included in the same criminal complaint, for a sex offense" These requirements also apply when a person has been found "2 or more times, including findings that were part of the same proceeding, occurred on the same date, or were included in the same criminal complaint, not guilty or not responsible by reason of mental disease or defect for a sex offense"

The act specifies that the changes described above first apply to determinations made on September 2, 2017, regarding whether a person has been convicted or found not guilty on two or more separate occasions.⁴ The act requires DOC to identify persons who were released from the requirement to comply with lifetime sex offender registration requirements, but who would not have been released had the act

³ This obligation also applied to certain other categories of individuals with out-of-state violations, such as a person who becomes a student in this state or begins carrying on a vocation in this state.

⁴ September 2, 2017, is the day after the Attorney General issued OAG-02-17.

been in effect, and notify these persons that they are subject to lifetime registration. Under the act, the persons so notified must register as a sex offender within 30 days.

As mentioned above, a person regarding whom an agency issued a mandatory law enforcement bulletin is subject to lifetime GPS tracking. Accordingly, the act also requires DOC to identify persons who, on the act's effective date, were not subject to lifetime GPS tracking but who would have been had the act been in effect, and notify them that they are subject to lifetime GPS tracking.

Effective date: March 31, 2024

For a full history of the bill, visit the Legislature's [bill history page](#).

DM:ksm