



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-0792/1
MLJ:amn

2017 ASSEMBLY BILL 408

June 26, 2017 - Introduced by Representatives SARGENT, KOLSTE, BERCEAU, ANDERSON, SPREITZER, FIELDS, C. TAYLOR, CONSIDINE, OHNSTAD, VRUWINK and SUBECK, cosponsored by Senators CARPENTER, JOHNSON and L. TAYLOR. Referred to Committee on Criminal Justice and Public Safety.

1 **AN ACT** *to renumber* 950.03 and 950.04 (1v) (dL); *to amend* 50.375 (2) (b)
2 (intro.), 175.405 (title), 175.405 (2) and 968.205 (3) (intro.); and *to create*
3 50.375 (2) (b) 4., 50.378 (1m), 950.02 (3t), 950.03 (2) and 950.043 of the statutes;
4 **relating to:** creating a sexual assault victim bill of rights.

Analysis by the Legislative Reference Bureau

This bill creates a sexual assault victim bill of rights. In addition to the rights extended to crime victims under Wisconsin's basic bill of rights for victims and witnesses, this bill adds the following rights for victims of sexual assault, regardless of whether or not they choose to cooperate with a law enforcement agency: the right to be provided with accurate written information about his or her rights as a sexual assault victim; the right to be advised about and provided with emergency contraception and testing for sexually transmitted diseases; the right to choose whether or not to undergo a sexual assault nurse examination; the right to choose whether or not to cooperate with a law enforcement agency; the right for any examination evidence to be transported to a state crime lab within 30 days; the right to have any examination evidence stored for 15 years or until the end of the prison term of the person convicted of the assault against him or her; and the right to not

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be investigated or prosecuted for a misdemeanor or controlled substances violation based on any evidence obtained in a sexual assault nurse examination.

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

1 **SECTION 1.** 50.375 (2) (b) (intro.) of the statutes is amended to read:

2 50.375 (2) (b) (intro.) ~~Orally inform~~ Inform the victim orally and in writing of
3 all of the following:

4 **SECTION 2.** 50.375 (2) (b) 4. of the statutes is created to read:

5 50.375 (2) (b) 4. All of her rights under ch. 950.

6 **SECTION 3.** 50.378 (1m) of the statutes is created to read:

7 50.378 (1m) NOTIFICATION OF VICTIM RIGHTS. A hospital that provides emergency
8 services to a victim shall inform the victim of all of his or her rights under ch. 950
9 orally and in writing.

10 **SECTION 4.** 175.405 (title) of the statutes is amended to read:

11 **175.405 (title) Sexual assault; evidence where no suspect has been**
12 **identified.**

13 **SECTION 5.** 175.405 (2) of the statutes is amended to read:

14 175.405 (2) Whenever a Wisconsin law enforcement agency collects, in a case
15 of alleged or suspected sexual assault, evidence upon which deoxyribonucleic acid
16 analysis can be performed, and the person who committed the alleged or suspected
17 sexual assault has not been identified, the agency shall follow the procedures
18 specified in s. 165.77 (8) and shall, ~~in a timely manner~~ within 30 days, submit the
19 evidence it collects to a crime laboratory, as identified in s. 165.75, for storage or
20 testing or both.

21 **SECTION 6.** 950.02 (3t) of the statutes is created to read:

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1 950.02 **(3t)** “Sexual assault victim” means a person against whom a crime has
2 been committed under s. 940.22, 940.225 (1) to (3m), 948.02 (1) or (2), 948.025,
3 948.05, 948.051, 948.055, 948.06, 948.07 (1) to (4), 948.08, 948.085, 948.095, 948.10,
4 948.11 (2) (a) or (am), or 948.12, or s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies.

5 **SECTION 7.** 950.03 of the statutes is renumbered 950.03 (1).

6 **SECTION 8.** 950.03 (2) of the statutes is created to read:

7 950.03 **(2)** Notwithstanding sub. (1), a sexual assault victim has the rights and
8 is eligible for the services under this chapter regardless of whether the crime has
9 been reported to law enforcement authorities. A victim of sexual assault is under no
10 obligation to seek medical attention, to have a sexual assault nurse examination
11 administered, or to report the sexual assault to law enforcement authorities.

12 **SECTION 9.** 950.04 (1v) (dL) of the statutes is renumbered 950.043 (10).

13 **SECTION 10.** 950.043 of the statutes is created to read:

14 **950.043 Bill of rights for victims of sexual assault.** In addition to the
15 rights of victims under ss. 950.04 and 950.045, sexual assault victims have all of the
16 following rights:

17 **(1)** To receive a sexual assault nurse examination at no charge.

18 **(2)** To receive oral and written information about his or her rights as a sexual
19 assault victim at the time he or she seeks medical care following a sexual assault, as
20 provided under ss. 50.375 (2) and 50.378 (1m).

21 **(3)** To receive emergency contraception under s. 50.375.

22 **(4)** To receive or decline to receive a medical forensic examination performed
23 by a department-certified sexual assault nurse.

24 **(5)** To report or decline to report the sexual assault to a law enforcement agency.

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1 **(6)** To have any evidence collected in a medical forensic examination
2 transported to the state crime laboratories for storage or testing or both within 30
3 days of the examination, as provided under s. 175.405.

4 **(7)** If the victim chooses not to cooperate with a law enforcement agency, as
5 defined in s. 949.20 (1), to have all evidence collected in a medical forensic
6 examination stored for a period of 15 years, during which time the sexual assault
7 victim may choose to report the assault to a law enforcement agency.

8 **(8)** If the victim chooses to cooperate with a law enforcement agency, as defined
9 in s. 949.20 (1), and no conviction results from the medical forensic examination,
10 state crime laboratory testing, and subsequent law enforcement agency
11 investigation, to have all evidence collected in the medical forensic examination
12 stored for a period of 15 years.

13 **(9)** If the victim chooses to cooperate with a law enforcement agency, as defined
14 in s. 949.20 (1), and a conviction results from the medical forensic examination, state
15 crime laboratory testing, and subsequent law enforcement agency investigation, to
16 have all evidence collected in the medical forensic examination stored until the end
17 of the term of imprisonment or probation of the person who was convicted of the
18 sexual assault.

19 **(11)** To not have any evidence acquired from a sexual assault nurse
20 examination, including the results of a toxicology report, used to prosecute the victim
21 for any misdemeanor crimes or any crime defined under ch. 961.

22 **(12)** To not have any evidence acquired from a sexual assault nurse
23 examination, including the results of a toxicology report, used as a basis to search
24 for further evidence of any unrelated misdemeanor crimes or any violation of ch. 961.

25 **SECTION 11.** 968.205 (3) (intro.) of the statutes is amended to read:

