



## 2005 ASSEMBLY BILL 1220

May 4, 2006 – Introduced by Representative PARISI. Referred to Committee on Rules.

1     **AN ACT to amend** 51.20 (13) (ct) 1m., 301.45 (1p), 301.45 (7) (e) 1., 938.34 (15m)  
2             (am), 938.345 (3) (a) (intro.), 938.355 (4m) (b), 971.17 (1m) (b) 1m., 973.015  
3             (title), 973.015 (1) (a) and 973.048 (1m) of the statutes; **relating to:** the  
4             prohibition against making, reproducing, or possessing visual representations  
5             of a person nude without the person’s consent.

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### *Analysis by the Legislative Reference Bureau*

Current law prohibits making a visual representation that depicts a person nude, without the consent of the person, and while the person is nude in a circumstance in which he or she has a reasonable expectation of privacy, and also prohibits reproducing or possessing such visual representations. So-called “video voyeurism” is a Class I felony, for which a person may be confined in prison, fined, or both imprisoned and fined.

Also under current law, a court may require a person who is convicted, adjudicated delinquent, found in need of protection or services, or found not guilty by reason of mental disease or defect for certain offenses to register with the Department of Corrections (DOC) as a sex offender.

Finally, current law authorizes expungement of records of juvenile delinquency adjudications and criminal convictions under certain circumstances. A juvenile who has been adjudicated delinquent for any offense may, after attaining 17 years of age, petition the court to expunge the record of the adjudication. The court may expunge the record if it determines that the juvenile has satisfactorily complied with the

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conditions of the dispositional order and that the juvenile will benefit and society will not be harmed by the expungement. Current law also provides that, if a person was under the age of 21 at the time of committing an offense for which he or she has been convicted and the maximum penalty for the offense is imprisonment for one year or less in the county jail (a misdemeanor), the court may, if it determines that the person will benefit and society will not be harmed by this disposition, order at the time of sentencing that the record be expunged upon successful completion of the sentence.

This bill provides that a court may order a person to register with DOC as a sex offender if the person is convicted, adjudicated delinquent, found in need of protection or services, or found not guilty by reason of mental disease or defect for committing video voyeurism. The bill provides that if a person commits video voyeurism before the age of 21 and is convicted for the offense, the court may, if it determines that the person will benefit and society will not be harmed by this disposition, order at the time of sentencing that the record of conviction be expunged upon successful completion of the sentence. Finally, the bill provides that if a court orders a record of conviction or a delinquency adjudication for video voyeurism expunged and if the offender had been required to register as a sex offender in connection with the conviction or adjudication, the requirement to register terminates with the expungement.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

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

2           51.20 **(13)** (ct) 1m. Except as provided in subd. 2m., if the subject individual is  
3 before the court on a petition filed under a court order under s. 938.30 (5) (c) 1. and  
4 is found to have committed any violation, or to have solicited, conspired, or attempted  
5 to commit any violation, of ch. 940, 944, or 948 or ss. 942.08, 942.09, or 943.01 to  
6 943.15, the court may require the subject individual to comply with the reporting  
7 requirements under s. 301.45 if the court determines that the underlying conduct  
8 was sexually motivated, as defined in s. 980.01 (5), and that it would be in the interest  
9 of public protection to have the subject individual report under s. 301.45.

10           **SECTION 2.** 301.45 (1p) of the statutes is amended to read:

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1           301.45 **(1p)** EXCEPTION TO REGISTRATION REQUIREMENT; EXPUNGEMENT OF INVASION  
2           OF PRIVACY ADJUDICATION OR CONVICTION FOR PRIVACY-RELATED OFFENSE. If a person is  
3           covered under sub. (1g) based solely on an order that was entered under s. 938.34  
4           (15m) (am) or 973.048 (1m) in connection with a delinquency adjudication, or a  
5           conviction, for a violation of s. 942.08 (2) (b), (c), or (d) or 942.09, the person is not  
6           required to comply with the reporting requirements under this section if the  
7           delinquency adjudication is expunged under s. 938.355 (4m) ~~(b)~~ or if the conviction  
8           is expunged under s. 973.015 (2).

9           **SECTION 3.** 301.45 (7) (e) 1. of the statutes is amended to read:

10          301.45 **(7)** (e) 1. The department receives notice under s. 938.355 (4m) ~~(b)~~ (c)  
11          that a court has expunged the record of the person's delinquency adjudication for the  
12          violation described in sub. (1p).

13          **SECTION 4.** 938.34 (15m) (am) of the statutes is amended to read:

14          938.34 **(15m)** (am) Except as provided in par. (bm), if the juvenile is adjudicated  
15          delinquent on the basis of any violation, or the solicitation, conspiracy, or attempt to  
16          commit any violation, under ch. 940, 944, or 948 or ss. 942.08, 942.09, or 943.01 to  
17          943.15, the court may require the juvenile to comply with the reporting requirements  
18          under s. 301.45 if the court determines that the underlying conduct was sexually  
19          motivated, as defined in s. 980.01 (5), and that it would be in the interest of public  
20          protection to have the juvenile report under s. 301.45.

21          **SECTION 5.** 938.345 (3) (a) (intro.) of the statutes, as affected by 2005 Wisconsin  
22          Act .... (Assembly Bill 443), is amended to read:

23          938.345 **(3)** (a) (intro.) If the court finds that a juvenile is in need of protection  
24          or services on the basis of a violation, or the solicitation, conspiracy, or attempt to  
25          commit a violation, under ch. 940, 944, or 948 or ss. 942.08, 942.09, or 943.01 to

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1 943.15, the court may require the juvenile to comply with the reporting requirements  
2 under s. 301.45 if the court determines that the underlying conduct was sexually  
3 motivated, as defined in s. 980.01 (5), and that it is in the interest of public protection  
4 to have the juvenile report under s. 301.45. In determining whether it is in the  
5 interest of public protection to have the juvenile report under s. 301.45, the court may  
6 consider any of the following:

7 **SECTION 6.** 938.355 (4m) (b) of the statutes, as affected by 2005 Wisconsin Act  
8 .... (Assembly Bill 443), is amended to read:

9 938.355 (**4m**) (b) The court shall expunge the court's record of a juvenile's  
10 adjudication if it was the juvenile's first adjudication based on a violation of s. 942.08  
11 (2) (b), (c), or (d), and if the court determines that the juvenile has satisfactorily  
12 complied with the conditions of his or her dispositional order.

13 (c) Notwithstanding s. 938.396 (2), the court shall notify the department  
14 promptly of any expungement under ~~this paragraph~~ par. (b) and of any expungement  
15 under par. (a) of a court's record of a juvenile's adjudication for a violation of s. 942.09.

16 **SECTION 7.** 971.17 (1m) (b) 1m. of the statutes is amended to read:

17 971.17 (**1m**) (b) 1m. Except as provided in subd. 2m., if the defendant under  
18 sub. (1) is found not guilty by reason of mental disease or defect for any violation, or  
19 for the solicitation, conspiracy, or attempt to commit any violation, of ch. 940, 944,  
20 or 948 or ss. 942.08, 942.09, or 943.01 to 943.15, the court may require the defendant  
21 to comply with the reporting requirements under s. 301.45 if the court determines  
22 that the underlying conduct was sexually motivated, as defined in s. 980.01 (5), and  
23 that it would be in the interest of public protection to have the defendant report under  
24 s. 301.45.

25 **SECTION 8.** 973.015 (title) of the statutes is amended to read:

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1           **973.015** (title) ~~Misdemeanors, special~~ **Special disposition for certain**  
2 **younger offenders.**

3           **SECTION 9.** 973.015 (1) (a) of the statutes, as affected by 2003 Wisconsin Acts  
4 33 and 320, is amended to read:

5           973.015 (1) (a) Subject to par. (b), when a person is under the age of 21 at the  
6 time of the commission of an offense under s. 942.09 or an offense for which the  
7 person has been found guilty in a court for violation of a law for which the maximum  
8 penalty is imprisonment for one year or less in the county jail, the court may order  
9 at the time of sentencing that the record be expunged upon successful completion of  
10 the sentence if the court determines the person will benefit and society will not be  
11 harmed by this disposition. This subsection does not apply to information  
12 maintained by the department of transportation regarding a conviction that is  
13 required to be included in a record kept under s. 343.23 (2) (a).

14           **SECTION 10.** 973.048 (1m) of the statutes is amended to read:

15           973.048 (1m) Except as provided in sub. (2m), if a court imposes a sentence or  
16 places a person on probation for any violation, or for the solicitation, conspiracy, or  
17 attempt to commit any violation, under ch. 940, 944, or 948 or ss. 942.08, 942.09, or  
18 943.01 to 943.15, the court may require the person to comply with the reporting  
19 requirements under s. 301.45 if the court determines that the underlying conduct  
20 was sexually motivated, as defined in s. 980.01 (5), and that it would be in the interest  
21 of public protection to have the person report under s. 301.45.

22           **SECTION 11. Initial applicability.**

23           (1) This act first applies to offenses committed on the effective date of this  
24 subsection.

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(END)