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## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

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<b>2003 Wisconsin Act 279</b> [2003 Senate Bill 207]	<b>Sexual Exploitation of Children by Members of the Clergy</b>
2003 Acts: <a href="http://www.legis.state.wi.us/2003/data/acts/">www.legis.state.wi.us/2003/data/acts/</a>	Act Memos: <a href="http://www.legis.state.wi.us/lc/act_memo/act_memo.htm">www.legis.state.wi.us/lc/act_memo/act_memo.htm</a>

2003 Wisconsin Act 279 requires members of the clergy to report suspected sexual assault of a child under certain circumstances, expands the statute of limitation for criminal prosecution of sexual assault of a child and for civil actions for damages resulting from sexual assault of a child, and sets forth a cause of action relating to sexual exploitation by a member of the clergy.

### **MANDATORY CHILD ABUSE REPORTING**

The Act requires a member of the clergy to report if he or she has reasonable cause to suspect that a child seen by the member of the clergy in the course of his or her professional duties has been sexually abused, or threatened with sexual abuse and sexual abuse of the child will likely occur.

In addition, a member of the clergy must report if he or she has reasonable cause, based on observations made or information that he or she receives, to suspect that another member of the clergy has sexually abused a child or has threatened a child with sexual abuse and sexual abuse of the child will likely occur. The Act provides that “member of the clergy” means a spiritual adviser of any religion or a member of a religious order and includes brothers, ministers, monks, nuns, priests, rabbis, and sisters. The Act defines “member of a religious order” as an individual who has taken vows devoting himself or herself to religions or spiritual principles and who is authorized or appointed by his or her religious order or organization to provide spiritual or religious advice or service.

Under the Act, however, a clergy member is not required to report information regarding suspected sexual abuse that is obtained solely through confidential communications made to the clergy member privately or in a confessional setting if he or she is authorized to hear or accustomed to hearing such communications and, under the disciplines, tenets, or traditions of his or her religion, has a duty or is expected to keep those communications secret. The disciplines, tenets, or traditions relating to confidential communications need not be in writing.

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents.

## **STATUTES OF LIMITATION**

### **Criminal Prosecution**

Under the Act, a prosecution for sexual assault of a child, repeated acts of sexual assault of the same child, intentionally causing great bodily harm to a child, sexual exploitation of a child, incest with a child, child enticement involving sexual contact or sexually explicit behavior, soliciting a child for prostitution, or sexual assault of a student by a school instructional staff person must be commenced before the victim reaches 45 years of age. This provision will apply only to actions for which the current statute of limitation has not expired. Prior to the Act, such prosecutions were required to be commenced before the victim reached 31 years of age.

### **Civil Actions**

Under the Act, actions to recover damages for injury caused by an act that would constitute a violation of sexual assault of a child, repeated acts of sexual assault of the same child, incest with a child, or sexual assault of a student by a public or private school instructional staff person must be brought before the victim reaches age 35. This provision will apply only to actions for which the current statute of limitation has not expired.

Prior law required such an action to be commenced within five years after the plaintiff discovered the fact and the probable cause of the injury, or with the exercise of reasonable diligence should have discovered the fact and the probable cause of the injury, whichever occurred first.

## **CIVIL CAUSE OF ACTION**

The Act sets forth a cause of action for sexual exploitation by a member of the clergy. The Act provides that any person who suffers an injury as the result of sexual contact with a member of the clergy that occurs while the person is under age 18 may bring an action against the member of the clergy for all damages caused by that sexual contact. Under the Act, such a person may also bring an action against the religious organization that employed the member of the clergy for all damages caused by that sexual contact if, at the time that the sexual contact occurred, an employee of that religious organization whose duties included supervising that member of the clergy knew or should have known that the member of the clergy previously had sexual contact with a person under the age of 18 and failed to:

1. Report that sexual contact as sexual abuse, as described above; and
2. Exercise ordinary care to prevent similar incidents from occurring.

Under the Act, the statute of limitation for commencing an action of sexual exploitation by a member of the clergy is the same as the statute of limitation for civil actions relating to crimes against children, described above.

***Effective Date:*** Act 279 takes effect on May 1, 2004.

***Prepared by:*** Anne Sappenfield, Senior Staff Attorney

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