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**WISCONSIN LEGISLATIVE COUNCIL  
AMENDMENT MEMO**

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**2003 Assembly Bill 59**

**Assembly Substitute  
Amendment 1**

*Memo published:* March 17, 2003

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**Assembly Bill 59** prohibits a person required to register as a sex offender from changing his or her name or using a name other than one by which the person is identified with the Department of Corrections (DOC). Under the bill, the penalty for a violation of the prohibition is a misdemeanor: maximum fine of \$10,000, maximum imprisonment of nine months, or both.

**Assembly Substitute Amendment 1** makes the following changes to the proposal:

1. With one exception (described in paragraph 2., below), makes a violation of the name change or use of different name prohibitions a Class H felony: maximum fine of \$10,000, maximum imprisonment of six years, or both.

2. Retains the misdemeanor penalty of the original bill if the person violating the proposal's prohibitions has not been convicted of a previous violation and if, in specified situations, the person was ordered to register as a sex offender based on committing a misdemeanor.\* Any subsequent offense is classified as a Class H felony.

3. Requires DOC to make a reasonable attempt to notify each person subject to the name change and name use prohibitions of those prohibitions. Failure to make an attempt or to notify is not a defense to prosecution of a violation.

Assembly Substitute Amendment 1 was introduced by Representative Gundrum and recommended for adoption by the Assembly Committee on Judiciary by a vote of Ayes, 8; Noes, 0; on March 13, 2003.

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\* A court has discretion under current law to require a person who has violated certain statutes to register as a sex offender if the court finds the underlying conduct was sexually motivated and it is in the interest of public safety to require registration.

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Sections 51.20 (13) (ct) 1m., 938.34 (15m) (am), 938.345 (3), 971.17 (1m) (b) 1m., and 973.048 (1m), Stats. This discretionary authority applies to violations of chs. 940 (crimes against life and bodily security), 944 (crimes against sexual morality), and 948 (crimes against children), and ss. 943.01 to 943.15 (certain crimes against property).

Under the substitute amendment, if a court exercising this discretionary authority orders a person to register as a sex offender where the underlying violation was a misdemeanor, a first violation of the substitute amendment's prohibitions is a misdemeanor. There may be additional situations, not addressed by the substitute amendment, where a sex offender is required to register in connection with the commission of an underlying misdemeanor, e.g., an offender registered in another state who moves into this state or who has committed a sex offense comparable to a "sex offense" under Wisconsin law (although note that all the latter are felonies under Wisconsin law).