

2007 DRAFTING REQUEST

Bill

Received: 02/05/2007

Received By: rryan

Wanted: As time permits

Identical to LRB:

For: Tony Staskunas (608) 266-0620

By/Representing: Adrienne Ramirez

This file may be shown to any legislator: NO

Drafter: rryan

May Contact:

Addl. Drafters:

Subject: Criminal Law - miscellaneous

Extra Copies:

Submit via email: YES

Requester's email: Rep.Staskunas@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Time limitations for prosecuting crimes when DNA evidence available

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rryan 04/19/2007	lkunkel 04/23/2007		_____			
/P1	rryan 05/09/2007	lkunkel 05/15/2007	pgreensl 04/23/2007	_____	cduerst 04/23/2007		
/1	rryan 06/14/2007	lkunkel 06/21/2007	rschluet 05/15/2007	_____	sbasford 05/15/2007		
/2			rschluet	_____	lparisi	cduerst	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			06/21/2007 _____		06/21/2007	09/11/2007	

FE Sent For:

No

<END>

2007 DRAFTING REQUEST

Bill

Received: **02/05/2007**

Received By: **rryan**

Wanted: **As time permits**

Identical to LRB:

For: **Tony Staskunas (608) 266-0620**

By/Representing: **Adrienne Ramirez**

This file may be shown to any legislator: **NO**

Drafter: **rryan**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Staskunas@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Time limitations for prosecuting crimes when DNA evidence available

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rryan 04/19/2007	lkunkel 04/23/2007		_____			
/P1	rryan 05/09/2007	lkunkel 05/15/2007	pgreensl 04/23/2007	_____	cduerst 04/23/2007		
/1	rryan 06/14/2007	lkunkel 06/21/2007	rschluet 05/15/2007	_____	sbasford 05/15/2007		
/2			rschluet	_____	lparisi		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			06/21/2007	_____	06/21/2007		

FE Sent For:

<END>

2007 DRAFTING REQUEST

Bill

Received: 02/05/2007

Received By: rryan

Wanted: As time permits

Identical to LRB:

For: Tony Staskunas (608) 266-0620

By/Representing: Adrienne Ramirez

This file may be shown to any legislator: NO

Drafter: rryan

May Contact:

Addl. Drafters:

Subject: Criminal Law - miscellaneous

Extra Copies:

Submit via email: YES

Requester's email: Rep.Staskunas@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Time limitations for prosecuting crimes when DNA evidence available

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rryan 04/19/2007	lkunkel 04/23/2007		_____			
/P1	rryan 05/09/2007	lkunkel 05/15/2007	pgreensl 04/23/2007	_____	cduerst 04/23/2007		
/1		1/2/mk 6/21	rschluet 05/15/2007	_____	sbasford 05/15/2007		

Handwritten initials and date: 6/21/07

FE Sent For:

<END>

2007 DRAFTING REQUEST

Bill

Received: **02/05/2007**

Received By: **rryan**

Wanted: **As time permits**

Identical to LRB:

For: **Tony Staskunas (608) 266-0620**

By/Representing: **Adrienne Ramirez**

This file may be shown to any legislator: **NO**

Drafter: **rryan**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Staskunas@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Time limitations for prosecuting crimes when DNA evidence available

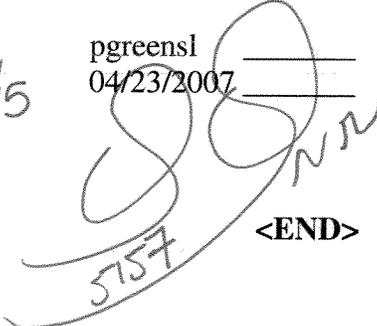
Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rryan 04/19/2007	lkunkel 04/23/2007		_____			
/P1		1/mk 15/15	pgreensl 04/23/2007	_____	cduerst 04/23/2007		

FE Sent For:


<END>

2007 DRAFTING REQUEST

Bill

Received: 02/05/2007

Received By: rryan

Wanted: As time permits

Identical to LRB:

For: Tony Staskunas (608) 266-0620

By/Representing: Adrienne Ramirez

This file may be shown to any legislator: NO

Drafter: rryan

May Contact:

