



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2003 Senate Bill 35

**Senate Substitute
Amendment 1**

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Under **current law**, a registered sex offender is required to provide specified information to the Department of Corrections (DOC): when the person initially registers; annually; and within a specified period when certain information changes. Section 301.45 (2) to (4), Stats. A person who knowingly violates any information requirement is subject, on first offense, to a misdemeanor (maximum \$10,000, nine months, or both) and for a second or subsequent offense, a Class H felony (maximum \$10,000, six years, or both). Section 301.45 (6) (a), Stats.

Current law also prohibits a registered sex offender who is on parole or extended supervision from establishing a residence or changing his or her residence unless he or she has complied with applicable information requirements relating to the establishment or change of residence. Section 301.45 (4r), Stats. An intentional violation of this prohibition is punishable by a maximum fine of \$10,000, maximum imprisonment of nine months, or both. Section 301.45 (6) (ag), Stats.

Senate Bill 35, as introduced, makes a violation of the general requirements for registered sex offenders to provide DOC with information a Class H felony, regardless of the number of prior offenses. (The bill as introduced does not treat the penalty for the prohibition on establishing a residence or changing a residence unless pertinent information has been furnished to DOC.)

Senate Substitute Amendment 1 makes the following changes to the bill:

1. Retains the current misdemeanor penalty for a first violation of the general requirement to provide DOC with information in certain situations where the person has been ordered to register as a sex offender based on committing a misdemeanor.* A subsequent violation would be a Class H felony.

2. Makes the general penalty for violating the prohibition on establishing a residence or changing a residence without complying with pertinent informational requirements a Class H felony, rather than the current misdemeanor. The misdemeanor penalty is retained for a first violation in certain

situations where the person has been ordered to register as a sex offender in connection with commission of a misdemeanor.* A subsequent violation would be a Class H felony.

Senate Substitute Amendment 1 was recommended for adoption, and Senate Bill 35 was recommended for passage, as amended, by the Senate Committee on Judiciary, Corrections, and Privacy by a vote of Ayes, 5; Noes, 0 on April 2, 2003.

RS:tlu

* 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. 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).