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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS

2001-02

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on ... Corrections and Courts (AC-CC)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
  (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
  (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Mike Barman (LRB) (May/2012)

Assembly

Record of Committee Proceedings

Committee on Corrections and the Courts

Assembly Bill 291

Relating to: time limits for prosecution of certain sexual assault crimes, preservation of certain evidence, and postconviction and post commitment deoxyribonucleic acid testing of evidence.

By Representatives Walker, Wasserman, Bies, Berceau, Freese, Gunderson, Gundrum, Hahn, Hundertmark, Kestell, Ladwig, La Fave, F. Lasee, Kreuser, McCormick, Musser, Nass, Owens, Plouff, Reynolds, Starzyk, Turner, Wade, Stone, Miller, Kedzie, Sykora, Olsen, Vrakas and Balow; cosponsored by Senators Burke, Erpenbach, Huelsman, Rosenzweig and Darling.

April 3, 2001 Referred to Committee on Corrections and the Courts.

April 4, 2001 **PUBLIC HEARING HELD**

Present: (5) Representatives Walker, Friske, Skindrud, Coggs and Colon.

Absent: (5) Representatives Suder, Owens, Underheim, Balow and Pocan.

Appearances for

- Rep. Scott Walker, Author
- Norman Gahn, Milwaukee Co. District Attorney's office
- Ray Dall'Osto, WI State Bar -- Criminal Law Section
- Keith Findley, Wisconsin Innocence Project

Appearances against

- None

Appearances for Information Only

- None

Registrations for

- Cory Mason, WI State Bar

Registrations against

- None

April 18, 2001 **EXECUTIVE SESSION**

Present: (10) Representatives Walker, Suder, Friske, Owens, Skindrud, Underheim, Balow, Coggs, Pocan and Colon.
Absent: (0) None.

Moved by unanimous consent that **LRB 0431/2** be recommended for introduction.

Ayes: (10) Representatives Walker, Suder, Friske, Owens, Skindrud, Underheim, Balow, Coggs, Pocan and Colon.
Noes: (0) None.
Absent: (0) None.

INTRODUCTION RECOMMENDED, Ayes 10, Noes 0, Absent 0

Moved by Representative Suder, seconded by Representative Balow, that **LRB 0431/2** be recommended for adoption.

Ayes: (10) Representatives Walker, Suder, Friske, Owens, Skindrud, Underheim, Balow, Coggs, Pocan and Colon.
Noes: (0) None.
Absent: (0) None.

ADOPTION RECOMMENDED, Ayes 10, Noes 0, Absent 0

Moved by Representative Suder, seconded by Representative Balow, that **Assembly Bill 291** be recommended for passage as amended.

Ayes: (10) Representatives Walker, Suder, Friske, Owens, Skindrud, Underheim, Balow, Coggs, Pocan and Colon.
Noes: (0) None.
Absent: (0) None.

PASSAGE AS AMENDED RECOMMENDED, Ayes 10, Noes 0, Absent 0

Committee Clerk

Vote Record

Assembly - Committee on Corrections and the Courts

Date: 4/18/01
Moved by: Suder
Seconded by: Balow
Clearinghouse Rule:
AB: 291 SB:
Appointment:
AJR: SJR:
Other:
AR: SR:

A/S Amdt:
A/S Amdt: to A/S Amdt:
A/S Sub Amdt:
A/S Amdt: to A/S Sub Amdt:
A/S Amdt: to A/S Amdt: to A/S Sub Amdt:

Be recommended for:

- [X] Passage
- [ ] Introduction
- [ ] Adoption
- [ ] Rejection
- [ ] Indefinite Postponement
- [ ] Tabling
- [ ] Concurrence
- [ ] Nonconcurrence
- [ ] Confirmation

Committee Member	Aye	No	Absent	Not Voting
Rep. Scott Walker, Chair	X			
Rep. Scott Suder	X			
Rep. Donald Friske	X			
Rep. Carol Owens	X			
Rep. Rick Skindrud	X			
Rep. Gregg Underheim	X			
Rep. Larry Balow	X			
Rep. G. Spencer Coggs	X			
Rep. Mark Pocan	X			
Rep. Pedro Colon	X			
Totals:				

- [ ] Motion Carried
- [ ] Motion Failed

Vote Record

Assembly - Committee on Corrections and the Courts

Date: 4/18/01
Moved by: Suder
Seconded by: Balow
Clearinghouse Rule:
AB: 291 SB:
AJR: SJR:
AR: SR:
Appointment:
Other:

A/S Amdt: 0431/2
A/S Amdt: to A/S Amdt:
A/S Sub Amdt:
A/S Amdt: to A/S Sub Amdt:
A/S Amdt: to A/S Amdt: to A/S Sub Amdt:

Be recommended for:
- ☐ Passage
- ☐ Introduction
- ☒ Adoption
- ☐ Rejection
- ☐ Indefinite Postponement
- ☐ Tabling
- ☐ Concurrence
- ☐ Nonconcurrence
- ☐ Confirmation

Committee Member	Aye	No	Absent	Not Voting
Rep. Scott Walker, Chair	☒	☐	☐	☐
Rep. Scott Suder	☒	☐	☐	☐
Rep. Donald Friske	☒	☐	☐	☐
Rep. Carol Owens	☒	☐	☐	☐
Rep. Rick Skindrud	☒	☐	☐	☐
Rep. Gregg Underheim	☒	☐	☐	☐
Rep. Larry Balow	☒	☐	☐	☐
Rep. G. Spencer Coggs	☒	☐	☐	☐
Rep. Mark Pocan	☒	☐	☐	☐
Rep. Pedro Colon	☒	☐	☐	☐
Totals:				

☐ Motion Carried ☐ Motion Failed

Vote Record

Assembly - Committee on Corrections and the Courts

Date: 4/18/01
Moved by: unanimous consent
Seconded by: _____
Clearinghouse Rule: _____
AB: 291 SB: _____ Appointment: _____
AJR: _____ SJR: _____ Other: _____
AR: _____ SR: _____

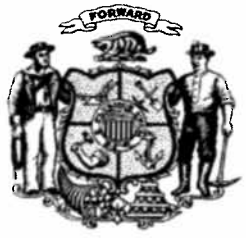
A/S Amdt: 0431/1
A/S Amdt: _____ to A/S Amdt: _____
A/S Sub Amdt: _____
A/S Amdt: _____ to A/S Sub Amdt: _____
A/S Amdt: _____ to A/S Amdt: _____ to A/S Sub Amdt: _____

Be recommended for:
- ☐ Passage
- ☒ Introduction
- ☐ Adoption
- ☐ Rejection
- ☐ Indefinite Postponement
- ☐ Tabling
- ☐ Concurrence
- ☐ Nonconcurrence
- ☐ Confirmation

Committee Member	Aye	No	Absent	Not Voting
Rep. Scott Walker, Chair	☐	☐	☐	☐
Rep. Scott Suder	☐	☐	☐	☐
Rep. Donald Friske	☐	☐	☐	☐
Rep. Carol Owens	☐	☐	☐	☐
Rep. Rick Skindrud	☐	☐	☐	☐
Rep. Gregg Underheim	☐	☐	☐	☐
Rep. Larry Balow	☐	☐	☐	☐
Rep. G. Spencer Coggs	☐	☐	☐	☐
Rep. Mark Pocan	☐	☐	☐	☐
Rep. Pedro Colon	☐	☐	☐	☐
Totals:	_____	_____	_____	_____

☐ Motion Carried ☐ Motion Failed


WISCONSIN STATE LEGISLATURE


FORWARD

WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO

2001 Assembly Bill 291	Assembly Amendments 1 and 2
Memo published: June 18, 2001	***Contact*: Anne Sappenfield, Senior Staff Attorney (267-9485)**

2001 Assembly Bill 291 extends the statute of limitations for certain crimes of sexual assault if DNA evidence is available, requires the preservation of biological evidence, and permits post-conviction DNA testing.

Assembly Amendment 1

Current statutes impose various time limits on post-conviction motions and appeals of criminal convictions. ***Assembly Bill 291*** creates a special provision permitting motions for post-conviction DNA testing of evidence. At any time after being convicted of a crime, adjudicated delinquent or found not guilty by reason of mental disease or defect, a person may make a motion in the court where the judgment was rendered for an order requiring forensic DNA testing of evidence that is relevant to the investigation or prosecution that resulted in the judgment and that meets other conditions to assure its credibility.

The bill ***requires*** the court in which the motion is made to order forensic DNA testing if it is reasonably probable that the person would not have been prosecuted, convicted, found not guilty by reason of mental disease or deficit, or adjudicated delinquent if exculpatory DNA testing results had been available and if specified conditions relating to the evidence are met.

The court ***may*** order DNA testing if the criminal conviction or sentence, the finding or commitment due to a finding of not guilty by reason of mental disease or defect, or the juvenile delinquency adjudication or disposition would have been more favorable to the person if the results of DNA testing had been available and conditions relating to the evidence are met.

