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# Wisconsin Legislative Council

## AMENDMENT MEMO

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**2023 Senate Bill 874**

**Senate Amendment 2**

### BACKGROUND

Current law provides that a person who is convicted of a sex offense, as defined for this purpose, must comply with sex offender registration requirements. The length of time a person who is required to comply with this requirement is either 15 years or until the person’s death (lifetime registration). Among other circumstances, a person is subject to lifetime registration 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.”

Current law also requires an agency to issue a “law enforcement bulletin” with regard to a person who has been found to be a sexually violent person under ch. 980 or, who 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 for a violation of a law of this state that is comparable to a sex offense.” This obligation applies when an agency with jurisdiction confines a person under the community residential confinement program, provides a person entering the intensive sanctions program with a sanction other than placement in a Type 1 prison or a jail, or releases a person from confinement in a state correctional institution or institutional care. A person regarding whom an agency issued a mandatory law enforcement bulletin is subject to lifetime global positioning system (GPS) tracking.

A 2017 Attorney General opinion interpreted the phrase “on 2 or more separate occasions,” for the purposes of the law enforcement bulletin requirement, to refer “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.”<sup>1</sup> A 2023 Wisconsin Supreme Court opinion, however, interpreted the same phrase, for the purposes of whether the lifetime sex offender registration requirement applies, and concluded that “when a person is convicted based on charges filed in a single case during the same hearing, then those convictions have not occurred on ‘separate occasions’.”<sup>2</sup>

### 2023 SENATE BILL 874

2023 Senate Bill 874 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 bill, 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

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<sup>1</sup> OAG-02-17.

<sup>2</sup> *State v. Rector*, 2023 WI 41, ¶19.

same criminal complaint, not guilty not responsible by reason of mental disease or defect for a sex offense ....”

The bill is retroactive. It requires the Department of Corrections (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 bill been in effect, and notify these persons that they are subject to lifetime registration. It also requires DOC to identify persons who, on the bill’s effective date, are not subject to lifetime GPS tracking but who would have had the bill’s provisions been in effect and notify them that they are subject to lifetime GPS tracking.

## **Senate Amendment 2**

Senate Amendment 2 limits the retroactive application of the bill to determinations made regarding whether a person has been convicted or found not guilty on two or more separate occasions after the Attorney General’s September 1, 2017 opinion interpreting that phrase was issued.

## **BILL HISTORY**

Senator Wimberger offered Senate Amendment 2 to Senate Bill 874 on February 8, 2024. On the same day, the Senate Committee on Judiciary and Public Safety voted to recommend adoption of Senate Amendment 2 and passage of Senate Bill 874, as amended, both on votes of Ayes, 5; Noes, 2.

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

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