2009 DRAFTING REQUEST

Bill

Received: **10/01/2009**

Received By: **phurley**

Wanted: **As time permits**

Identical to LRB:

For: **Spencer Coggs (608) 266-2500**

By/Representing:

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

Drafter: **phurley**

May Contact:

Addl. Drafters:

Subject: **Courts - civil procedure**
Courts - miscellaneous

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Coggs@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Gender based violence civil action

Instructions:

companion to 09-0014

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	phurley 10/02/2009	jdyer 10/02/2009		_____ _____			
/1			phenry 10/02/2009	_____ _____	cduerst 10/02/2009	cduerst 10/05/2009	

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→ Not Needed

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FE Sent For:

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State of Wisconsin
2009 – 2010 LEGISLATURE

3588/1
LRB-0014/1
PJH:jld:jf
Keep

2009 BILL

10-2-09

X Regen

AN ACT *to amend* 814.04 (intro.); and *to create* 893.583 and 895.437 of the statutes; **relating to:** creating a civil cause of action for acts of violence motivated by gender.

Analysis by the Legislative Reference Bureau

This bill creates a civil cause of action for a person who suffers physical, emotional, or economic harm as a result of a gender–based act. Under the bill, a gender–based act is an act that is committed, at least in part, on the basis of the victim's gender or a physical intrusion that is sexual in nature and that the actor commits under coercive conditions.

Under the bill, a victim must commence a civil action against the actor within seven years after the gender–based act occurs or, if the victim is under the age of 18, within seven years after the victim's 18th birthday. A victim who prevails in a civil action for a gender–based act may recover damages for emotional distress, punitive damages, and investigation or litigation costs, including attorney fees.

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

SECTION 1. 814.04 (intro.) of the statutes, as affected by 2009 Wisconsin Act 20, is amended to read:

1 **814.04 Items of costs.** (intro.) Except as provided in ss. 93.20, 100.195 (5m)
2 (b), 100.30 (5m), 106.50 (6) (i) and (6m) (a), 111.397 (2) (a), 115.80 (9), 281.36 (2) (b)
3 1., 767.553 (4) (d), 769.313, 802.05, 814.245, 895.035 (4), 895.437 (4), 895.443 (3),
4 895.444 (2), 895.445 (3), 895.446 (3), 895.506, 943.212 (2) (b), 943.245 (2) (d), 943.51
5 (2) (b), and 995.10 (3), when allowed costs shall be as follows:

6 **SECTION 2.** 893.583 of the statutes is created to read:

7 **893.583 Gender–based harm.** Notwithstanding ss. 893.16, 893.54, and
8 893.57, an action under s. 895.437 shall be commenced within 7 years after the cause
9 of action accrues or, if the victim is under the age of 18 at the time the cause of action
10 accrues, within 7 years of the victim's 18th birthday, or be barred.

11 **SECTION 3.** 895.437 of the statutes is created to read:

12 **895.437 Gender–based harm; action for.** (1) In this section:

13 (a) "Gender–based act" means either of the following:

14 1. An act that is committed, at least in part, on the basis of the victim's gender.

15 2. A physical intrusion or invasion of a sexual nature that the actor commits
16 under coercive conditions.

17 (b) "Victim" means a person against whom a gender–based act has been
18 committed.

19 **(2)** A victim has a cause of action for injunctive relief and for damages, as
20 provided in sub. (4), against the person who commits a gender–based act that results
21 in a physical injury, emotional distress, or damage to or loss of property to the victim.

22 **(3)** The burden of proof in a civil action under sub. (2) rests with the victim to
23 prove that the defendant committed a gender–based act and that the victim suffered
24 harm as a result of the act by a preponderance of the credible evidence.

1 **(4)** If the plaintiff prevails in a civil action under sub. (2), he or she may recover
2 special and general damages, including damages for emotional distress; punitive
3 damages; and costs, including all reasonable attorney fees and other costs of the
4 investigation and litigation that were reasonably incurred.

5 **(5)** A person may bring a civil action under sub. (2) regardless of whether there
6 has been a criminal action related to the gender–based act and regardless of the
7 outcome of any such criminal action. If there is a final judgment or decree rendered
8 in favor of the state in any criminal proceeding against the defendant, a defendant
9 may not deny the essential allegations of the criminal offense in any action under this
10 section.

11 **(6)** This section does not limit the right of a person to recover from any parent
12 or parents under s. 895.035.

13 **(END)**

Parisi, Lori

From: de Felice, David Patrick
Sent: Monday, October 05, 2009 1:20 PM
To: 'LRB - Legal Services'
Cc: Parisi, Lori
Subject: FW: LRB 09-3588/1 attached as requested

Attachments: 09-3588/1

Please jacket this LRB.

Thank you,

Dave de Felice
Office of Sen. Coggs
608-266-2500 phone
608-282-3546 fax

From: Parisi, Lori
Sent: Monday, October 05, 2009 12:55 PM
To: de Felice, David Patrick
Subject: LRB 09-3588/1 attached as requested

09-35881.pdf (23 KB)

Lori Parisi
Program Assistant
State of WI Legislative Reference Bureau
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Madison, WI., 53703
Phone(608)266-3561 Fax(608)264-6948