

2199 SEX OFFENDER NAME CHANGE — § 301.47(2)(a)-(b)**Statutory Definition of the Crime**

Section 301.47(2)(a) and (b) of the Wisconsin Statutes is violated by one who is subject to the requirements of section 301.45, and who intentionally changes his or her name or identifies by a name not identified with the Wisconsin Department of Corrections.

State's Burden of Proof

Before you may find the defendant guilty of this offense, the State must prove by evidence which satisfies you beyond a reasonable doubt that the following two elements were present.

Elements of the Crime That the State Must Prove

1. The defendant was a sex offender¹ subject to the reporting requirements of section 301.45.
2. Before being released from the reporting requirements of section 301.45, the defendant intentionally [changed (his) (her) name]² [identified (himself) (herself) by a name other than one by which (he) (she) is identified with the Wisconsin Department of Corrections].

This requires that the defendant acted with the mental purpose to [change (his) (her) name] [identify (himself) (herself) by a name other than one by which (he) (she) is identified with the Wisconsin Department of Corrections].³

[It is not a defense to prosecution under this section that the department failed to (attempt to) notify the defendant of the prohibition (against using a name by which he or she is not identified with the department).]⁴

Deciding About Intent

You cannot look into a person's mind to find intent. Intent must be found, if found at all, from the defendant's acts, words, and statements, if any, and from all the facts and circumstances in this case bearing upon intent.

Jury's Decision

If you are satisfied beyond a reasonable doubt that all two elements of this offense have been proved, you should find the defendant guilty.

If you are not so satisfied, you must find the defendant not guilty.

COMMENT

Wis JI-Criminal 2199 was approved by the Committee in 2021. This revision was approved by the Committee in October 2022; it updated the comment.

This instruction is for violations of § 301.47(2)(a) and (b), created by 2003 Wisconsin Act 53 [effective date: September 5, 2003]. Section 301.47(3) provides: "Except as provided in par. (b), the person is guilty of a Class H felony."

1. Wis. Stat. § 301.47(1) provides "In this section, 'sex offender' means a person who is subject to s. 301.45 (1g) but does not include a person who, as a result of a proceeding under s. 301.45 (1m), is not required to comply with the reporting requirements of s. 301.45."

2. The Wisconsin Supreme Court has clarified that when read together, Wis. Stat. § 301.47(2)(a) and § 301.47(2)(a)1. do not prohibit a registrant from using an alias, provided the registrant notifies the

Department of Corrections of their intent to do so in advance. State v. C.G., 2022 WI 60, ¶56, 403 Wis.2d 229, 976 N.W.2d 318. Wis. Stat. § 301.47(2)(a) does, however, prohibit a registrant from petitioning the circuit court for a legal name change under § 786.36. Id.

3. “Intentionally” requires either mental purpose to cause the result or awareness that the conduct is practically certain to cause it. § 939.23(3). The Committee concluded that the mental purpose alternative is most likely to apply to this offense. See Wis JI-Criminal 923A and 923B.

4. This instruction should be given when warranted by the evidence. § 301.47(4).