Assembly Amendment 1 provides that a court is required to order DNA testing if the person making the motion for the testing claims that he or she is innocent of the offense at issue in addition to making the other required showings under the bill.

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(OVER)

Regarding permissive DNA testing, under the amendment, the person making the motion must show that it is reasonably probable that the outcome of the proceedings that resulted in the conviction or other judgment would have been more favorable to the person if the results of DNA testing had been available.

The amendment also makes several technical changes to the provisions relating to post-conviction DNA testing.

Assembly Amendment 2

Assembly Bill 291 generally provides that the state crime laboratories, the courts, law enforcement agencies and district attorneys must preserve physical evidence that includes any biological material collected in connection with a criminal action or a juvenile delinquency proceeding until every person in custody as a result of the criminal action or delinquency proceeding has reached his or her discharge date.

Assembly Amendment 2 allows the state crime laboratories to return biological evidence to the officer or agency that submitted the evidence to the laboratory. Also under the amendment, the court, in determining whether biological evidence must be preserved, may not order an agency to transfer evidence to a crime laboratory for preservation unless the laboratory consents to the transfer.

The Assembly adopted Assembly Amendments 1 and 2 on a voice vote and unanimously passed Assembly Bill 291 on June 12, 2001.

AS:wu:tlu;rv


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WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO

2001 Assembly Bill 291	Assembly Amendment 1
Memo published: May 1, 2001	***Contact*: Anne Sappenfield, Senior Staff Attorney (267-9485)**

2001 Assembly Bill 291 extends the statute of limitations for certain crimes of sexual assault if DNA evidence is available, requires the preservation of biological evidence, and permits post-conviction DNA testing. Assembly Amendment 1 modifies the provisions of the bill relating to post-conviction testing.

Assembly Bill 291

Current statutes impose various time limits on post-conviction motions and appeals of criminal convictions. Assembly Bill 291 creates a special provision for a motion for post-conviction DNA testing of evidence. At any time after being convicted of a crime, adjudicated delinquent or found not guilty by reason of mental disease or defect, a person may make a motion in the court where the judgment was rendered for an order requiring forensic DNA testing of evidence that is relevant to the investigation or prosecution that resulted in the judgment and that meets other conditions to assure its credibility.

Under the bill, the court in which the motion is made ***must*** order forensic DNA testing if it is reasonably probable that the person would not have been prosecuted, convicted, found not guilty by reason of mental disease or deficit, or adjudicated delinquent if exculpatory DNA testing results had been available and if specified conditions relating to the evidence are met.

The court ***may*** order DNA testing if the criminal conviction or sentence, the finding or commitment due to a finding of not guilty by reason of mental disease or defect, or the juvenile delinquency adjudication or disposition would have been more favorable to the person if the results of DNA testing had been available and conditions relating to the evidence are met.

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(OVER)

Assembly Amendment 1

The amendment provides that a court is required to order DNA testing if the person making the motion for the testing claims that he or she is innocent of the offense at issue in addition to making the other required showings under the bill.

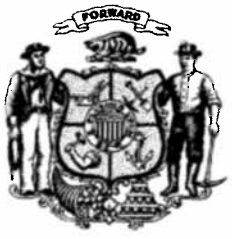
Regarding permissive DNA testing, under the amendment, the person making the motion must show that it is reasonably probable that the outcome of the proceedings that resulted in the conviction or other judgment would have been more favorable to the person if the results of DNA testing had been available.

The amendment also makes several technical changes to the provisions relating to post-conviction DNA testing.

The Assembly Committee on Corrections and the Courts recommended adoption of Assembly Amendment 1 [Ayes, 10, Noes, 0] and passage of Assembly Bill 291 [Ayes, 10, Noes, 0] on April 18, 2001.

AS:wu:tlu


WISCONSIN STATE LEGISLATURE


FORWARD

UNIVERSITY OF
WISCONSIN
MADISON

Clinical Faculty:
Keith A. Findley, Co-Director
John A. Pray, Co-Director
Wendy S. Paul

FRANK J. REMINGTON CENTER
For Education, Research, and Service in Criminal Justice
WISCONSIN INNOCENCE PROJECT

Frank J. Remington (1922-1996), Founder

AB291 folder

March 14, 2001

Representative Scott Walker
State Capitol
PO Box 8953
Madison, WI 53708

Dear Representative Walker:

Thank you so much joining our recent panel discussion at the law school concerning Christopher Ochoa and DNA. We thought that the panel discussion was most interesting and gave us much to think about.

We are very hopeful that legislation will be enacted this session that will address some of the problems that create such wrongful convictions. We look forward to continuing to work with you on these important issues.

Thanks again for coming and sharing your thoughts.

Sincerely,

John Pray

japraye facstaff.wisc.edu

John Pray
Co-Director
Wisconsin. Innocence Project

Keith Findley
Co-Director
Wisconsin Innocence Project

Law School

Law Building University of Wisconsin-Madison 975 Bascom Mall Madison, Wisconsin 53706-1399
608/262-1002 FAX: 608/263-3380 www.law.wisc.edu/FJR/innocence/index.htm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AB 291

WISCONSIN LEGISLATIVE COUNCIL
STAFF MEMORANDUM

TO: REPRESENTATIVE SCOTT WALKER

FROM: Anne Sappenfield, AS Senior Staff Attorney

RE: 2001 Assembly Bill __, Relating to Time Limits for Prosecution of Certain Crimes of Sexual Assault and Post-Conviction Motions for Testing of Certain Evidence

DATE: April 2, 2001

This memorandum, prepared at your request, summarizes the major substantive provisions of 2001 Assembly Bill __ (LRB-0670/1), relating to preservation and maintenance of certain evidence, time limits for prosecution of certain crimes of sexual assault and post-conviction motions for testing of certain evidence.

A. STATUTE OF LIMITATION

1. Current Law

Section 939.74 (1), Stats., generally provides that, after the commission of a misdemeanor or after the commission of a felony, a criminal prosecution must begin within three years or six years, respectively. Exceptions to this general rule include the following:

a. A prosecution may begin at any time for the crime of first-degree intentional homicide, first-degree reckless homicide or felony murder.

b. When a person lawfully has obtained possession of property and then misappropriated it, a prosecution may begin within one year after discovery of the loss by the victim, but in no case may the general statute of limitation be extended by more than five years.

c. A prosecution for the following crimes must begin before the victim reaches the age of 31 years: sexual assault of a child, engaging in repeated acts of sexual assault of the same child, intentionally causing great bodily harm to a child, sexual exploitation of a child, incest with a child, various forms of child enticement, soliciting a child for prosecution and sexual assault of a student by a school instructional staff person.

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d. A prosecution for the following crimes must begin before the victim reaches the age of 26 years: intentionally causing bodily harm to a child, intentionally causing bodily harm to a child by conduct which creates a high probability of great bodily harm, causing mental harm to a child and causing bodily or mental harm to a child through child enticement.

e. A criminal prosecution for racketeering activity may begin at any time within six years after the criminal violation terminates or the cause of action accrues.

[See ss. 939.74 (1) and (2) and 946.88 (1), Stats.]

2. The Bill

Under the bill, a prosecution for a violation of first- or second-degree sexual assault, first- or second-degree sexual assault of a child or engaging in repeated acts of sexual assault of a child may be commenced within one year after a comparison of the DNA profile evidence relating to the violation results in a probable identification of the person, if the state has evidence of a DNA profile of a person who committed the violation but comparisons of the evidence to DNA profiles of known persons that were made before the statute of limitations expired did not result in a probable identification of the person.

B. PRESERVATION OF EVIDENCE

The bill generally provides that the state crime laboratories, the courts, law enforcement agencies and district attorneys must preserve physical evidence that includes any biological material collected in connection with a criminal action or a juvenile delinquency proceeding until every person in custody as a result of the criminal action or delinquency proceeding has reached his or her discharge date. The term "custody" is defined to mean actual custody of a person under a sentence of imprisonment; custody of a probationer, parolee or person on extended supervision; actual or constructive custody of a person under a juvenile dispositional order; supervision of a person, whether in institutional care or on conditional release, pursuant to a commitment order; and supervision of a sexually violent offender under ch. 980, Stats., whether in detention before trial or while in institutional care or on supervised release pursuant to a commitment order. The term "discharge date" means the date on which a person is released or discharged from custody including release from custody under all consecutive sentences of imprisonment.

Biological material may be destroyed before the release from custody if all of the following apply:

1. Notice of intent to destroy is sent to all persons who remain in custody and to either the attorney of record for each person in custody or the state public defender.

2. No person who has been notified either files a motion for testing of the biological material or submits a written request to preserve the evidence within 90 days after receiving the notice.

3. No other provision of federal or state law requires preservation of the biological material.

If the holder of the biological material receives a written request to preserve the evidence, the evidence must be preserved until the discharge date of the person who made the request unless the court authorizes the destruction.

C. ADMISSIBILITY OF DNA EVIDENCE

1. Current Law

Current law regarding admissibility of evidence defines "DNA profile" to mean an analysis that uses the restriction fragment length polymorphism (RFLP) analysis of DNA resulting in the identification of an individual's patterned chemical structure of genetic information.

In any criminal action or proceeding, the evidence of a DNA profile is admissible to prove or disprove the identity of any person if the party seeking to introduce evidence of the profile complies with all of the following:

a. Notifies the other party in writing by mail at least 45 days before the date set for trial, or at any time if a trial date has not been set, of the intent to introduce the evidence.

b. If the other party so requests at least 30 days before the date set for trial, or at any time if a trial date has not been set, provides specific information relating to the RFLP analysis within 15 days after receiving the request unless the court grants a continuance. [s. 972.11 (5), Stats.]

2. The Bill

The bill defines "DNA profile" to mean an individual's patterned chemical structure of genetic information identified by analyzing biological material that contains the individual's DNA. This definition is broader than the current definition and, therefore, includes DNA profiles that are obtained using RFLP analysis and other methods of analysis.

The bill eliminates the current language that specifies what items must be disclosed in order to introduce DNA evidence and instead applies current law relating to introduction of scientific evidence to DNA evidence. This requires the disclosure of any expert's written report or statement regarding the analysis of the DNA evidence. If an expert does not prepare a written report or statement, the defendant must disclose a written summary of the findings and any scientific data the defendant plans to introduce. The timelines for disclosing the intent to introduce the evidence and requested information remain the same as under current law.

The bill also requires the court to exclude DNA profile evidence at trial if the notice and production deadlines are not met. However, the court may waive the 45-day notice requirement or may extend the 15-day production requirement upon stipulation of the parties or for good cause if the court finds that no party will be prejudiced by the waiver or extension. The court may also grant the opposing party a recess or continuance in appropriate cases.

D. MOTION FOR POST-CONVICTION DNA TESTING OF CERTAIN EVIDENCE

1. Making the Motion

Current statutes impose various time limits on post-conviction motions and appeals of criminal convictions. The bill creates a special provision for a motion for post-conviction DNA testing of evidence. At any time after being convicted of a crime, adjudicated delinquent or found not guilty by reason of mental disease or defect, a person may make a motion in the court where the judgment was rendered for an order requiring forensic DNA testing of evidence to which all of the following apply:

a. The evidence is relevant to the investigation or prosecution that resulted in the judgment.

b. The evidence is in the actual or constructive possession of a government agency.

c. The evidence has not previously been subjected to forensic DNA testing or, if the evidence has previously been tested, it may now be subjected to another test using a scientific technique that was either not available or was not utilized at the time of the previous testing and that provides a reasonable likelihood of more accurate and probative results.

The person who makes the motion for testing or his or her attorney must notify the office of the district attorney that prosecuted the case and, in turn, the court in which the motion is made also must notify the district attorney's office. However, failure by a person making the motion to notify the district attorney's office does not deprive the court of jurisdiction and is not grounds for dismissal of the motion. Further, the clerk of the circuit court must send a copy of the motion and a notice of hearing on the motion to the victim of the crime.

When the district attorney first receives notice of the motion, he or she must take all actions necessary to ensure that all biological material collected in connection with the investigation or prosecution of the case and that remains in actual or constructive custody of a government agency is preserved pending completion of the proceedings relating to the motion.

2. Discovery

Under the bill, the district attorney must disclose any findings based on testing of biological materials and any physical evidence that is in the actual or constructive possession of a government agency and that contains biological material or on which there is biological material to the person making the motion or his or her attorney, upon request.

In addition, the person making the motion or his or her attorney must disclose to the district attorney whether biological material has been tested and must make available any findings based on testing of biological materials and the person's biological specimen, upon request.

The court may impose reasonable conditions on the availability of physical evidence or biological specimens requested in order to protect the integrity of the evidence.

These provisions do not apply, however, unless the information being disclosed or the material being made available is relevant to the person's claim of innocence at issue in the person's motion.

3. Judicial Procedure

A court in which the motion is made ***must*** order forensic DNA testing if all of the following apply:

a. It is reasonably probable that the person would not have been prosecuted, convicted, found not guilty by reason of mental disease or deficit, or adjudicated delinquent if exculpatory DNA testing results had been available.

b. The evidence is in the actual or constructive custody of a government agency.

c. The chain of custody of the evidence to be tested establishes that the evidence has not been tampered with, replaced or altered in any material respect or, if the chain of custody does not establish the integrity of the evidence, that the testing itself can establish the integrity of the evidence.

d. The evidence has not previously been subjected to forensic DNA testing or, if the evidence has previously been tested, it may now be subjected to another test using a scientific technique that was not available or was not utilized at the time of the previous testing and that provides a reasonable likelihood of more accurate and probative results.

A court ***may*** order DNA testing if the criminal conviction or sentence, the finding or commitment due to a finding of not guilty by reason of mental disease or defect, or the juvenile delinquency adjudication or disposition would have been more favorable to the person if the results of DNA testing had been available and the conditions under items b. through d., above, apply.

The court may impose reasonable conditions or any testing ordered in order to protect the integrity of the evidence and the testing process. In addition, if appropriate and if stipulated to by the person and the district attorney, the court may order the state crime laboratories to perform the testing.

The court may order a person making a motion to pay the costs of any testing ordered if the court determines that the person is not indigent.

If the court does not order DNA testing, or if the results of testing are not supportive of the person's innocence claim, the court must determine the disposition of the evidence subject to the following:

a. If a person other than the person who made the motion is in custody, the evidence is relevant to the judgment that resulted in the person being in custody, the person has not been denied DNA testing or post-conviction relief as provided in the bill, and the person has not waived his or her right to preserve the DNA evidence, the court must order the evidence preserved until all persons entitled to have the evidence preserved are released from custody. The court must also designate who will preserve the evidence.

b. If the above conditions do not apply, the court must determine the disposition of the evidence. If the evidence is to be preserved, the court must also determine who will preserve the evidence and for how long.

If the results of the testing support the person's claim of innocence, the court must schedule a hearing to determine the appropriate relief to be granted. After the hearing and based on the results of the testing and any evidence or other matter presented at the hearing, the court must enter any order that serves the interests of justice, including any of the following:

a. An order setting aside or vacating the judgment.

b. An order granting a new trial or fact-finding hearing.

c. An order granting the person a new sentencing hearing, commitment hearing or dispositional hearing.

d. An order discharging the person from custody.

e. An order specifying the disposition of any evidence that remains after the completion of testing.

If a person has been committed after serving a sentence for the commission of certain sexually violent acts, and the criminal judgment is reversed, set aside or vacated, the committed person may make a motion for post commitment relief. If the sexually violent offense was the only reason for the commitment and there are no other judgments relating to a sexually violent offense committed by the person, the court must vacate the commitment or discharge the person. In all other cases (other convictions stand or other reasons for the commitment exist), the court must determine whether a new commitment trial should be held because the result of the trial probably would be changed.

4. Indigency

A court considering a motion for forensic DNA testing by a person who is not represented by counsel must, if the person claims or appears to be indigent, refer the person to the state public defender for determination of indigency and appointment of counsel. If the court determines that a person is indigent, the court must order the costs of testing to be paid for from an appropriation created in the bill. (No dollar amounts are placed in this appropriation line.) A court must find indigency if any of the following apply:

a. The person was referred to the state public defender and was found to be indigent.

b. The person was referred to the state public defender but was found not to be indigent, and the court determines that the person does not possess the financial resources to pay the costs of testing.

c. The person was not referred to the state public defender and the court determines that the person does not possess the financial resources to pay the costs of testing.

If I can be of any further assistance in this matter, please feel free to contact me.

AS:all:wu;rv


FORWARD

STATE BAR of WISCONSIN

5302 Eastpark Blvd.
P.O. Box 7158
Madison, WI 53707-7158

Legislative Position

To: Assembly Committee on Corrections and the Courts

From: Ray Dall'Osto, Chair of the Criminal Law Section of the State Bar of Wisconsin

Date: April 4, 2001

Re: AB291—DNA Legislation

The Criminal Law Section of the State Bar of Wisconsin **supports with amendment AB291,** relating to statutes of limitation for certain crimes and postconviction testing of DNA evidence.

The Criminal Law Section supports this bill for four reasons:

1. AB291 allows prosecutors to eliminate the statute of limitation for first and second-degree sexual assault. Although the Criminal Law Section has concerns about the current drafting language, science has clearly outpaced the law in this regard. We applaud efforts to use reliable scientific techniques to not only hold individuals responsible for these serious sex crimes, but also to exclude those suspects who are not culpable.
2. AB291 provides a statutory procedure for convicted individuals to prove their actual innocence using DNA evidence. There have already been over 80 cases of overturned wrongful convictions in the last ten years utilizing DNA evidence. The Section believes that no individual should ever be punished for a crime that he or she did not commit.
3. AB291 also requires the preservation of DNA evidence after conviction. As DNA evidence and databases become more commonplace, the Criminal Law Section believes that maintaining this evidence is essential to assure fairness in the criminal justice system.
4. AB291 allows for the indigent to request DNA postconviction testing. It is essential that this mechanism to prove actual innocence be extended to all of our citizens, regardless of income.

The Criminal Law Section applauds the efforts of the authors of this bill, especially in their willingness to address both the statute of limitations and postconviction aspects in the bill, as well as their consideration of the Criminal Law Section's input.

However, the Criminal Law Section has three suggestions that we believe are important to improve the integrity of the bill.

1. PROBABLE CAUSE

First is the language used in extending the statute of limitations. If we are to take the extraordinary step of eliminating the statute of limitation, a step that until now our society has reserved solely for murder cases, we must make sure that the language ensures that citizens will

not be subject to unreasonable prosecution for a crime that allegedly happened many years or decades ago.

The use of DNA evidence in and of itself is not enough. If we are to eliminate the statute of limitation when DNA evidence is present, it must be clear and convincing that the perpetrator of the crime left the DNA evidence. A hair found across the room at the crime scene may not meet that standard, especially if the suspect had legitimate access to the room. As DNA testing methods become more advanced and genetic profiles can be obtained from items as minute as dandruff, skin cells, sweat, and saliva, the potential for error and abuse exists.

Therefore, the Criminal Law Section of the State Bar strongly urges that a probable cause standard for use of DNA evidence be met before the statute of limitation can be circumvented.

2. JUDICIAL DISCRETION

Section 36 of the bill creates §947.07(7) of the statutes that defines when postconviction testing *shall* occur and when it *may* occur. While the Criminal Law Section of the State Bar supports the language as to when a testing *shall* occur, we believe that more flexibility should be given to the judge when determining when a postconviction DNA test *may* occur. This does not leave the door open for an abuse of testing, but it does allow a judge some flexibility to review the specific circumstances of a case and reach the conclusion that a test is warranted in the interests of justice.

3. NEW EVIDENCE

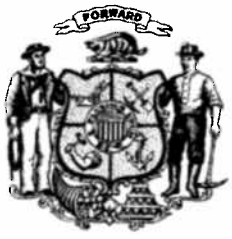
The catalyst behind the move for postconviction DNA testing is the development of a scientific tool that proves that the criminal justice system made a mistake in a particular case. The Criminal Law Section believes that to limit the establishment of actual innocence solely to DNA evidence would be a mistake. No person should be incarcerated for a crime he or she did not commit. We suggest amending §12, 805.16(5) to read:

> *Time limits in this section do not apply to motions made under 974.06, 974.07, 980.101, or to other motions seeking new trials based on newly discovered evidence in criminal or juvenile delinquency cases.*

We look forward to working with Legislators on this bill and are optimistic about its passage and the positive effect it will have on providing justice for all.

If you have any questions or concerns for our membership (which includes prosecutors, judges, and defense attorneys) feel free to contact Cory Mason, Government Relations Coordinator at the State Bar of Wisconsin at 1/800-444-9404 x6128, email at 'cmason@wisbar.org'; or Attorney Ray Dall'Osto, Chair of the Criminal Law Section at 414/271-1440, email at 'dallosto@grgblaw.com.'


WISCONSIN STATE LEGISLATURE


FORWARD

WISCONSIN
STATE
ASSEMBLY

SHELDON
WASSERMAN
STATE REPRESENTATIVE

April 4, 2001

Testimony of Rep. Sheldon Wasserman
Submitted to the Assembly Committee on Corrections and the Courts
In Support of Assembly Bill 291

Good afternoon, Chairman Walker and committee members. I regret that I cannot attend the public hearing today due to a conflicting committee meeting in Madison. I would, however, like to submit comments in favor of Assembly Bill 291 for your review.

I am co-authoring this bill with Representative Walker for many reasons. Most importantly, in my job as a practicing OB/GYN physician, I counsel women who have been sexually assaulted and sexually abused. I have personally seen the horrible effects that survivors endure. And never once has one of them told me that there is a 6-year statute of limitations on her suffering.

Multiple studies have documented that rape causes severe physical and psychological complications in victims. Some survivors suffer permanent damage, and others experience varying degrees of manifestations. I want to share with you some of the effects of sexual assault that I encounter on a daily basis.

Physical presentations of what health care professionals may observe include, but are not limited to, asthma and other respiratory ailments, chronic back pain, migraines, muscle and joint pain, gastrointestinal problems, vomiting, fainting spells, obesity, substance abuse, sexual disfunction, and an increased incidence of surgeries.