Addl. Drafters:

Subject: Criminal Law - miscellaneous

Extra Copies:

Submit via email: YES

Requester's email: Rep.Staskunas@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Time limitations for prosecuting crimes when DNA evidence available ✓

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rryan 04/19/2007	lrb_editor /pt/mk 4/23	<i>[Handwritten initials]</i>	<i>[Handwritten initials]</i>	<i>[Handwritten initials]</i>		
FE Sent For:			<i>[Handwritten initials]</i>	<i>[Handwritten initials]</i>	<i>[Handwritten initials]</i>		

<END>

Hanaman, Cathlene

From: Ramirez, Adrienne
Sent: Monday, January 22, 2007 4:41 PM
To: Hanaman, Cathlene
Subject: Drafting request

Cathlene -

Last session Mike Dsida drafted a proposal for our office relating to the statute of limitations for criminal cases in which biological material was left at the scene of the crime, AB 489 (LRB-0054/3). As a result of concerns raised at the public hearing on the bill, a substitute amendment (LRB-s0181/1) was introduced by the Criminal Justice and Homeland Security Committee.

2 ASA 1 to AB 489

Could you please redraft the Substitute Amendment for introduction as a bill this session?

Please feel free to contact me if you have any questions.

Thank you for your help.

Adrienne
Office of Rep. Tony Staskunas
6-0620

Questions:

- ① Want to extend stat. limits for offense felonies 12 mos. or indefinitely?*
- ② Apply to related crimes?*
- ③ Want to reconcile 05 Acts 60 et 276?*

Call from Adrienne 4/13/07

- ① Extend indefinitely*
- ② Apply to related crimes*
- ③ Reconcile bills to extend stat limits to rel. crimes*



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1831? P1

RLR:.....

mk

grr

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RMNR

D-N

GenCat

1 AN ACT ...; relating to: time limitations for commencing prosecution of crimes. ✓

Analysis by the Legislative Reference Bureau

Under current law, the state generally must commence prosecution of a felony within ^{six} 6 years of the offense and a misdemeanor within ^{three} 3 years of the offense or be barred from prosecuting the offense. ✓ However, the following exceptions to this general rule apply: 1) There is no time limit for commencing prosecution of first- or second-degree intentional homicide, first-degree reckless homicide, felony murder, or first-degree sexual assault of a child; 2) Prosecution of second-degree intentional homicide may be commenced within 15 years of the offense; 3) Prosecution of certain sex-related, enticement, or abuse offenses against children are extended until the victim of the offense reaches either age 26 or 45, depending on the offense; and 4) If the state collects DNA evidence related to certain sexual assault or sexual assault of a child offenses before the applicable time limit for commencing prosecution of the offense expires and the state develops a DNA profile from the evidence, but cannot match the DNA profile with an identified person until after the time limit expires, the time limitation for commencing prosecution of the assault is extended either 12 years from the date of making a match or indefinitely. ✓ The time limitation for prosecuting a crime that is related to the assault is also extended. ✓ Crimes are related if they are committed against the same victim, are proximate in time, and are committed with the same intent, purpose, or opportunity so as to be part of the same course of conduct. ✓

certain

5

ation
USLB

This bill provides that if the state collects DNA evidence related to any felony that is codified as a crime against life or bodily security or a crime against children, other than a felony listed under exception 1^s above, before the applicable time

limitation for commencing prosecution of the felony expires and the state develops a DNA profile from the evidence, but cannot match the DNA profile with an identified person until after the time limitation for prosecuting the felony expires, the state may commence prosecution of the felony or a crime that is related to the felony at any time after making the DNA match.^v The bill further provides that if the state collects DNA evidence related to a felony listed under exception 1³ above, the state may commence prosecution of any crime that is related to the felony at any time after identifying the person who left ~~the~~ DNA. ^v

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 939.74 (2) (c) of the statutes is amended to read:

2 939.74 (2) (c) A prosecution for violation of s. 948.02 (2), 948.025 (1) (b), 948.03
3 (2) (a), 948.05, 948.06, 948.07 (1), (2), (3), or (4), 948.075, 948.08, 948.085, or 948.095
4 shall may be commenced before the victim reaches the age of 45 years ~~or be barred,~~
5 ~~except as provided in sub. (2d) (e).~~ ^v

