

1999 DRAFTING REQUEST

Bill

Received: 10/18/1999

Received By: nelsorp1

Wanted: As time permits

Identical to LRB:

For: Brian Burke (608) 266-8535

By/Representing: Deb Sybell

This file may be shown to any legislator: NO

Drafter: nelsorp1

May Contact:

Alt. Drafters:

Subject: Courts - limitations

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Statute or limitations for injury caused by sexual assault against children

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	nelsorp1 10/28/1999	jgeller 11/02/1999	mclark 11/02/1999	_____	lrb_docadmin 11/02/1999	lrb_docadmin 11/05/1999	
/2	nelsorp1 12/07/1999	jgeller 12/07/1999	martykr 12/07/1999	_____	lrb_docadmin 12/07/1999	lrb_docadmin 12/07/1999	

FE Sent For:

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Handwritten notes:
 1/2 12/7 jlg
 Km 12/7
 HLF 12/7
 Km 7

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/?	nelsorp1	1 ^{10/28} jg	MRC 11/2	MRC/KJF 11/2			

FE Sent For:

<END>

Memorandum

RPN
See me (d
see 2899, attached).
JED

To: Jefren Olsen – Legislative Reference Bureau

From: Deb Sybell – Senator Burke's Office

Date: 10/15/99

Re: LRB-2899, relating to time limits for prosecution of certain crimes against children.

After reviewing your drafter's note, we've decided to modify our drafting request to extend the statute of limitations in civil cases involving child sexual assault based on the discovery doctrine.

See Wis. Stats. sec. 893.587:

Incest; limitation. An action to recover damages for injury caused by incest shall be commenced within 2 years after the plaintiff discovers the fact and the probable cause, or with the exercise of reasonable diligence should have discovered the fact and the probable cause, of the injury, whichever occurs first.

Please draft legislation to ⁽¹⁾expand the application of this section to all child sexual assault and ⁽²⁾increase the time limit from 2 years to 5 years.

If you have any questions, please call me at 6-8535.

Thank you for your assistance.

Acts that would
constitute a
violation of



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-37720
RPN.....

JG

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

gen cat

1 AN ACT ...; relating to: a civil action for the recovery of damages for sexual
2 assault to a child.

for bringing an action

Analysis by the Legislative Reference Bureau

Currently, the time limit for bringing a civil action to recover damages for an injury caused by incest is two years after the person discovered the fact and cause of the injury or two years after the person with reasonable diligence should have discovered the fact and cause of the injury. This bill expands the injuries covered to include incest with a child, sexual assault of a child, repeated acts of sexual assault of the same child and sexual assault of a student by a school instructional staff person. The bill also extends the time limit from two years to five years.

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

3 SECTION 1. 893.587^X of the statutes is amended to read:

4 **893.587 Incest Sexual assault of a child; limitation.** An action to recover
5 damages for injury caused by incest an act that would constitute a violation of s.
6 948.02, 948.025, 948.06 or 948.095 shall be commenced within 2 1/2 years after the
7 plaintiff discovers the fact and the probable cause, or with the exercise of reasonable

1 diligence should have discovered the fact and the probable cause, of the injury,
2 whichever occurs first.

3 History: 1987 a. 332.

SECTION 2. Initial applicability.

4 (1) This act first applies to actions commenced on the effective date of this
5 subsection.

6 (END)

**SUBMITTAL
FORM**

LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 11/02/1999

To: Senator Burke


Relating to LRB drafting number: LRB-3772

Topic

Statute or limitations for injury caused by sexual assault against children

Subject(s)

Courts - limitations



1. **JACKET** the draft for introduction _____

in the **Senate** or the **Assembly** _____ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT**. See the changes indicated or attached _____.

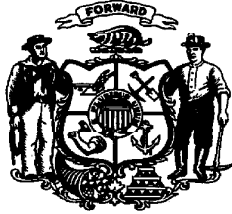
A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Robert P. Nelson, Senior Legislative Attorney
Telephone: (608) 267-7511



BRIAN BURKE

WISCONSIN STATE SENATOR

Senate Chair, Joint Committee on Finance

Memorandum

To: Robert Nelson – Legislative Reference Bureau
100 North Hamilton, 5th Floor

From: Senator Brian Burke

Date: 12/07/99

Re: LRB-3772, relating to a civil action for the recovery of damages for sexual assault to a child

Please modify this draft to include a provision specifying that s. 893.587 does not shorten a period of limitation otherwise prescribed.

If you have any questions, please contact Debbie from my office as 6-8535.

Thank you for your assistance.

*Want to ensure that the limitation
in s. 893.587 does not effect the
tolling of the statute in s. 893.16.*



State of Wisconsin
1999 - 2000 LEGISLATURE

2
LRB-3772/Y
RPN:jlg:mrc

D-note

1999 BILL

Regen

1 AN ACT to amend 893.587 of the statutes; relating to: a civil action for the
2 recovery of damages for sexual assault to a child.

Analysis by the Legislative Reference Bureau

Currently, the time limit for bringing a civil action to recover damages for an injury caused by incest is two years after the person discovered the fact and cause of the injury or two years after the person with reasonable diligence should have discovered the fact and cause of the injury. This bill expands the injuries covered to include incest with a child, sexual assault of a child, repeated acts of sexual assault of the same child and sexual assault of a student by a school instructional staff person. The bill also extends the time limit for bringing an action from two years to five years.

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

3 SECTION 1. 893.587 of the statutes is amended to read:
4 **893.587 Incest Sexual assault of a child; limitation.** An action to recover
5 damages for injury caused by incest an act that would constitute a violation of s.
6 948.02, 948.025, 948.06 or 948.095 shall be commenced within 2 5 years after the

BILL

1 plaintiff discovers the fact and the probable cause, or with the exercise of reasonable
 2 diligence should have discovered the fact and the probable cause, of the injury,
 3 whichever occurs first. This section does not shorten the
 4 period to commence an action provided under s. 893.16(1).

SECTION 2. Initial applicability.

5 (1) This act first applies to actions commenced on the effective date of this
 6 subsection.

7 (END)

D-Note

PI do not think this language is necessary, because s. 893.16 is part of subchapter II, which concerns tolling or extending limitations on bringing actions, not shortening ^{those} limitations. In addition, s. 893.16 (5) ^{explicitly} provides that s. 893.16 (1) ^{does not extend} the time limits for certain types of actions, and goes on to list those ~~and~~ actions to which s. 893.16(1) does not extend ^{the time limits.} The list does not include s. 893.587, which ^{implies} ~~includes~~ that s. 893.16(1) does ~~not~~ extend the time limits under s. 893.587.

RPN

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-8772/2dn
RPN:jlg:km

December 7, 1999

I do not think this language is necessary, because s. 893.16 is part of subchapter II, which concerns tolling or extending limitations on bringing actions, not shortening those limitations. In addition, s. 893.16 (5) explicitly provides that s. 893.16 (1) does not extend the time limits for certain types of actions, and goes on to list those actions to which s. 893.16 (1) does not extend the time limits. The list does not include s. 893.587, which implies that s. 893.16 (1) does extend the time limits under s. 893.587.

Robert P. Nelson
Senior Legislative Attorney
Phone: (608) 267-7511