



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2009 Wisconsin Act 138
[2009 Assembly Bill 419]

**Provisions Relating to Victims of
Sexual Assault Offenses**

2009 Wisconsin Act 138 makes several changes relating to victims of sexual assault offenses.

The Act provides that, in a civil action involving damages for an injury resulting from sexual misconduct, any evidence concerning a victim's sexual conduct, opinions of the victim's sexual conduct, and reputation as to the victim's sexual conduct, offered to prove that the victim engaged in other sexual conduct or to prove the victim's sexual predisposition may not be admitted into evidence during the course of any hearing or trial, nor may any reference to such sexual conduct be made in the presence of the jury, except the following:

- Evidence of the specific, consensual sexual conduct between the alleged offender and the victim.
- Evidence specific to instances of sexual conduct by the alleged victim after an *in camera* showing by the party requesting the admission that the sexual conduct was the actual cause of the victim's injury for which damages are requested in the action.

Under the Act, if an application for crime victim compensation results from the commission of one of several specified sexual offenses, any personally identifiable information provided in the application is not subject to inspection or copying under the Open Records Law.

The Act provides that, in a prosecution of sexual assault or sexual assault of a child or of any other crime if the court determines that the underlying conduct was sexually motivated, the court may not order any witness or victim, as a condition of allowing testimony, to submit to a psychiatric or psychological examination to assess his or her credibility. In addition, under the Act, a defendant or his or her attorney may not compel a victim of a crime to submit to a pretrial interview or deposition except as permitted under current law relating to depositions in criminal proceedings.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

Effective date: Wisconsin Act 138 took effect on March 18, 2010.

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AS:ksm