NOTE: NOTE: Par. (c) is shown as affected by two acts of the 2005 Wisconsin legislature and as merged by the revisor under s. 13.93 (2) (c).NOTE:

History: 1981 c. 280; 1985 a. 275; 1987 a. 332, 380, 399, 403; 1989 a. 121; 1991 a. 269; 1993 a. 219, 227, 486; 1995 a. 456; 1997 a. 237; 2001 a. 16, 109; 2003 a. 196, 279, 326; 2005 a. 60, 276, 277; s. 13.93 (2) (c).

6 **SECTION 2.** 939.74 (2) (cm) of the statutes is amended to read:

7 939.74 (2) (cm) A prosecution for violation of s. 948.03 (2) (b) or (c), (3) or (4),
8 948.04 or 948.07 (5) or (6) shall ^{may} be commenced before the victim reaches the age of
9 26 years ~~or be barred.~~

History: 1981 c. 280; 1985 a. 275; 1987 a. 332, 380, 399, 403; 1989 a. 121; 1991 a. 269; 1993 a. 219, 227, 486; 1995 a. 456; 1997 a. 237; 2001 a. 16, 109; 2003 a. 196, 279, 326; 2005 a. 60, 276, 277; s. 13.93 (2) (c).

10 **SECTION 3.** 939.74 (2d) (b) of the statutes ^X is repealed.

11 **SECTION 4.** 939.74 (2d) (bm) of the statutes is created to read:

12 939.74 (2d) (bm) If before all applicable time limitations under sub. (1) or (2)
13 (am), (c), or (cm) for commencing prosecution of a felony under ch. 940 or 948, other
14 than a felony specified under sub. (2) (a), expire ³ the state collects biological material
15 that is evidence of the identify of the person who committed the felony, identifies a
16 deoxyribonucleic acid profile from the biological material, and comparison of that

as affected by 2005 Wisconsin Acts 60 and 276

1 deoxyribonucleic acid profile to deoxyribonucleic acid profiles of known persons does
2 not result in a probable identification of the person who is the source of the biological
3 material, the state may commence prosecution of the person who is the source of the
4 biological material for the felony, or a crime that is related to the felony, at any time
5 after comparison of the deoxyribonucleic acid profile relating to the felony results in
6 a probable identification of the person. ✓

7 **SECTION 5.** 939.74 (2d) ^X(c) of the statutes ^{is} repealed.

*as affected by 2005 Wisconsin Acts
60 and 27b's*

8 **SECTION 6.** 939.75 (2d) (cm) of the statutes is created to read:

9 939.74 (2d) (cm) If the state collects biological material that is evidence of the
10 identity of the person who committed a felony specified under sub. (2) (a), the state
11 may at any time commence prosecution of the person who is the source of the
12 biological material for a crime that is related to the felony. ✓

13 **SECTION 7. Initial applicability.**

14 (1) This act first applies to any offenses the prosecution of which is not barred
15 on the effective date of this subsection. ✓

16 (END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1831/7/dn

RLR:.....

mk

(date)

✓
Representative Staskunas:

Under the bill, the state may commence prosecution of a crime that is related to a felony for which there is no statute of limitations at any time after the state matches DNA that is collected in connection with the felony to an individual. ✓ Should the extension of the statute of limitations for the related crime be contingent on the state collecting the DNA evidence within a specified time after commission of the crime? ✓

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1831/P1dn
RLR:lmk:pg

April 23, 2007

Representative Staskunas:

Under the bill, the state may commence prosecution of a crime that is related to a felony for which there is no statute of limitations at any time after the state matches DNA that is collected in connection with the felony to an individual. Should the extension of the statute of limitations for the related crime be contingent on the state collecting the DNA evidence within a specified time after commission of the crime?

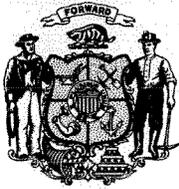
Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.wisconsin.gov

5/3/07

LRB - 1831/P1

Call from Rep. Stankunas

- ① only extend stat lims 12 mos
- both for the felony under 940/948
and the related crime
- ② To prosecute related crime must
have collected DNA before the
stat lims for the felony expired
(the longer stat lims)
- ③ Answer to S-Note
require for crimes that are
related to crime for which there
is no stat lims that
collect DNA within 6 years
- may change later - but this
can serve as starting point.



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1831/P1

RLR:lmk:pg

In 5/9/07

scan

↑ stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RMNR

D-N

Repeal Act

✓ +

1 AN ACT to repeal 939.74 (2d) (b) and 939.74 (2d) (c); to amend 939.74 (2) (c) and
2 939.74 (2) (cm); and to create 939.74 (2d) (bm) and 939.75 (2d) (cm) of the
3 statutes; relating to: time limitations for commencing prosecution of crimes.

Analysis by the Legislative Reference Bureau

Under current law, the state generally must commence prosecution of a felony within six years of the offense and a misdemeanor within three years of the offense or be barred from prosecuting the offense. However, the following exceptions to this general rule apply: 1) there is no time limitation for commencing prosecution of first- or second-degree intentional homicide, first-degree reckless homicide, felony murder, or certain sexual assaults of a child; 2) prosecution of second-degree intentional homicide may be commenced within 15 years of the offense; 3) prosecution of certain sex-related, enticement, or abuse offenses against children are extended until the victim of the offense reaches either age 26 or 45, depending on the offense; and 4) if the state collects DNA evidence related to certain sexual assault or sexual assault of a child offenses before the applicable time limitation for commencing prosecution of the offense expires and the state develops a DNA profile from the evidence, but cannot match the DNA profile with an identified person until after the time limitation expires, the time limitation for commencing prosecution of the assault is extended either 12 years from the date of making a match or indefinitely. The time limitation for prosecuting a crime that is related to the assault is also extended. Crimes are related if they are committed against the same victim, are proximate in time, and are committed with the same intent, purpose, or opportunity so as to be part of the same course of conduct.

Extending time period for commencing prosecution of certain offenses when DNA evidence is available

INSA

sexual

6

This bill provides that if the state collects DNA evidence related to any felony that is codified as a crime against life or bodily security or a crime against children, other than a felony listed under exception 1, above, before the applicable time limitation for commencing prosecution of the felony expires and the state develops a DNA profile from the evidence, but cannot match the DNA profile with an identified person until after the time limitation for prosecuting the felony expires, the state may commence prosecution of the felony or a crime that is related to the felony at any time after making the DNA match. The bill further provides that if the state collects DNA evidence related to a felony listed under exception 1, above, the state may commence prosecution of any crime that is related to the felony at any time after identifying the person who left the DNA.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 939.74 (2) (c) of the statutes is amended to read:

2 939.74 (2) (c) A prosecution for violation of s. 948.02 (2), 948.025 (1) (b), 948.03
3 (2) (a), 948.05, 948.06, 948.07 (1), (2), (3), or (4), 948.075, 948.08, 948.085, or 948.095
4 shall may be commenced before the victim reaches the age of 45 years ~~or be barred,~~
5 ~~except as provided in sub. (2d) (e).~~

6 **SECTION 2.** 939.74 (2) (cm) of the statutes is amended to read:

7 939.74 (2) (cm) A prosecution for violation of s. 948.03 (2) (b) or (c), (3) or (4),
8 948.04 or 948.07 (5) or (6) shall may be commenced before the victim reaches the age
9 of 26 years ~~or be barred.~~

10 **SECTION 3.** 939.74 (2d) (b) of the statutes, as affected by 2005 Wisconsin Acts
11 60 and 276, is repealed.

12 **SECTION 4.** 939.74 (2d) (bm) of the statutes is created to read:

INS
2-12 → 13 939.74 (2d) (bm) If, before all applicable time limitations under sub. (1) or (2)
14 (am), (c), or (cm) for commencing prosecution of a felony under ch. 940 or 948, other
15 than a felony specified under sub. (2) (a), expire, the state collects biological material
16 that is evidence of the identify of the person who committed the felony, identifies a

1 deoxyribonucleic acid profile from the biological material, and comparison of that
2 deoxyribonucleic acid profile to deoxyribonucleic acid profiles of known persons does
3 not result in a probable identification of the person who is the source of the biological
4 material, the state may commence prosecution of the person who is the source of the
5 biological material for the felony, or a crime that is related to the felony, at any time
6 after comparison of the deoxyribonucleic acid profile relating to the felony results in
7 a probable identification of the person.

8 **SECTION 5.** 939.74 (2d) (c) of the statutes, as affected by 2005 Wisconsin Acts
9 60 and 276, is repealed.

10 **SECTION 6.** 939.75 (2d) (cm) of the statutes is created to read:

11 939.74 (2d) (cm) If the state collects biological material that is evidence of the
12 identity of the person who committed a felony specified under sub. (2) (a), the state
13 may at any time commence prosecution of the person who is the source of the
14 biological material for a crime that is related to the felony.

15 **SECTION 7. Initial applicability.**

16 (1) This act first applies to any offenses the prosecution of which is not barred
17 on the effective date of this subsection.

18 (END)

INS
3-10 →

(D-N)

INS A:

4) if the state collects DNA evidence in connection with certain sexual assaults or sexual assaults of a child before the applicable time period for commencing prosecution of the assault expires, but cannot match the DNA evidence with a known person until after the time period for commencing prosecution of the assault expires, the time period for commencing prosecution of the person who is the source of the DNA for the assault is extended. In addition, the time period for commencing prosecution of crimes that are related to the assault may be extended as well. Crimes are related if they are committed against the same victim, are proximate in time, and are committed with the same intent, purpose, or opportunity so as to be part of the same course of conduct.

This bill provides that if the state collects DNA evidence in connection with any felony that is codified as a crime against life or bodily security or a crime against children before the applicable time period for commencing prosecution of the felony expires, but cannot match the DNA evidence with a known person until after the time period for commencing prosecution of the felony expires, the time period for commencing prosecution of the person who is the source of the DNA for the felony, and for any crime that is related to the felony, is extended 12 months from the date on which the DNA match is made.

The bill further provides that if within six years after the commission of a felony listed under exception 1, above, the state collects DNA evidence in connection with the felony, but cannot match the DNA evidence to a known person within the six years following the commission of the felony, the time period for commencing prosecution of the person who is the source of the DNA for a crime that is related to the felony is extended 12 months from the date on which the DNA match is made.

Reconciliation of 2005 Acts

The 2003 Wisconsin Statutes provided that if the state collected DNA evidence in connection with a first- or second-degree sexual assault or first- or second-degree sexual assault of a child but could not match the DNA with a known person until after the time period for commencing prosecution of the assault expired, the time period for commencing the prosecution of the assault was extended 12 months from the date on which the match was made. 2005 Act 60 retained the 12-month extension of the time period for commencing prosecution of the assault and further allowed the state to commence prosecution, during the 12-month extension, of any crime that is related to the assault. Act 276 eliminated time limitations for commencing prosecution of certain first-degree sexual assaults of a child. 2005 Wisconsin Act 276 also eliminated the time limitation for commencing prosecution of first-degree sexual assault in cases in which the state collects DNA evidence in connection with the assault but does not match the DNA evidence to a known person until after the initial time period for prosecuting the assault expires. Act 276 was silent with respect to related crimes.



This bill eliminates time limitations for prosecuting certain first-degree sexual assaults of a child. The bill also eliminates time limitations for commencing prosecution of first-degree sexual assault in cases in which the state collects DNA evidence in connection with the assault but does not match the DNA evidence to a known person until after the initial time period for commencing prosecution of the assault expires. Finally, the bill provides that the time period for commencing prosecution of a crime that is related to a first- or second-degree sexual assault or to certain sexual assaults of a child is extended 12 months from the date of making a DNA match if the state collects DNA evidence in connection with the assault but does not match the DNA with a known person until after the initial time period for commencing prosecution of the assault expires. ✓

1

2

Ins 2-12:

