

**2001 DRAFTING REQUEST**

**Bill**

Received: 12/21/2000

Received By: rryan

Wanted: Soon

Identical to LRB:

For: Administration-Budget 7-0370

By/Representing: Statz

This file may be shown to any legislator: NO

Drafter: rryan

May Contact:

Alt. Drafters:

Subject: Criminal Law - district attys

Extra Copies: MGD

**Pre Topic:**

DOA:.....Statz -

**Topic:**

Statute of limitations in sexual assault cases in which DNA evidence is available, and funding for district attorney activities related to DNA evidence

**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> |
|--------------|---------------------|------------------------|------------------------|----------------|----------------------------|-----------------|-----------------|
| /P1          | rryan<br>12/28/2000 | jdyer<br>12/29/2000    | kfollet<br>01/02/2001  | _____          | lrb_docadmin<br>01/02/2001 |                 | State           |
| /P2          | rryan<br>01/09/2001 | jdyer<br>01/09/2001    | jfrantze<br>01/09/2001 | _____          | lrb_docadmin<br>01/10/2001 |                 | State           |
| /P3          | rryan<br>01/26/2001 | wjackson<br>01/26/2001 | martykr<br>01/28/2001  | _____          | lrb_docadmin<br>01/28/2001 |                 | State           |

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|--------------|---------------------|------------------------|------------------------|----------------|----------------------------|-----------------|-----------------|
| /1           | rryan<br>02/16/2001 | wjackson<br>02/16/2001 | jfrantze<br>02/16/2001 | _____          | lrb_docadmin<br>02/16/2001 |                 | State           |

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1 WJ 2/16

2/16

*[Handwritten signature]*  
2/16

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*/P3 WLJ 1/26*

*cmk  
1/28/01  
/P3*

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FE Sent For:

1/21/01 jld 1/19/01 To/esth  
1/19/01  
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| /P1          | rryan          | /P1 12/29 jld   | kyj<br>1/2   | kyj/JF<br>1/2  |                  |                 | State           |

FE Sent For:

<END>



**WISCONSIN DEPARTMENT OF  
ADMINISTRATION**

**TOMMY G. THOMPSON  
GOVERNOR**

**GEORGE LIGHTBOURN  
SECRETARY**

Division of Executive Budget and Finance  
Post Office Box 7864  
Madison, WI 53707-7864  
Voice (608) 266-1736  
Fax (608) 267-0372  
TTY (608) 267-9629

**Date:** December 20, 2000  
**To:** Steve Miller, LRB  
**From:** Andrew J. Statz, DOA  
**Subject:** Budget draft request relating to use of DNA evidence

I am requesting statutory language be drafted for inclusion with the 2001-03 biennial budget bill. The draft will enable program revenue to be applied to an assistant district attorney (ADA) position that specializes in the use of DNA evidence.

The language for s. 20.455 (2)(kd) *Drug law enforcement and crime laboratories* must be amended to enable program revenue funding to cover expenses related to salary and fringe costs for 1.0 FTE ADA position that specializes in DNA evidence.

The amount transferred from DOJ's appropriation under s. 20.455 (2)(kd) to the DA's appropriation under s. 20.475 (1)(h) *Gifts and grants* to support salary and fringe costs will be \$116,400 in FY02 and \$122,100 in FY03. This transfer should be outlined by nonstatutory language.

Because the language for the program revenue appropriation under s. 20.475 (1)(h) *Gifts and grants* is sufficiently broad, no amendments are required.

Please contact me at 267-0370 or [andrew.statz@doa.state.wi.us](mailto:andrew.statz@doa.state.wi.us) if you have any questions. Thank you.

*but this  
is not a  
gift, requested  
grant*

*see D-man 2.04(1) - doesn't matter if funds  
approp. in approp. from which  
transferred*



LPS - fix request sheet SOON

JLD

DOA:.....Statz - transfer of funding to an appropriation for district attorneys to fund activities related to DNA evidence

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

In 12/28/00

do not gen

1 AN ACT ...; relating to: the budget. ✓

*Analysis by the Legislative Reference Bureau*

**STATE GOVERNMENT** ✓

**DISTRICT ATTORNEYS** ✓

Under current law, a portion of the revenue generated from the crime laboratories and drug law enforcement assessment and from the deoxyribonucleic acid surcharge is appropriated to DOJ for enforcement of drug laws, for prosecution of drug law violations, and to fund the state crime laboratories. This bill requires that a portion of the DOJ program revenue funds be transferred to a newly created appropriation in DOA for activities by district attorneys related to deoxyribonucleic acid evidence.

For further information see the *state* 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:*

2 SECTION 1. 20.455 (2) (kd) <sup>x</sup> of the statutes is amended to read:

3 20.455 (2) (kd) *Drug law enforcement and, crime laboratories, and*  
4 *deoxyribonucleic acid evidence activities.* The amounts in the schedule for activities

1 relating to drug law enforcement, drug law violation prosecution assistance and,  
2 activities of the state and regional crime laboratories, and for transferring to the  
3 appropriation account under s. 20.475 (1) (km) the amounts in the schedule under  
4 s. 20.475 (1) (km). All moneys transferred from the appropriation account under par.  
5 (Lm) shall be credited to this appropriation account.

→ NOTE: BUD

History: 1971 c. 125; 1973 c. 90, 336; 1975 c. 39 s. 732 (1); 1975 c. 224; 1977 c. 29, 418; 1979 c. 34 ss. 286m, 290, 523 to 526; 1979 c. 189, 219, 355; 1981 c. 20, 169; 1983 a. 27 ss. 427 to 430, 1800; 1983 a. 199, 523; 1985 a. 29, 120; 1987 a. 27, 326, 399; 1989 a. 31, 122, 336; 1991 a. 11, 39, 269; 1993 a. 16, 98, 193, 460, 496; 1995 a. 27 ss. 1014h to 1029, 9126 (19), 9130 (4); 1995 a. 227; 1997 a. 27, 237; 1999 s. 5, 9, 186.

6 SECTION 2. 20.475 (1) (km) of the statutes is created to read:

7 20.475 (1) (km) *Deoxyribonucleic acid evidence activities*. The amounts in the  
8 schedule for deoxyribonucleic acid evidence activities. All moneys transferred from  
9 s. 20.455 (2) (kd) for the purpose of this appropriation shall be credited to this  
10 appropriation.

\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

11

(END)

**Ryan, Robin**

---

**From:** Statz, Andrew  
**Sent:** January 04, 2001 2:50 PM  
**To:** Dsida, Michael  
**Cc:** Ryan, Robin; Johnston, James  
**Subject:** FW: DNA evidence ADA

I would like to amend this request to include provisions that will eliminate the statute of limitations for serious sex assaults. The provision should look like 1999 AB 497.

Let me know of any questions. Thanks.

-----Original Message-----

**From:** Statz, Andrew  
**Sent:** Wednesday, December 20, 2000 4:27 PM  
**To:** Dsida, Michael  
**Cc:** Johnston, James  
**Subject:** DNA evidence ADA

An advance copy:



DNA evidence draft  
req (12-15-...

Andrew J. Statz  
State Budget Office  
608-267-0370

1/5/00

Andrew will get back to me on whether wants AB 497 as introduced, or one of the amends.

-i.e. whether to require that prosecutors have DNA evidence before extend stat. lims.



**WISCONSIN DEPARTMENT OF  
ADMINISTRATION**

**TOMMY C. THOMPSON**  
GOVERNOR

**GEORGE LIGHTBOURN**  
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Madison, WI 53707-7864  
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---

**Date:** January 5, 2001  
**To:** Steve Miller, LRB  
**From:** Andrew J. Statz, DOA  
**Subject:** Budget draft request relating to use of DNA evidence

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The language for s. 20.455 (2)(kd) *Drug law enforcement and crime laboratories* must be amended to enable program revenue funding to cover expenses related to salary and fringe costs for 1.0 FTE ADA position that specializes in DNA evidence.

The amount transferred from DOJ's appropriation under s. 20.455 (2)(kd) to the DA's appropriation under s. 20.475 (1)(h) *Gifts and grants* to support salary and fringe costs will be \$116,400 in FY02 and \$122,100 in FY03. This transfer should be outlined by nonstatutory language.

Because the language for the program revenue appropriation under s. 20.475 (1)(h) *Gifts and grants* is sufficiently broad, no amendments are required.

Please contact me at 267-0370 or [andrew.statz@doa.state.wi.us](mailto:andrew.statz@doa.state.wi.us) if you have any questions. Thank you.

## Ryan, Robin

---

**From:** Statz, Andrew  
**Sent:** January 06, 2001 10:06 AM  
**To:** Ryan, Robin  
**Cc:** Johnston, James; Grapentine, Mark  
**Subject:** DNA and statute of limitations for sex assaults

In response to your question relating to the use of DNA evidence to extend the statute of limitations for serious sex assaults, please include in the budget draft # 1617/P1 all provisions outlined by Assembly Substitute Amendment 1 to 1999 AB 497.

Do not include provisions of Assembly amendment 1 to the sub that broadens the application to fingerprints.

Thank you.

*Andrew J. Statz  
State Budget Office  
608-267-0370*



01-1617/P1

**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 1999 ASSEMBLY BILL 497**

November 3, 1999 - Offered by Representatives GUNDRUM, HAHN, STASKUNAS,  
GROTHMAN, PLALE and ALBERS.

1 **AN ACT** to amend 939.74 (1) and 939.74 (2) (c); and to create 939.74 (2d) of the  
2 statutes; relating to: time limits for prosecution of certain crimes of sexual  
3 assault.

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

4 **SECTION 1.** 939.74 (1) of the statutes is amended to read:

5 939.74 (1) Except as provided in sub. subs. (2), and (2d) and s. 946.88 (1),  
6 prosecution for a felony must be commenced within 6 years and prosecution for a  
7 misdemeanor or for adultery within 3 years after the commission thereof. Within the  
8 meaning of this section, a prosecution has commenced when a warrant or summons  
9 is issued, an indictment is found, or an information is filed.

10 **SECTION 2.** 939.74 (2) (c) of the statutes is amended to read:

11 939.74 (2) (c) A prosecution for violation of s. 948.02, 948.025, 948.03 (2) (a),  
12 948.05, 948.06, 948.07 (1), (2), (3) or (4), 948.08 or 948.095 shall be commenced before

1 the victim reaches the age of 31 years or be barred, except as provided in sub. (2d)  
2 (c).

3 **SECTION 3.** 939.74 (2d) of the statutes is created to read:

4 939.74 (2d) (a) In this subsection, “deoxyribonucleic acid profile” has the  
5 meaning given in s. 972.11 (5) (a).

6 (b) Notwithstanding that the time limitation under sub. (1) has expired, if the  
7 state has evidence of a deoxyribonucleic acid profile of a person who committed a  
8 violation of s. 940.225 (1) or (2) but comparisons of the evidence to deoxyribonucleic  
9 acid profiles of known persons that were made before the time limitation under sub.  
10 (1) expired did not result in a probable identification of the person, a prosecution for  
11 the violation may be commenced within one year after a comparison of the  
12 deoxyribonucleic acid profile evidence relating to the violation results in a probable  
13 identification of the person.

14 (c) Notwithstanding that the time limitation under sub. (2) (c) has expired, if  
15 the state has evidence of a deoxyribonucleic acid profile of a person who committed  
16 a violation of s. 948.02 (1) or (2) or 948.025 but comparisons of the evidence to  
17 deoxyribonucleic acid profiles of known persons that were made before the time  
18 limitation under sub. (2) (c) expired did not result in a probable identification of the  
19 person, a prosecution for the violation may be commenced within one year after a  
20 comparison of the deoxyribonucleic acid profile evidence relating to the violation  
21 results in a probable identification of the person.

22 **SECTION 4. Initial applicability.**

23 (1) This act first applies to offenses not barred from prosecution on the effective  
24 date of this subsection.

25 (END)



RLR:ld:kjf  
RMR

DOA:.....Statz - Transfer of funding to an appropriation for district attorneys to fund activities related to DNA evidence

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

revised please see new request sheet

In 1/9/00  
Soon

D-Note

Don't Gen

1 AN ACT ...; relating to: the budget.

✓ Insert 1

Analysis by the Legislative Reference Bureau  
STATE GOVERNMENT

DISTRICT ATTORNEYS

Under current law, a portion of the revenue generated from the crime laboratories and drug law enforcement assessment and from the deoxyribonucleic acid surcharge is appropriated to DOJ for enforcement of drug laws, for prosecution of drug law violations, and to fund the state crime laboratories. This bill requires that a portion of the DOJ program revenue funds be transferred to a newly created appropriation in DOA for activities by district attorneys related to ~~deoxyribonucleic acid~~ DNA evidence.

For further information see the *state* 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:*

- 2 SECTION 1. 20.455 (2) (kd) of the statutes is amended to read:
- 3 20.455 (2) (kd) Drug law enforcement and crime laboratories, and
- 4 deoxyribonucleic acid evidence activities. The amounts in the schedule for activities

Stat.  
DNA



1 relating to drug law enforcement, drug law violation prosecution assistance and,  
2 activities of the state and regional crime laboratories, and for transferring to the  
3 appropriation account under s. 20.475 (1) (km) the amounts in the schedule under  
4 s. 20.475 (1) (km). All moneys transferred from the appropriation account under par.  
5 (Lm) shall be credited to this appropriation account.

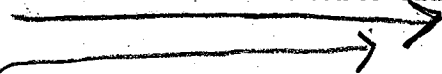
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8 schedule for deoxyribonucleic acid evidence activities. All moneys transferred from  
9 s. 20.455 (2) (kd) for the purpose of this appropriation shall be credited to this  
10 appropriation.

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

✓ Insert 2  
11



(END)

SECTION

§ 193590<sup>2</sup> Initial applicability; other.

(#) The treatment of section 939.74 (1), (2)(c), and (2d) of the statutes first applies to offenses not barred from prosecution on the effective date of this subsection.

TIME LIMITATIONS ON PROSECUTIONS IN CERTAIN SEXUAL ASSAULT CASES.

CS

CS ↑



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-0670/P1  
RLR&MGD:cjs:pg

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** to repeal 972.11 (5); to renumber and amend 757.54; to amend 165.77  
2 (2) (a) 2., 165.77 (3), 165.81 (1), 801.02 (7) (a) 2. c., 805.15 (3) (intro.), 808.075  
3 (4) (h), 809.30 (1) (a), 809.30 (2) (L), 938.293 (2), 938.299 (4) (a), 938.46, 939.74  
4 (1), 939.74 (2) (c), 950.04 (1v) (s), 950.04 (1v) (xm), 968.20 (1) (intro.), 968.20 (2),  
5 968.20 (4), 971.04 (3), 971.23 (1) (e), 971.23 (2m) (am), 972.11 (1), 974.02 (1),  
6 974.05 (1) (b), 977.07 (1) (b), 977.07 (1) (c) and 980.11 (2) (intro.); and to create  
7 20.410 (1) (be), 165.77 (2m), 165.81 (3), 757.54 (2), 805.16 (5), 939.74 (2d),  
8 950.04 (1v) (yd), 968.205, 974.07, 978.08 and 980.101 of the statutes; relating  
9 to: time limits for prosecution of certain sexual assault crimes, preservation of  
10 certain evidence, and postconviction and post commitment deoxyribonucleic  
11 acid testing of evidence.

*Analysis by the Legislative Reference Bureau*

*Time limits for prosecuting sexual assault*

INSERT 1

Current law provides time limits for commencing the prosecution of most crimes, including sexual assault. The state must initiate prosecution within the time

COURTS AND PROCEDURE ← head  
OTHER COURTS AND PROCEDURE ← sub



INS 1  
cont

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 a district attorney files an information alleging that a person committed a specific crime. Time during which a defendant is either a nonresident of the state or is secretly a resident in concealment is not calculated as part of the time limit.

Under current law, the state must prosecute first and second degree sexual assault within six years of the date of the crime. The state must prosecute first and second degree sexual assault of a child, as well as repeated sexual assault of the same child, before the victim reaches the age of 31.

This bill creates an exception to the time limits for prosecuting the crimes of sexual assault, sexual assault of a child, and repeated sexual assault of the same child in certain circumstances if the state has <sup>deoxyribonucleic acid</sup> (DNA) evidence related to the crime. \* If the state collects DNA evidence related to the crime before the time limit for prosecution expires and does not link the DNA evidence to an identified person until after the time limit expires, the state may initiate prosecution for the crime within one year of making the match.

#### ~~Postconviction deoxyribonucleic acid testing~~ (end ins 1)

Current law provides several options for a person who is convicted of a crime, found not guilty by reason of mental disease or defect, or adjudicated delinquent to challenge his or her conviction, finding of not guilty by reason of mental disease or defect, or delinquency adjudication:

1. The person may file a motion for relief with the trial court, and upon losing the postconviction motion in the trial court may appeal to the appellate court. In some cases the person may bypass the trial court and proceed directly to the appellate court. To initiate either a request for relief from the trial court or to initiate an appeal the person must serve notice of intent to pursue postconviction relief within 20 days of sentencing.

2. The person may file a motion for a new trial on the basis of newly discovered evidence up to one year after a verdict is entered. In order to obtain a new trial the person must show that the new evidence came to the person's attention after the trial, the failure to discover the evidence was not due to lack of diligence, the evidence is material and not cumulative, and the new evidence would probably change the outcome.

3. At any time, a person serving time in prison under a sentence imposed by a state circuit court, or a person serving time under the volunteer probation program for a misdemeanor, who has exhausted direct appeal rights, may file a motion for release from custody under the state postconviction relief law if the person alleges that the sentence was imposed in violation of the U.S. or Wisconsin constitution, or in violation of other state law. In order to prevail on a motion for postconviction relief the person must have raised the issues contained in the motion for postconviction relief at trial or on appeal. A person may not make successive motions for postconviction relief.

4. At any time, a person whose liberty is restrained may seek state habeas corpus relief if the restraint of liberty is imposed in violation of the U.S. or Wisconsin

1       938.293 (2) All records relating to a juvenile which are relevant to the subject  
 2 matter of a proceeding under this chapter shall be open to inspection by a guardian  
 3 ad litem or counsel for any party, upon demand and upon presentation of releases  
 4 where necessary, at least 48 hours before the proceeding. Persons entitled to inspect  
 5 the records may obtain copies of the records with the permission of the custodian of  
 6 the records or with the permission of the court. The court may instruct counsel not  
 7 to disclose specified items in the materials to the juvenile or the parent if the court  
 8 reasonably believes that the disclosure would be harmful to the interests of the  
 9 juvenile. ~~Sections~~ Section 971.23 and 972.11 (5) shall be applicable in all delinquency  
 10 proceedings under this chapter, except that the court shall establish the timetable  
 11 for the disclosures required under ~~ss. s.~~ 971.23 (1), (2m), and (8) and 972.11 (5).

12       **SECTION 17.** 938.299 (4) (a) of the statutes is amended to read:

13       938.299 (4) (a) Chapters 901 to 911 govern the presentation of evidence at the  
 14 fact-finding hearing under s. 938.31. ~~Section 972.11 (5) applies at fact-finding~~  
 15 ~~proceedings in all delinquency proceedings under this chapter.~~

16       **SECTION 18.** 938.46 of the statutes is amended to read:

17       **938.46 New evidence.** A juvenile whose status is adjudicated by the court  
 18 under this chapter, or the juvenile's parent, guardian or legal custodian, may at any  
 19 time within one year after the entering of the court's order petition the court for a  
 20 rehearing on the ground that new evidence has been discovered affecting the  
 21 advisability of the court's original adjudication. Upon a showing that such evidence  
 22 does exist, the court shall order a new hearing. This section does not apply to motions  
 23 made under s. 974.07 (2).

24       **SECTION 19.** 939.74 (1) of the statutes is amended to read:

Insert 2



1           939.74 (1) Except as provided in sub. subs. (2), and (2d) and s. 946.88 (1),  
2 prosecution for a felony must be commenced within 6 years and prosecution for a  
3 misdemeanor or for adultery within 3 years after the commission thereof. Within the  
4 meaning of this section, a prosecution has commenced when a warrant or summons  
5 is issued, an indictment is found, or an information is filed.

6           **SECTION 20.** 939.74 (2) (c) of the statutes is amended to read:

7           939.74 (2) (c) A prosecution for violation of s. 948.02, 948.025, 948.03 (2) (a),  
8 948.05, 948.06, 948.07 (1), (2), (3) or (4), 948.08 or 948.095 shall be commenced before  
9 the victim reaches the age of 31 years or be barred, except as provided in sub. (2d)  
10 (c).

11           **SECTION 21.** 939.74 (2d) of the statutes is created to read:

12           939.74 (2d) (a) In this subsection, “deoxyribonucleic acid profile” means any  
13 analysis of deoxyribonucleic acid that results in the identification of an individual’s  
14 patterned chemical structure of genetic information.

15           (b) If the state has evidence of a deoxyribonucleic acid profile of a person who  
16 committed a violation of s. 940.225 (1) or (2), the evidence was collected before the  
17 time limitation under sub. (1) expired, and comparisons of the evidence to  
18 deoxyribonucleic acid profiles of known persons made before the time limitation  
19 expired did not result in a probable identification of the person, the state may  
20 commence prosecution of the person within 12 months after comparison of the  
21 deoxyribonucleic evidence relating to the violation results in a probable  
22 identification of the person.

23           (c) If the state has evidence of a deoxyribonucleic acid profile of a person who  
24 committed a violation of s. 948.02 (1) or (2) or 948.025, the evidence was collected  
25 before the time limitation under sub. (2) (c) expired, and comparisons of the evidence

1 to deoxyribonucleic acid profiles of known persons made before the time limits  
2 expired did not result in a probable identification of the person, the state may  
3 commence prosecution of the person within 12 months after comparison of the  
4 deoxyribonucleic<sup>✓</sup> evidence relating to the violation results in a probable  
5 identification of the person.

6 ~~SECTION 22. 950.04 (1v) (s) of the statutes is amended to read:~~

7 ~~950.04 (1v) (s) To have any stolen or other personal property expeditiously~~  
8 ~~returned by law enforcement agencies when no longer needed as evidence, subject~~  
9 ~~to s. 968.205. If feasible, all such property, except weapons, currency, contraband,~~  
10 ~~property subject to evidentiary analysis, property subject to preservation under s.~~  
11 ~~968.205, and property the ownership of which is disputed, shall be returned to the~~  
12 ~~person within 10 days of being taken.~~

13 ~~SECTION 23. 950.04 (1v) (xm) of the statutes is amended to read:~~

14 ~~950.04 (1v) (xm) To have the department of health and family services make~~  
15 ~~a reasonable attempt to notify the victim under s. 980.11 regarding supervised~~  
16 ~~release under s. 980.08 and discharge under s. 980.09 or, 980.10, or 980.101 (2) (a).~~

17 ~~SECTION 24. 950.04 (1v) (yd) of the statutes is created to read:~~

18 ~~950.04 (1v) (yd) To have the appropriate clerk of court make a reasonable~~  
19 ~~attempt to send the victim a copy of a motion made under s. 974.07 for postconviction~~  
20 ~~deoxyribonucleic acid testing of certain evidence and notification of any hearing on~~  
21 ~~that motion, as provided under s. 974.07 (4).~~

22 ~~SECTION 25. 968.20 (1) (intro.) of the statutes is amended to read:~~

23 ~~968.20 (1) (intro.) Any person claiming the right to possession of property~~  
24 ~~seized pursuant to a search warrant or seized without a search warrant may apply~~  
25 ~~for its return to the circuit court for the county in which the property was seized or~~

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

LRB-1617/P2dn

RLR:fld:kjf

Andrew,

Please note that I included a different definition of "deoxyribonucleic acid profile" in the bill than is in the Assembly Substitute Amendment 1<sup>6</sup> to 1999 Assembly Bill 497. The definition in the amendment refers only to DNA testing using the restriction fragment length polymorphism technique of analysis. The definition in the bill does not specify a type of analysis so as to include other accepted analysis methods currently used such as polymerase chain reaction and mitochondrial DNA testing.

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

LRB-1617/P2dn  
RLR:jld:jf

January 9, 2001

Andrew,

Please note that I included a different definition of "deoxyribonucleic acid profile" in the bill than is in the Assembly Substitute Amendment 1 to 1999 Assembly Bill 497. The definition in the amendment refers only to DNA testing using the restriction fragment length polymorphism technique of analysis. The definition in the bill does not specify a type of analysis so as to include other accepted analysis methods currently used such as polymerase chain reaction and mitochondrial DNA testing.

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01-16-17

1/25/00

20.455(2)(kd) title

can only be 75 characters -  
incl. spaces

"genetic" instead of DNA  
don't make change in DA's  
approp. title

*RMK*

DOA:.....Statz – Statute of limitations in sexual assault cases in which DNA evidence is available, and funding for district attorney activities related to DNA evidence

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

*In 1/26/00  
soon*

*don't gen*

1 AN ACT <sup>!</sup>; relating to: the budget.

*Analysis by the Legislative Reference Bureau*

**COURTS AND PROCEDURE** ✓

**OTHER COURTS AND PROCEDURE** ✓

Current law provides time limits for commencing the prosecution of most crimes, including sexual assault. 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 a district attorney files <sup>STEP 2</sup> information alleging that a person committed a specific crime. Time during which a defendant is either a nonresident of the state or is secretly a resident in concealment is not calculated as part of the time limit.

Under current law, the state must prosecute first and second degree sexual assault within six years of the date of the crime. The state must prosecute first and second degree sexual assault of a child, as well as repeated sexual assault of the same child, before the victim reaches the age of 31.

This bill creates an exception to the time limits for prosecuting the crimes of sexual assault, sexual assault of a child, and repeated sexual assault of the same child in certain circumstances if the state has deoxyribonucleic acid (DNA) evidence

*it*

related to the crime. If the state collects DNA evidence related to the crime before the time limit for prosecution expires and does not link the DNA evidence to an identified person until after the time limit expires, the state may initiate prosecution for the crime within one year of making the match.

### STATE GOVERNMENT

#### DISTRICT ATTORNEYS

Under current law, a portion of the revenue generated from <sup>2</sup> the crime laboratories and drug law enforcement assessment and from the deoxyribonucleic acid surcharge is appropriated to DOJ for enforcement of drug laws, for prosecution of drug law violations, and to fund the state crime laboratories. This bill requires that a portion of the DOJ program revenue funds be transferred to a newly created appropriation in DOA for activities by district attorneys related to <sup>3</sup> deoxyribonucleic acid evidence.

For further information see the *state* 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:*

1 SECTION 1. 20.455 (2) (kd) of the statutes is amended to read:

2 <sup>1</sup> 20.455 (2) (kd) Drug law enforcement ~~and~~, crime laboratories, and

3 <sup>2</sup> genetic ~~A deoxyribonucleic acid~~ evidence activities. The amounts in the schedule for activities

4 relating to drug law enforcement, drug law violation prosecution assistance ~~and~~,

5 activities of the state and regional crime laboratories, and for transferring to the

6 appropriation account under s. 20.475 (1) (km) the amounts in the schedule under

7 s. 20.475 (1) (km). All moneys transferred from the appropriation account under par.

8 (1.m) shall be credited to this appropriation account.

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

9 SECTION 2. 20.475 (1) (km) of the statutes is created to read:

10 20.475 (1) (km) *Deoxyribonucleic acid evidence activities.* The amounts in the

11 schedule for deoxyribonucleic acid evidence activities. All moneys transferred from

12 s. 20.455 (2) (kd) for the purpose of this appropriation shall be credited to this

13 appropriation.

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

1           **SECTION 3.** 939.74 (1) of the statutes is amended to read:

2           939.74 (1) Except as provided in ~~sub. subs.~~ (2), and (2d) and s. 946.88 (1),  
3 prosecution for a felony must be commenced within 6 years and prosecution for a  
4 misdemeanor or for adultery within 3 years after the commission thereof. Within the  
5 meaning of this section, a prosecution has commenced when a warrant or summons  
6 is issued, an indictment is found, or an information is filed.

7           **SECTION 4.** 939.74 (2) (c) of the statutes is amended to read:

8           939.74 (2) (c) A prosecution for violation of s. 948.02, 948.025, 948.03 (2) (a),  
9 948.05, 948.06, 948.07 (1), (2), (3) or (4), 948.08 or 948.095 shall be commenced before  
10 the victim reaches the age of 31 years or be barred, except as provided in sub. (2d)  
11 (c).

12           **SECTION 5.** 939.74 (2d) of the statutes is created to read:

13           939.74 (2d) (a) In this subsection, "deoxyribonucleic acid profile" means any  
14 analysis of deoxyribonucleic acid that results in the identification of an individual's  
15 patterned chemical structure of genetic information.

16           (b) If the state has evidence of a deoxyribonucleic acid profile of a person who  
17 committed a violation of s. 940.225 (1) or (2), the evidence was collected before the  
18 time limitation under sub. (1) expired, and comparisons of the evidence to  
19 deoxyribonucleic acid profiles of known persons made before the time limitation  
20 expired did not result in a probable identification of the person, the state may  
21 commence prosecution of the person within 12 months after comparison of the  
22 deoxyribonucleic evidence relating to the violation results in a probable  
23 identification of the person.

1 (c) If the state has evidence of a deoxyribonucleic acid profile of a person who  
2 committed a violation of s. 948.02 (1) or (2) or 948.025, the evidence was collected  
3 before the time limitation under sub. (2) (c) expired, and comparisons of the evidence  
4 to deoxyribonucleic acid profiles of known persons made before the time limits  
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6 commence prosecution of the person within 12 months after comparison of the  
7 deoxyribonucleic evidence relating to the violation results in a probable  
8 identification of the person.

9 **SECTION 9359. Initial applicability; other.**

10 (1) TIME LIMITATIONS ON PROSECUTIONS IN CERTAIN SEXUAL ASSAULT CASES. The  
11 treatment of section 939.74 (1), (2) (c), and (2d) of the statutes first applies to offenses  
12 not barred from prosecution on the effective date of this subsection.

13 (END)

RMR

DOA:.....Statz – Statute of limitations in sexual assault cases in which DNA evidence is available, and funding for district attorney activities related to DNA evidence

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

In 2/16/01

D-Note

DO NOT GEN

1 AN ACT ...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*

**CRIMES**

**OTHER CRIMINAL LAW**

Current law provides time limits for commencing the prosecution of most crimes, including sexual assault. The state must initiate prosecution within the time limit or it 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 a district attorney files an information alleging that a person committed a specific crime. Time during which a defendant is either a nonresident of the state or is secretly a resident in concealment is not calculated as part of the time limit.

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This bill creates an exception to the time limits for prosecuting the crimes of sexual assault, sexual assault of a child, and repeated sexual assault of the same child in certain circumstances if the state has deoxyribonucleic acid (DNA) evidence

related to the crime. If the state collects DNA evidence related to the crime before the time limit for prosecution expires and does not link the DNA evidence to an identified person until after the time limit expires, the state may initiate prosecution for the crime within one year of making the match.

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Under current law, a portion of the revenue generated from crime laboratories and drug law enforcement assessment and from the deoxyribonucleic acid surcharge is appropriated to DOJ for enforcement of drug laws, for prosecution of drug law violations, and to fund the state crime laboratories. This bill requires that a portion of the DOJ program revenue funds be transferred to a newly created appropriation in DOA for activities by district attorneys related to deoxyribonucleic acid evidence.

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

1           SECTION 1. 20.455 (2) (kd) of the statutes is amended to read:

2           20.455 (2) (kd) *Drug law enforcement ~~and~~, crime laboratories, and genetic*  
3 *evidence activities.* The amounts in the schedule for activities relating to drug law  
4 enforcement, drug law violation prosecution assistance ~~and~~, activities of the state  
5 and regional crime laboratories, and for transferring to the appropriation account  
6 under s. 20.475 (1) (km) the amounts in the schedule under s. 20.475 (1) (km). All  
7 moneys transferred from the appropriation account under par. (Lm) shall be credited  
8 to this appropriation account.

          \*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

9           SECTION 2. 20.475 (1) (km) of the statutes is created to read:

10          20.475 (1) (km) *Deoxyribonucleic acid evidence activities.* The amounts in the  
11 schedule for deoxyribonucleic acid evidence activities. All moneys transferred from  
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11 (2d) (c).

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22 deoxyribonucleic evidence relating to the violation results in a probable  
23 identification of the person.





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

LRB-1617/1dn

RLR:.....

WJ

Andrew <sup>g</sup> ✓

This redraft adds the word "account" after "appropriation" in s. 20.475 (1) (km),<sup>✓</sup> as created by the bill.

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

LRB-1617/1dn  
RLR:wljjf

February 16, 2001

Andrew:

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Robin Ryan  
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State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-1617/1  
RLR:jld&wlj:jf

DOA:.....Statz – Statute of limitations in sexual assault cases in which DNA evidence is available, and funding for district attorney activities related to DNA evidence

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

---

*Analysis by the Legislative Reference Bureau*

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5 and regional crime laboratories, and for transferring to the appropriation account  
6 under s. 20.475 (1) (km) the amounts in the schedule under s. 20.475 (1) (km). All  
7 moneys transferred from the appropriation account under par. (Lm) shall be credited  
8 to this appropriation account.

      \*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

9           SECTION 2. 20.475 (1) (km) of the statutes is created to read:

10          20.475 (1) (km) *Deoxyribonucleic acid evidence activities.* The amounts in the  
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\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

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6 is issued, an indictment is found, or an information is filed.

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11 (2d) (c).

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21 commence prosecution of the person within 12 months after comparison of the  
22 deoxyribonucleic evidence relating to the violation results in a probable  
23 identification of the person.

1 (c) If the state has evidence of a deoxyribonucleic acid profile of a person who  
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3 before the time limitation under sub. (2) (c) expired, and comparisons of the evidence  
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6 commence prosecution of the person within 12 months after comparison of the  
7 deoxyribonucleic evidence relating to the violation results in a probable  
8 identification of the person.

9 **SECTION 9359. Initial applicability; other.**

10 (1) TIME LIMITATIONS ON PROSECUTIONS IN CERTAIN SEXUAL ASSAULT CASES. The  
11 treatment of section 939.74 (1), (2) (c), and (2d) of the statutes first applies to offenses  
12 not barred from prosecution on the effective date of this subsection.

13 (END)