



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2009 Wisconsin Act 203
[2009 Assembly Bill 514]

**Time Limits for Commencing
Prosecution of Crimes**

Generally, under *current law*, prosecution of a felony must be commenced within six years of the offense and prosecution of a misdemeanor must be commenced within three years. There are three exceptions to this general rule. First, some crimes have longer time limits. Second, there is no time limit for certain homicides and child sexual assaults. Third, if the state collects deoxyribonucleic acid (DNA) evidence in connection with certain sexual assaults or certain sexual assaults of a child before the applicable time period for commencing prosecution of the assault expires but a probable match cannot be made until after the time limit expires, the time limit is extended.

2009 Wisconsin Act 203 makes the following changes to this third exception where DNA evidence is collected:

Prosecution Time Limits for First-Degree Sexual Assault

Last session, 2005 Wisconsin Acts 60 and 276 were enacted, both addressing time limits for prosecution of first- and second-degree sexual assault when DNA evidence is collected. However, these Acts are irreconcilable. As a result, it is unclear how to apply the time limit exception for prosecution of first- and second-degree sexual assault when DNA is collected.

2009 Wisconsin Act 203 clarifies the ambiguity on how to apply the time limit exception for prosecution of first- and second-degree sexual assault. For first-degree sexual assault, if the state collects and identifies DNA evidence and compares the DNA to profiles of known persons before the time limit of prosecution expires, the state may commence prosecution either: *(1) at any time; or (2) within the applicable time limit, whichever is later*. The exception to the time limit for commencing prosecution of second-degree sexual assault is described in the following section.

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/>.

2009 Wisconsin Act 203 also clarifies that for crimes related to a first-degree sexual assault, prosecution may be commenced either: **(1) within 12 months after the DNA comparison results in a probable identification; or (2) within the applicable time limit, whichever is latest.**

Prosecution Time Limits for Second-Degree Sexual Assault and Any Felony Listed in Ch. 940 or 948 (Other Than a Violation of s. 940.225 (1), Stats., or a Felony with a Time Limit)

2009 Wisconsin Act 203 also extends the time limitation for commencing prosecution in cases of: (1) a second-degree sexual assault; (2) a felony crime against life or bodily security (other than first-degree sexual assault or a felony with a time limit; or (3) a felony crime against children. For these crimes, if the state collects and identifies DNA and compares the DNA to profiles of known persons before the applicable time limit expires, prosecution may be commenced within either: **(1) 12 months after the comparison results in a probable identification; or (2) the applicable time limit, whichever is latest.**

Prosecution Time Limits for a Crime Related to Certain Homicides and Child Sexual Assaults

Under **2009 Wisconsin Act 203**, the time limitation is also extended in cases of a crime that is related to: (1) first-degree intentional homicide; (2) first-degree reckless homicide; (3) second-degree intentional homicide; (4) felony murder; (5) first degree child sexual assault; and (6) a Class A or B repeated sexual assault of a child is also extended. If, within six years after the commission of one of these crimes listed, the state collects and identifies DNA and compares the DNA to profiles of known persons, the state may commence prosecution for the crime related to the homicide or child sexual assault **within 12 months after the comparison results in a probable identification.**

Effective date: 2009 Wisconsin Act 203 takes effect on May 6, 2010.

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