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## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

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<b>2003 Wisconsin Act 53</b> [2003 Assembly Bill 60]	<b>Failure of Registered Sex Offenders to Provide Information</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 53 addresses penalty levels when a registered sex offender fails to provide required information and when a registered sex offender establishes a residence or changes a residence without complying with applicable information requirements.

A registered sex offender is required to provide specified information to the Department of Corrections (DOC) when the offender initially registers; annually; and within a specified period if certain information changes. (s. 301.45 (2) to (4), Stats.) Under prior law, a knowing violation of information requirement was punishable, on first offense, as a misdemeanor (\$10,000 maximum fine, nine months maximum imprisonment, or both) and for a second or subsequent offense, a Class H felony (\$10,000 maximum fine, six years maximum imprisonment, or both).

Act 53, with one exception, makes first offense violations of the information requirements a Class H felony. Under the exception, the current misdemeanor penalty continues to apply for a first violation under some situations if the person was ordered to register as a sex offender based on committing a misdemeanor.\*

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\* A court has discretion 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 Act, 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 Act's prohibitions is a misdemeanor. There may be additional situations, not addressed by the Act, 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).

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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.

A registered sex offender who is on parole or extended supervision may not establish a residence or change his or her residence unless the offender has complied with applicable information requirements relating to the establishment or change of residence. (s. 301.45 (4r), Stats.) Under prior law, an intentional violation of the prohibition was punishable by a maximum fine of \$10,000, maximum imprisonment of nine months, or both (a misdemeanor). Under Act 60, a violation of the prohibition is generally a Class H felony. The current 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.\*

***Effective Date:*** Act 53 takes effect on September 5, 2003.

***Prepared by:*** Don Dyke, Senior Staff Attorney

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