

State of Wisconsin



2023 Senate Bill 874

Date of enactment: **March 29, 2024**

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2023 WISCONSIN ACT 254

AN ACT *to amend* 301.45 (5) (b) 1., 301.45 (5m) (b) 3. and 301.46 (2m) (am) 1. and 2. of the statutes; **relating to:** counting convictions and findings for the purpose of the sex offender registry and notifications.

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

SECTION 1. 301.45 (5) (b) 1. of the statutes is amended to read:

301.45 (5) (b) 1. The person has, ~~on 2 or more separate occasions, been convicted or 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 or for a violation, or the solicitation, conspiracy, or attempt to commit a violation, of a federal law, military law, tribal law, or law of any state that is comparable to a sex offense; 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, or for a violation, 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; or has been convicted one time for a sex offense or for a violation, or the solicitation, conspiracy, or attempt to commit a violation, of a federal law, military law, tribal law, or law of any state that is comparable to a sex offense and has been found one time not guilty or not responsible by reason of mental disease or defect for a sex offense, or for a violation, 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. A conviction or finding of not guilty or not responsible by reason of mental disease or defect that has been reversed, set aside, or vacated is not a conviction or finding for purposes of determining counting the number of convictions or findings under this subdivision whether a person has been convicted on 2 or more separate occasions.~~

SECTION 2. 301.45 (5m) (b) 3. of the statutes is amended to read:

301.45 (5m) (b) 3. The person has, ~~on 2 or more separate occasions, been convicted or 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 or for a violation, or the solicitation, conspiracy, or attempt to commit a violation, of a federal law, military law, tribal law, or law of any state that is comparable to a sex offense; 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 or for a violation, or the solicitation, conspiracy, or attempt to commit a violation, of a federal law, military law, tribal law, or law of any state that is comparable to a sex offense; or has been convicted one time for a sex offense or for a violation, or the solicitation, con-~~

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

~~spiracy, or attempt to commit a violation, of a federal law, military law, tribal law, or law of any state that is comparable to a sex offense and has been found one time not guilty or not responsible by reason of mental disease or defect for a sex offense, or for a violation, or the solicitation, conspiracy, or attempt to commit a violation, of a federal law, military law, tribal law, or law of any state that is comparable to a sex offense.~~ A conviction or finding of not guilty or not responsible by reason of mental disease or defect that has been reversed, set aside, or vacated is not a conviction or finding for purposes of determining counting the number of convictions or findings under this subdivision ~~whether a person has been convicted on 2 or more separate occasions.~~

SECTION 3. 301.46 (2m) (am) 1. and 2. of the statutes are amended to read:

301.46 (2m) (am) 1. If an agency with jurisdiction confines a person under s. 301.046, provides a person entering the intensive sanctions program under s. 301.048 with a sanction other than a placement in a Type 1 prison or a jail, or releases a person from confinement in a state correctional institution or institutional care, ~~and 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 and through or to which the person will be regularly traveling if~~ the person has been found to be a sexually violent person under ch. 980 or has, ~~on 2 or more separate occasions,~~ been convicted ~~or 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 or for a violation of a law of this state that is comparable to a sex offense; 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 or for a violation of a law of this state that is comparable to a sex offense, ~~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 and through or to which the person will be regularly traveling; or has been convicted one time for a sex offense or for a violation of a law of this state that is comparable to a sex offense and has been found one time 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.~~ Notification under this subdivision is in addition to providing access to information under sub. (2) and to any other notification that an agency with jurisdiction is authorized to provide.

2. If a person described under s. 301.45 (1g) (dh), (dj), (f), or (g) becomes a resident of this state from another state under s. 304.16, becomes a student in this

state, becomes employed or begins carrying on a vocation in this state, or becomes subject to a sanction in this state other than a placement in a Type 1 prison or a jail, ~~and the department shall notify the police chief of any community and the sheriff of any county in which the person will be residing, employed, carrying on a vocation, or attending school if~~ the person has, ~~on 2 or more separate occasions,~~ been convicted ~~or 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 violation of the law of another jurisdiction that is comparable to a sex offense; 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 violation of the law of another jurisdiction that is comparable to a sex offense, ~~the department shall notify the police chief of any community and the sheriff of any county in which the person will be residing, employed or carrying on a vocation, or attending school; or has been one time convicted for a violation of the law of another jurisdiction that is comparable to a sex offense and has been found one time not guilty or not responsible by reason of mental disease or defect for a violation of the law of another jurisdiction that is comparable to a sex offense.~~ Notification under this subdivision is in addition to providing access to information under sub. (2) or to any other notification that the department is authorized to provide.

SECTION 4. Nonstatutory provisions.

(1) The department of corrections shall identify persons who were released from the requirement to register under s. 301.45 but who would not have been released if the treatment of s. 301.45 (5) (b) 1. or (5m) (b) 3. by this act had been in effect. No later than 60 days after the effective date of this subsection, the department of corrections shall notify those persons that they are subject to the registration requirements under s. 301.45. Notwithstanding s. 301.45 (6) (a), a person notified under this subsection must register no later than 30 days after receiving notice to comply with the registration requirement.

(2) The department of corrections shall identify persons who, on the effective date of this subsection, are not subject to the requirement under s. 301.48 (2) (a) 7. but who would have been if the treatment of s. 301.46 (2m) (am) 1. and 2. by this act had been in effect. No later than 60 days after the effective date of this subsection, the department of corrections shall notify those persons that they are subject to the requirement under s. 301.48 (2) (a) 7.

SECTION 5. Initial applicability.

(1) The treatment of ss. 301.45 (5) (b) 1. and (5m) (b) 3. and 301.46 (2m) (am) 1. and 2. first applies to determinations made on September 2, 2017, regarding whether

a person has been convicted or found not guilty on 2 or more separate occasions.
