

Committee Name:
Senate Committee –
Judiciary, Corrections and Privacy
(SC–JCP)

Appointments

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Hearing Records

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Record of Committee Proceedings

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WISCONSIN LEGISLATIVE COUNCIL

*Terry C. Anderson, Director
Laura D. Rose, Deputy Director*

TO: REPRESENTATIVE MARK GUNDRUM, CHAIR, ASSEMBLY COMMITTEE ON
JUDICIARY

FROM: Don Dyke, Senior Staff Attorney

RE: Assembly Substitute Amendment __ (LRBs0027/1) to 2003 Assembly Bill 59 and Assembly
Substitute Amendment __ (LRBs0021/1) to 2003 Assembly Bill 60

DATE: March 11, 2003

This memorandum describes the above-captioned substitute amendments. Assembly Bills 59 and 60 are scheduled for executive action on Thursday, March 13.

THE SUBSTITUTE AMENDMENT TO ASSEMBLY BILL 59

2003 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 __ (LRBs0027/1) makes the following changes to the proposal:

1. With one exception (described in paragraph 2., immediately 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, for certain 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.

THE SUBSTITUTE AMENDMENT TO ASSEMBLY BILL 60

Under current law, a registered sex offender is required to provide specified information to 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.

Assembly Bill 60, 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.)

Assembly Substitute Amendment __ (LRBs0021/1) 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 for 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 for 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.

If you have any questions or need additional information, please contact me directly at the Legislative Council staff offices.

DD:rv:jal:wu;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).

Vote Record

Committee on Judiciary, Corrections and Privacy

Date: 3-27

Moved by: Stepp Seconded by: Fitz

AB 59 SB Clearinghouse Rule
AJR SJR Appointment
AR SR Other

A/S Amdt
A/S Amdt to A/S Amdt
A/S Sub Amdt
A/S Amdt to A/S Sub Amdt
A/S Amdt to A/S Amdt to A/S Sub Amdt

Be recommended for:
Passage Adoption Confirmation Concurrence Indefinite Postponement
Introduction Rejection Tabling Nonconcurrence

Table with 5 columns: Committee Member, Aye, No, Absent, Not Voting. Rows include Senator David Zien, Senator Scott Fitzgerald, Senator Cathy Stepp, Senator Gary George, Senator Tim Carpenter.

Totals: 0



CHAIRPERSON

COMMITTEE ON JUDICIARY, CORRECTIONS AND PRIVACY

VICE CHAIRPERSON

COMMITTEE ON HOMELAND SECURITY, VETERANS AND MILITARY AFFAIRS AND GOVERNMENT REFORM

MEMBER

COMMITTEE ON SENATE ORGANIZATION

COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

COMMITTEE ON LABOR, SMALL BUSINESS DEVELOPMENT AND CONSUMER AFFAIRS

SENTENCING COMMISSION

COUNCIL ON TOURISM

JUDICIAL COUNCIL

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MEMORANDUM

TO: Senator Gary George, Member, Senate Committee on Judiciary, Corrections & Privacy

FR: Senator Dave Zien, Chair, Senate Committee on Judiciary, Corrections & Privacy

DT: March 27, 2003

RE: Paper Ballot for March 27, 2003 Executive Session

Please consider the following bills and vote on the motions below. **Return this ballot to Senator Dave Zien no later than 3:30pm today, March 27, 2003.** Ballots not received by the deadline will be marked absent.

Senate Bill 23

Relating to: prisoner reimbursement to a municipality.

By Senators S. Fitzgerald, Welch, Kanavas, Lazich, Leibham, Kedzie, Stepp and Roessler; cosponsored by Representatives Gottlieb, Foti, Ainsworth, Bies, J. Fitzgerald, Gielow, Grothman, Gunderson, Gundrum, Hahn, Huebsch, Hundertmark, Jensen, Jeskewitz, Ladwig, Lassa, LeMahieu, M. Lehman, McCormick, Musser, Nass, Ott, Petrowski, Seratti, Stone, Suder, Townsend and Vrakas.

Senate Bill 35 / Assembly Bill 60

Relating to: failing to register as a sex offender and providing a penalty.

By Senators Reynolds, Stepp, A. Lasee, Lazich, Kanavas and Hansen; cosponsored by Representatives Gundrum, Gronemus, Ziegelbauer, Stone, Krawczyk, Bies, Ladwig, Grothman, Gielow, Hines, Musser, Nischke, McCormick, Wasserman, J. Fitzgerald, Freese, Suder and Vrakas.

Assembly Bill 59

Relating to: name changes and names used by sex offenders and providing a penalty.

By Representatives Gundrum, Gronemus, Ziegelbauer, Gunderson, Ladwig, Grothman, Gielow, Albers, Krawczyk, Stone, Hines, Musser, Staskunas, Olsen, Plouff, Townsend, Nischke, Lassa, Wasserman, Huebsch, Pettis, J. Fitzgerald, Suder, Jeskewitz, Van Roy, Freese, Vrakas and Coggs; cosponsored by Senators Darling, Harsdorf, Reynolds, Lazich, Kedzie, Stepp, Roessler, Kanavas, Hansen and Leibham.

Senate Bill 38

Relating to: eliminating recovery for persons injured while involved in a felony.



