2001 DRAFTING REQUEST

Bill

Received: 11/29/2001

Received By: rryan

Wanted: As time permits

Identical to LRB:

For: Neal Kedzie (608) 266-9650

By/Representing: Dan Johnson

This file may be shown to any legislator: NO

Drafter: rryan

May Contact:

Addl. Drafters:

Subject:

Criminal Law - homicide

Extra Copies:

Submit via email: YES

Requester's email:

Rep.Kedzie@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Statute of limitations for second-degree intentional and second-degree reckless homicide

Instructions:

Eliminate statute of limitaitons on prosecuting second-degree intentional and second-degree reckless homicide

Drafting History:

Vers.

Drafted

Reviewed

Typed

Proofed

Submitted

Jacketed

Required

/1

rryan 12/07/2001

jdyer 12/10/2001 pgreensl 12/10/2001

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12/13/2001

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State of Misconsin 2001 - 2002 LEGISLATURE

By 12/12 at 5:00 Pm

RLR:

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Gen

AN ACT ...; relating to: time limits for the prosecution of second degree

intentional homicide and recond-degree reckless homicide.

Analysis by the Legislative Reference Bureau

Current law imposes time limits for commencing the prosecution of most crimes. The state must initiate prosecution within the time limit or is barred from prosecuting the offense. A prosecution is commenced when a court issues a summons or a warrant for arrest, when a grand jury issues an indictment, or when the state files an information alleging that a person committed a specific crime. Generally, the state must commence prosecution of a felony (a crime punishable by incarceration in prison) within six years of the commission of the crime, and must commence prosecution of a misdemeanor (a crime other than a felony) within three years of the commission of the crime. However, there are exceptions to these time limits for prosecution of certain offenses. There is no time limit for the prosecution of first—degree intentional homicide, first—degree reckless homicide, or felony murder, and there are longer time limits for the prosecution of certain sexual assaults and certain thefts.

A person commits first-degree intentional homicide if, with intent to kill another human being or an unborn child, the person causes the death of another human being or an unborn child. A person commits first-degree reckless homicide if the person recklessly causes the death of another human being or an unborn child under circumstances that show utter disregard for human life or for the life of an unborn child. Felony murder is the killing of another human being while committing or attempting to commit first-or second-degree sexual assault, robbery, or certain arson or burglary offenses.

This bill eliminates the time limit for commencing prosecution of second-degree intentional homicide or second-degree reckless homicide. A person commits second-degree intentional homicide if, with intent to kill another human being or an unborn child, the person causes the death of another human being or an unborn child under any of the following mitigating circumstances: 1) the person acts under the influence of adequate provocation; 2) the person uses unreasonable defensive force; 3) the person uses unreasonable force to prevent or terminate the commission of a felon; or 4) the person is coerced. A person commits second-degree reckless homicide if the person recklessly cause the death of another human being or of an unborn child.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

SECTION 1. 939.74 (2) (a) of the statutes is amended to read:

939.74 (2) (a) A prosecution under s. 940.01, 940.02 or, 940.03, 940.05, or 940.06

may be commenced at any time.

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History: 1981 c. 280; 1985 a. 275; 1987 a. 332, 380, 399, 403; 1989 a. 121; 1991 a. 269; 1993 a. 219, 227, 486; 1995 a. 456; 1997 a. 237; 2001 a. 16. **SECTION 2. Initial applicability.**

(1) This act first applies to offenses committed on the effective date of this subsection.

(END)

Emery, Lynn

From:

Sent:

Johnson, Dan (Legislature) Thursday, December 13, 2001 1:38 PM LRB.Legal

To:

Subject:

Draft review: LRB-4335/1 Topic: Statute of limitations for second-degree intentional and

second-degree reckless homicide

It has been requested by <Johnson, Dan (Legislature)> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB-4335/1 Topic: Statute of limitations for second-degree intentional and second-degree reckless homicide