

1 **AN ACT** *to create* 301.01 (1g) and 301.01 (1s) of the statutes; **relating to:** creating
 2 definitions of “high–risk sex offender” and “predatory”.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill draft was prepared for the Joint Legislative Council’s Special Committee on Placement of Sex Offenders.

The bill draft creates definitions of “high–risk sex offender” and “predatory”.

3 **SECTION 1.** 301.01 (1g) of the statutes is created to read:

4 301.01 (**1g**) (1g) “High–risk sex offender” means a person who has been found to have
 5 committed a sex offense, as defined in s. 301.45 (1d) (b), or a federal law or law of another
 6 state that is comparable to such a sex offense and meets one of the following criteria:

7 (a) Has received a score on a credible risk assessment instrument targeted to the
 8 person’s population group that indicates that the person’s risk of reoffense is high or
 9 moderately high.

10 (b) Has been found to be a sexually violent person under ch. 980 or has been the subject
 11 of a petition for commitment as a sexually violent person but was not committed as a sexually
 12 violent person.

13 (c) Has been found to have committed offenses involving 2 separate victims if at least
 14 one of the victims was a victim of a serious sex offense, as defined in s. 304.06 (2m) (a), and
 15 one victim was the victim of such a serious sex offense or a serious felony, as defined in s.
 16 939.62 (2m) (a) 2m.

1 (d) Has been found to have committed a serious child sex offense, as defined in s. 939.62
2 (2m) (a) 1m., involving a victim less than 12 years of age that was predatory in nature.

3 (e) Has been found to have committed a serious sex offense, as defined in s. 304.06
4 (2m) (a), or a serious child sex offense, as defined in s. 939.62 (2m) (a) 1m., involving a victim
5 12 years of age or older that was predatory in nature.

6 (f) Has a criminal history that does not include a finding that the person has committed
7 a serious sex offense, as defined in s. 304.06 (2m) (a), or a serious child sex offense, as defined
8 in 939.62 (2m) (a) 1m., but that indicates that the person was alleged to have committed such
9 an offense and plead to a lesser offense.

10 (g) Meets criteria established by the department.

11 **SECTION 2.** 301.01 (1s) of the statutes is created to read:

12 301.01 (1s) “Predatory” means directed toward a stranger, a person of casual
13 acquaintance with whom no substantial relationship existed, or a person with whom a
14 relationship has been established or promoted for the primary purpose of victimization.

NOTE: Creates definitions of “high-risk sex offender” and “predatory”.

COMMENT: 1. Under s. 301.45 (1d) (b), “sex offense” is defined as a violation, or the solicitation, conspiracy, or attempt to commit a violation, of sexual exploitation by a therapist [s. 940.22 (2)]; first-, second-, or third-degree sexual assault [s. 940.225 (1), (2), or (3)]; incest [s. 944.06]; first- or second-degree sexual assault of a child [s. 948.02 (1) or (2)]; engaging in repeated acts of sexual assault of the same child [s. 948.025]; sexual exploitation of a child [s. 948.05]; causing a child to view or listen to sexual activity [s. 948.055]; incest with a child [s. 948.06]; child enticement [s. 948.07]; use of a computer to facilitate a child sex crime [s. 948.075]; soliciting a child for prostitution [s. 948.08]; sexual assault of a child placed in substitute care [s. 948.085]; sexual assault of a child by a school staff person or a person who works or volunteers with children [s. 948.095]; exposing a child to harmful material or harmful descriptions or narrations [s. 948.11 (2) (a) or (am)]; possession of child pornography [s. 948.12]; child sex offender working with children [s. 948.13]; or child abduction [s. 948.30]; or of

false imprisonment [s. 940.30] or kidnapping [s. 940.31] if the victim was a minor and the person who committed the violation was not the victim's parent.

2. Under s. 939.62 (2m) (a) 2m., "serious felony" means any of the following:

- Manufacture, distribution, or delivery of, or possession with intent to manufacture, distribute, or deliver, a controlled substance or conspiracy to commit such an offense with relation to specified controlled substances if the offense is a Class A, B, or C felony.
- First- or second-degree intentional homicide [ss. 940.01 and 940.05]; first-degree reckless homicide [s. 940.02]; felony murder [s. 940.03]; homicide by intoxicated use of a vehicle or firearm [s. 940.09 (1c)]; partial-birth abortion [s. 940.16]; substantial battery [s. 940.19 (5)]; substantial battery to an unborn child [s. 940.195 (5)]; mayhem [s. 940.21]; first- or second-degree sexual assault [s. 940.225 (1) or (2)]; taking hostages [s. 940.305]; kidnapping [s. 940.31]; causing great bodily harm by tampering with household products [s. 941.237 (2) (b) 4.]; arson or damage to property by explosives [s. 943.02]; burglary [s. 943.10 (2)]; carjacking [s. 943.23 (1g)]; armed robbery [s. 943.31 (2)]; assault by a prisoner [s. 946.43 (1)]; sexual assault of a child [s. 948.02 (1) or (2)]; engaging in repeated acts of sexual assault of the same child [s. 948.025]; physical abuse of a child causing great bodily harm or creating a high probability of causing great bodily harm [s. 948.03 (2) (a) or (c)]; sexual exploitation of a child [s. 948.05]; incest with a child [s. 948.06]; child enticement [s. 948.07]; use of a computer to facilitate a child sex offense [s. 948.075]; soliciting a child for prostitution [s. 948.08]; sexual assault of a child placed in substitute care [s. 948.085]; or child abduction [s. 948.30 (2)].
- The solicitation, conspiracy, or attempt to commit a Class A felony.
- A crime under federal law or the law of another state that is comparable to one of the above crimes.

3. Under s. 304.06 (2m), "serious sex offense" means first- or second-degree sexual assault [s. 940.225 (1) or (2)]; first- or second-degree sexual assault of a child [s. 948.02 (1) or (2)]; engaging in repeated acts of sexual assault of the same child [s. 948.025]; incest with a child [s. 948.06]; child enticement [s. 948.07]; or a solicitation, conspiracy, or attempt to commit one of those violations.

4. Under s. 939.62 (2m) 1m., "serious child sex offense" means:

- Sexual assault of a child [s. 948.02]; engaging in repeated acts of sexual assault of the same child [s. 948.025]; sexual exploitation of a

child [s. 948.05]; causing a child to view or listen to sexual activity [s. 948.055]; incest with a child [s. 948.06]; child enticement [s. 948.07]; soliciting a child for prostitution [s. 948.08]; sexual assault of a child placed in substitute care [s. 948.085]; sexual assault of a child by a school staff person or a person who works or volunteers with children [s. 948.095]; or child abduction [s. 948.30] or, if the victim was a minor and the convicted person was not the victim's parent, kidnapping [s. 940.31].

- A crime under federal law or the law of another state that is comparable to one of the above crimes.

5. How should the definition of "high-risk sex offender" be used in the statutes? Options include:

- Requiring special bulletin notification for high-risk sex offenders. Currently, this notification is required for sexually violent persons and persons found to have committed 2 or more sex offenses.
- Requiring community notification when a high-risk sex offender is placed in the community. Currently, law enforcement determines for which offenders there will be community notification.
- Requiring a notation on the department of corrections' (DOC) sex offender website if a person is categorized as a high-risk sex offender.
- Requiring high-risk sex offenders who are under the supervision of the DOC to live in a residence approved by DOC. Currently, as a condition of extended supervision, a person who is serving a sentence for a serious sex offense must live in a residence DOC has approved.