By Senators Welch, S. Fitzgerald, Zien, Cowles, Reynolds, Stepp, Roessler, Kanavas and Lazich; cosponsored by Representatives Hundertmark, F. Lasee, Suder, Krawczyk, Musser, Olsen, Plouff, Jeskewitz, Ainsworth, Seratti, Hines, Nass, Hahn, Gielow, Vrakas, Friske, Freese, Albers, Stone, Ott, Ladwig, Gunderson, McCormick, Bies, Kreibich, Kaufert, LeMahieu, Lassa, Van Roy, Plale, Petrowski and J. Fitzgerald.

Please consider the following motions:

- Passage of Senate Bill 23, moved by Senator Stepp, seconded by Senator Fitzgerald:

Aye _____ No _____

- Introduction and adoption of LRBs0045/1, moved by Senator Stepp, seconded by Senator Carpenter:

Aye _____ No _____

- Passage of Senate Bill 35 as amended, moved by Senator Stepp, seconded by Senator Fitzgerald:

Aye _____ No _____

- Concurrence of Assembly Bill 60, moved by Senator Stepp, seconded by Senator Fitzgerald:

Aye _____ No _____

- Concurrence of Assembly Bill 59, moved by Senator Stepp, seconded by Senator Fitzgerald:

Aye _____ No _____

- Passage of Senate Bill 38, moved by Senator Fitzgerald, seconded by Senator Stepp:

Aye _____ No _____

Signature Aaron Sebasty



Alberta Darling
Wisconsin State Senator
Co-Chair, Joint Committee on Finance

Testimony in favor of AB 59 and AB 60 by Senator Alberta Darling
Senate Committee on Education, Ethics and Elections
March 27, 2003

Chairperson Zien and honorable committee members, thank you for this opportunity to submit testimony to the committee. I wish to express my strong support for Assembly Bill 59, which, as amended, prohibits a sex offender registered with the Department of Corrections from changing his or her name, and authorizes a maximum penalty of \$10,000, six years of imprisonment, or both. I am pleased to be the Senate lead on this bill because I believe this legislation will help protect our children from harm and keep our communities safe.

In 1994 I authored the state's sexual predator law, one of the first in the nation. In the years since that landmark, Wisconsin has made great strides to safeguard our children. We now recognize that the perpetrators of these horrific acts are unlike other offenders, and, accordingly, we keep some offenders off the streets past the length of their sentence. In other situations, we notify the community in which the offender is placed to ensure that parents can take appropriate precautions. And the Department of Corrections now keeps a public registry of the offenders and their locations. I am proud to say that the state of our neighborhoods is decidedly safer than it was 10 years ago.

Yet, there is more to be done. Last fall the Department of Corrections reported that it is uncertain of the location of nearly 2,900 of the 11,000 offenders on the registry. Loopholes and weaknesses in current law must be changed because registered offenders can't be trusted to keep their registration current.

Assembly Bill 59 closes a major loophole. The Waukesha Police Department has encountered an offender who changed his name to avoid the registry. This is a simple, common sense bill, which prohibits anyone who is currently required to register, or who, by virtue of a recent conviction, will be required to register as a sex offender from changing his or her name.

Today you will also be hearing testimony on Assembly Bill 60, which increases the penalties for failing to register as a sex offender. This is another smart, common sense bill, which strengthens the effectiveness of the registry.

In a perfect world, this legislative body could craft laws that anticipate and address every scenario that arises. But we don't live in a perfect world. We're dealing with a population that is dangerous and will try anything to avoid being known in the community, anything to prey on victims. This legislature has taken important steps to protect our children. I urge the committee to continue its commitment to public safety by passing both of Assembly Bill 59 and 60.

Thank you for this opportunity to submit testimony. I am happy to answer any questions the committee may have.

AB59

ASSEMBLY BILL 59

An Act to amend 69.11 (4) (b), 69.12 (1), 69.15 (4) (b), 301.45 (6) (ag), 767.20 and 786.36 (1) (intro.); and to create 301.45 (4u) of the statutes; relating to: name changes and names used by sex offenders and providing a penalty. (FE)

2003

02-13-03. A. Introduced by Representatives Gundrum, Gronemus, Ziegelbauer, Gunderson, Ladwig, Grothman, Gielow, Albers, Krawczyk, Stone, Hines, Musser, Staskunas, Olsen, Plouff, Townsend, Nischke, Lassa, Wasserman, Huebsch, Pettis, J. Fitzgerald, Suder, Jeskewitz, Van Roy, Freese, Vrakas and Coggs; cosponsored by Senators Darling, Harsdorf, Reynolds, Lazich, Kedzie, Stepp, Roessler, Kanavas, Hansen and Leibham.

02-13-03. A. Read first time and referred to committee on Judiciary 61

02-27-03. A. Public hearing held.

02-28-03. A. Fiscal estimate received.

02-28-03. A. Fiscal estimate received.

03-12-03. A. Assembly substitute amendment 1 offered by Representative Gundrum

105

03-13-03. A. Executive action taken.

03-13-03. A. Report Assembly Substitute Amendment 1 adoption recommended by committee on Judiciary, Ayes 8, Noes 0 116

03-13-03. A. Report passage as amended recommended by committee on Judiciary, Ayes 8, Noes 0 116

03-13-03. A. Referred to committee on Rules 116

03-13-03. A. Placed on calendar 3-19-2003 by committee on Rules.

03-18-03. A. Read a second time 136

03-18-03. A. Assembly substitute amendment 1 adopted 136

03-18-03. A. Ordered to a third reading 136

03-18-03. A. Rules suspended 136

03-18-03. A. Read a third time and passed 136

03-18-03. A. Ordered immediately messaged 136

03-20-03. S. Received from Assembly 130

03-20-03. S. Read first time and referred to committee on Judiciary, Corrections and Privacy 131