



**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.

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
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

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. 301.47.

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. 301.47.

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

21 **301.47 Sex offender name changes prohibited.** (1) In this section, "sex
22 offender" means a person who is subject to s. 301.45 (1g) but does not include a person
23 who, as a result of a proceeding under s. 301.45 (1m), is not required to comply with
24 the reporting requirements of s. 301.45.

1 **(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 s. 301.45:

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

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

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

10 1. The person was ordered under s. 51.20 (13) (ct) 1m., 938.34 (15m) (am),
11 938.345 (3), 971.17 (1m) (b) 1m., or 973.048 (1m) to comply with the reporting
12 requirements under s. 301.45 based on a finding that he or she committed or
13 solicited, conspired, or attempted to commit a misdemeanor.

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

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

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

22 **767.20 Name of spouse.** The Except as provided in s. 301.47, the court, upon
23 granting a divorce, shall allow either spouse, upon request, to resume a former legal
24 surname, if any.

25 **SECTION 6.** 786.36 (1) (intro.) of the statutes is amended to read:

