



2009 ASSEMBLY BILL 480

October 6, 2009 – Introduced by Representatives BERCEAU, ROYS, BLACK, SINICKI, DEXTER, GRIGSBY, PASCH, TOLES and PARISI, cosponsored by Senators COGGS, HANSEN and TAYLOR. Referred to Committee on Corrections and the Courts.

1 **AN ACT to amend** 814.04 (intro.); and **to create** 893.583 and 895.437 of the
2 statutes; **relating to:** creating a civil cause of action for acts of violence
3 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:

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

ASSEMBLY BILL 480**SECTION 1**

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.