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

939.74 (2d) (bm) If, before the time limitation under sub. (1) for prosecuting a violation of s. 940.225 (1) expired, the state collects biological material that is evidence of the identity of the person who committed the violation, the state identifies a deoxyribonucleic acid profile from the biological material, and comparisons of that deoxyribonucleic acid profile to deoxyribonucleic acid profiles of known persons do not result in a probable identification of the person who is the source of the biological material, the state may commence prosecution of the person who is the source of the biological material for the violation of s. 940.225 (1) at any time after the comparison of the deoxyribonucleic acid profile relating to the violation results in a probable identification of the person and may commence prosecution of the person who is the source of the biological material for a crime that is related to the violation under s. 940.225 (1) within 12 months after comparison of the deoxyribonucleic acid profile relating to the violation results in a probable identification of the person. ✓

Ins 3-10:

INS 3-10

SECTION ~~1~~ 939.74 (2d) (cm) of the statutes is created to read:

939.74 (2d) (cm) If, before the applicable time limitation under sub. (1) or (2) (am), (c), or (cm) for commencing prosecution of a felony under ch. 940 or 948, other than a felony under s. 940.225 (1) or a felony specified in sub. (2) (a), expires, the state collects biological material that is evidence of the identify of the person who committed the felony, identifies a deoxyribonucleic acid profile from the biological material, and comparisons of that deoxyribonucleic acid profile to deoxyribonucleic acid profiles of known persons do not result in a probable identification of the person who is the source of the biological material, the state may commence prosecution of the person who is the source of the biological material for the felony, or a crime that is related to the felony, within 12 months after comparison of the deoxyribonucleic acid profile relating to the felony results in a probable identification of the person. ✓

SECTION ~~2~~ 939.74 (2d) (d) of the statutes is created to read:

939.74 (2d) (d) If, within 6 years after commission of a felony specified under sub. (2) (a), the state collects biological material that is evidence of the person who committed the felony, identifies a deoxyribonucleic acid profile from the biological material, and comparisons of that deoxyribonucleic acid profile to deoxyribonucleic acid profiles of known persons do not result in a probable identification of the person who is the source of the biological material, the state may commence prosecution of the person who is the source of the biological material for a crime that is related to the felony within 12 months after comparison of the deoxyribonucleic acid profile relating to the felony results in a probable identification of the person. ✓

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1831/1dn

RLR:.....

lmk

(date)

Representative Staskunas: ✓

Please note that if 2007 Senate Bill 103 or 2007 Assembly Bill 209 (legislative council companion bills that reconcile 2005 session changes relating to sexual assault of a child) passes before action is taken on this bill, this bill should be amended to reflect changes made in the legislative council bills. ✓

The current statute of limitations extensions for cases involving DNA evidence apply only if the state makes a DNA match after the initial period for commencing prosecution expires. ✓ So if the state makes a DNA match one day before the initial statute of limitations expires, the state has to file a complaint that day, because it will not benefit from the extension. ✓ Do you want to amend the extension provisions for DNA cases so that the extension applies regardless of whether the DNA match is made before or after the initial time period for commencing prosecution expires? ✓

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1831/1dn
RLR:lmk:rs

May 15, 2007

Representative Staskunas:

Please note that if 2007 Senate Bill 103 or 2007 Assembly Bill 209 (legislative counsel companion bills that reconcile 2005 session changes relating to sexual assault of a child) passes before action is taken on this bill, this bill should be amended to reflect changes made in the legislative council bills.

The current statute of limitations extensions for cases involving DNA evidence apply only if the state makes a DNA match after the initial period for commencing prosecution expires. So if the state makes a DNA match one day before the initial statute of limitations expires, the state has to file a complaint that day, because it will not benefit from the extension. Do you want to amend the extension provisions for DNA cases so that the extension applies regardless of whether the DNA match is made before or after the initial time period for commencing prosecution expires?

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.wisconsin.gov

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

11/83/1

Voice mail from Rep. Staskunas

yes on S-Note question - amend
so get extension in Stat. lims
regardless of whether match
made before or after initial
Stat. lims expires.



State of Wisconsin
2007 - 2008 LEGISLATURE

2
LRB-1831/1
RLR:lmk:rs
stays
RMNR

In 6/14/07
SDW

2007 BILL

ReGen ✓

1 AN ACT *to repeal* 939.74 (2d) (b) and 939.74 (2d) (c); *to amend* 939.74 (2) (c) and
2 939.74 (2) (cm); and *to create* 939.74 (2d) (bm), 939.74 (2d) (cm) and 939.74 (2d)
3 (d) of the statutes; **relating to:** time limitations for commencing prosecution
4 of crimes.

Analysis by the Legislative Reference Bureau

Extending time period for commencing prosecution of certain offenses when DNA evidence is available

Under current law, the state generally must commence prosecution of a felony within six years of the offense and a misdemeanor within three years of the offense or be barred from prosecuting the offense. However, the following exceptions to this general rule apply: 1) there is no time limitation for commencing prosecution of first- or second-degree intentional homicide, first-degree reckless homicide, felony murder, or certain sexual assaults of a child; 2) prosecution of second-degree intentional homicide may be commenced within 15 years of the offense; 3) prosecution of certain sexual, enticement, or abuse offenses against children are extended until the victim of the offense reaches either age 26 or 45, depending on the offense; and 4) if the state collects DNA evidence in connection with certain sexual assaults or sexual assaults of a child before the applicable time period for commencing prosecution of the assault expires, but cannot match the DNA evidence with a known person until after the time period for commencing prosecution of the assault expires, the time period for commencing prosecution of the person who is the

BILL

source of the DNA for the assault is extended. In addition, the time period for commencing prosecution of crimes that are related to the assault may be extended as well. Crimes are related if they are committed against the same victim, are proximate in time, and are committed with the same intent, purpose, or opportunity so as to be part of the same course of conduct.

This bill provides that if the state collects DNA evidence in connection with any felony that is codified as a crime against life or bodily security or a crime against children, but cannot match the DNA evidence with a known person until after the time period for commencing prosecution of the felony expires, the time period for commencing prosecution of the person who is the source of the DNA for the felony, and for any crime that is related to the felony, is extended 12 months from the date on which the DNA match is made. ✓

The bill further provides that if within six years after the commission of a felony listed under exception 1, above, the state collects DNA evidence in connection with the felony, but cannot match the DNA evidence to a known person within the six years following the commission of the felony, the time period for commencing prosecution of the person who is the source of the DNA for a crime that is related to the felony is extended 12 months from the date on which the DNA match is made.

Reconciliation of 2005 Acts

The 2003 Wisconsin statutes provided that if the state collected DNA evidence in connection with a first- or second-degree sexual assault or first- or second-degree sexual assault of a child but could not match the DNA with a known person until after the time period for commencing prosecution of the assault expired, the time period for commencing the prosecution of the assault was extended 12 months from the date on which the match was made. 2005 Act 60 retained the 12-month extension of the time period for commencing prosecution of the assault and further allowed the state to commence prosecution, during the 12-month extension, of any crime that is related to the assault. Act 276 eliminated time limitations for commencing prosecution of certain first-degree sexual assaults of a child. 2005 Wisconsin Act 276 also eliminated the time limitation for commencing prosecution of first-degree sexual assault in cases in which the state collects DNA evidence in connection with the assault but does not match the DNA evidence to a known person until after the initial time period for prosecuting the assault expires. Act 276 was silent with respect to related crimes.

This bill eliminates time limitations for prosecuting certain first-degree sexual assaults of a child. The bill also eliminates time limitations for commencing prosecution of first-degree sexual assault in cases in which the state collects DNA evidence in connection with the assault but does not match the DNA evidence to a known person until after the initial time period for commencing prosecution of the assault expires. Finally, the bill provides that the time period for commencing prosecution of a crime that is related to a first- or second-degree sexual assault or to certain sexual assaults of a child is extended 12 months from the date of making a DNA match if the state collects DNA evidence in connection with the assault but

and compares the evidence with DNA profiles of known persons

and compares the evidence with DNA profiles of known persons

and compares the DNA evidence with DNA profiles of known persons before

(2x)

BILL

does not match the DNA with a known person until after the initial time period for commencing prosecution of the assault expires.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 939.74 (2) (c) of the statutes is amended to read:

2 939.74 (2) (c) A prosecution for violation of s. 948.02 (2), 948.025 (1) (b), 948.03
3 (2) (a), 948.05, 948.06, 948.07 (1), (2), (3), or (4), 948.075, 948.08, 948.085, or 948.095
4 shall may be commenced before the victim reaches the age of 45 years ~~or be barred,~~
5 ~~except as provided in sub. (2d) (e).~~

6 **SECTION 2.** 939.74 (2) (cm) of the statutes is amended to read:

7 939.74 (2) (cm) A prosecution for violation of s. 948.03 (2) (b) or (c), (3) or (4),
8 948.04 or 948.07 (5) or (6) shall may be commenced before the victim reaches the age
9 of 26 years ~~or be barred.~~

10 **SECTION 3.** 939.74 (2d) (b) of the statutes, as affected by 2005 Wisconsin Acts
11 60 and 276, is repealed.

12 **SECTION 4.** 939.74 (2d) (bm) of the statutes is created to read:

13 939.74 (2d) (bm) If, before the time limitation under sub. (1) for prosecuting
14 a violation of s. 940.225 (1) expires, the state collects biological material that is
15 evidence of the identity of the person who committed the violation, the state
16 identifies a deoxyribonucleic acid profile from the biological material, and
17 comparisons of that deoxyribonucleic acid profile to deoxyribonucleic acid profiles of
18 known persons do not result in a probable identification of the person who is the
19 source of the biological material, the state may commence prosecution of the person
20 who is the source of the biological material for the violation of s. 940.225 (1) at any
21 time after the comparison of the deoxyribonucleic acid profile relating to the violation

compares the

BILL

1 results in a probable identification of the person and may commence prosecution of
 2 the person who is the source of the biological material for a crime that is related to
 3 the violation under s. 940.225 (1) within 12 months after comparison of the
 4 deoxyribonucleic acid profile relating to the violation results in a probable
 5 identification of the person.

6 **SECTION 5.** 939.74 (2d) (c) of the statutes, as affected by 2005 Wisconsin Acts
 7 60 and 276, is repealed.

8 **SECTION 6.** 939.74 (2d) (cm) of the statutes is created to read:

9 939.74 (2d) (cm) If, before the applicable time limitation under sub. (1) or (2)
 10 (am), (c), or (cm) for commencing prosecution of a felony under ch. 940 or 948, other
 11 than a felony under s. 940.225 (1) or a felony specified in sub. (2) (a), expires, the state
 12 collects biological material that is evidence of the identify of the person who
 13 committed the felony, identifies a deoxyribonucleic acid profile from the biological
 14 material, and comparisons of that deoxyribonucleic acid profile to deoxyribonucleic
 15 acid profiles of known persons do not result in a probable identification of the person
 16 who is the source of the biological material, the state may commence prosecution of
 17 the person who is the source of the biological material for the felony, or a crime that
 18 is related to the felony, within 12 months after comparison of the deoxyribonucleic
 19 acid profile relating to the felony results in a probable identification of the person.

20 **SECTION 7.** 939.74 (2d) (d) of the statutes is created to read:

21 939.74 (2d) (d) If, within 6 years after commission of a felony specified under
 22 sub. (2) (a), the state collects biological material that is evidence of the person who
 23 committed the felony, identifies a deoxyribonucleic acid profile from the biological
 24 material, and comparisons of that deoxyribonucleic acid profile to deoxyribonucleic
 25 acid profiles of known persons do not result in a probable identification of the person

compares the Use &

identity

BILL

1 who is the source of the biological material, the state may commence prosecution of
2 the person who is the source of the biological material for a crime that is related to
3 the felony within 12 months after comparison of the deoxyribonucleic acid profile
4 relating to the felony results in a probable identification of the person.

5 **SECTION 8. Initial applicability.**

6 (1) This act first applies to any offenses the prosecution of which is not barred
7 on the effective date of this subsection.

8 (END)

Duerst, Christina

From: Ramirez, Adrienne
Sent: Tuesday, September 11, 2007 1:20 PM
To: LRB.Legal
Subject: Draft Review: LRB 07-1831/2 Topic: Time limitations for prosecuting crimes when DNA evidence available

Please Jacket LRB 07-1831/2 for the ASSEMBLY.