A host of deep psychological problems have also been documented, including post-traumatic stress disorder in which common life events can trigger a return of the ordeal. Others include difficulty in maintaining long term relationships, feelings of powerlessness, screaming, long term problems of self-perception, signs of amnesia, suicide, insomnia, depression, anxiety, and expectations of early death.

Survivors of sexual assault and sexual abuse are twice as likely to smoke, nearly 5 times as likely to abuse alcohol, nearly 4 times as likely to take drugs and 7 times as likely to inject drugs. They are twice as likely to be severely sexually abused. Survivors are 3 times as likely to have 50 or more intercourse partners and twice as likely to contract sexually transmitted diseases.

Rape is one of the most heinous and most rapidly growing crimes in our society. The prevalence of sexual assault and sexual abuse is staggering. Current estimates indicate that 12 to 40 percent of the general population will be abused or assaulted.

Attached you will find a table that shows sexual assault statistics for Wisconsin from 1995 to 2000. The table lists the number of forcible rapes (forcible vaginal intercourse with a female against her will), together with the number of rapists that have been apprehended. Apprehended rapists refer to those who have been captured by law enforcement and have not necessarily been convicted.

(more)

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The final column shows the number of sexual assaults reported. These numbers are much larger since other offenses such as fondling and statutory rape are included in the sexual assault numbers.

The discrepancy between the number of assaults reported and the number of rapists who have been captured is unacceptable.

We must do everything we can to strengthen our laws and use every technological advance to put rapists behind bars. One way that we can assist in making this possible is by passing Assembly Bill 291.

Updating Wisconsin statutes to reflect technological advances in genetic testing is of the utmost importance. The impact on rape cases alone would be significant. DNA evidence is 99.99% reliable; it must be collected within one or two days; and it provides irrefutable proof against rapists who may now escape prosecution due to the current 6-year statute of limitations. If DNA evidence is present and conclusive, regardless of how long ago a rape occurred, then we must legally have the ability to convict the offender.

As a provider of services to women, I have witnessed the physical and psychological damages caused by sexual abuse and assault. The long-term effects are very complex and often devastating to survivors.

It is time for us to update our laws to help rape victims bring their attackers to justice. Please join me in supporting Assembly Bill 291.

Thank you.

Testimony of Rep. Sheldon Wasserman, April 4, 2001
Attachment

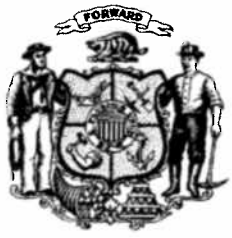
This table shows the number of forcible rapes (forcible vaginal intercourse with a female against her will) together with the number of rapists who have been apprehended. The apprehension does not necessarily imply any conviction. The final column shows the number of sexual assaults reported. These numbers are much larger since other offenses such as fondling and statutory rape are included in the sexual assault numbers.

Year	Forcible Rapes	Rapists Apprehended	Sexual Assaults
1995	1,191	53.7	6,101
1996	1,101	63.2	6,020
1997	1,051	63.1	5,881
1998	1,162	66.1	6,056
1999	1,062	70.5	5,998
2000 (est)	1,110	70.4	NA

The total number of both forcible rapes and sexual assaults has been fairly constant over the past 7 years. However, the proportion of apprehended rapists has increased.

Source: Office of Justice Assistance, March 2001

WISCONSIN STATE LEGISLATURE



APR 0 9 2001

WISCONSIN LEGISLATIVE COUNCIL
STAFF MEMORANDUM

TO: REPRESENTATIVE SCOTT WALKER

FROM: Shaun Haas, Senior Staff Attorney SH

RE: Elements of the Crime of Election Fraud

DATE: April 9, 2001

AB 291 folder

This memorandum, prepared at the request of your aide Greg Reiman, addresses the question of the elements that must be proved for conviction of a violation of the prohibition against election fraud occurring as a result of the intentional voting at an election by a person who does not have the necessary elector qualifications. Violation of this felony prohibition is punishable by a fine not to exceed $10,000 or imprisonment not to exceed four years and six months, or both. [ss. 12.13 (1) (a) and 12. 60 (1) (a), Stats., attached.] You specifically raise the question whether or not the prosecutor would have to prove that a convicted felon, who is disqualified from voting in any election pursuant to s. 6.03 (1) (b), Stats., had knowledge of the voting disqualification under s. 6.03 (1) (b), Stats., in order to obtain a conviction for intentionally voting in an election without the necessary elector qualifications in violation of s. 12.13 (1) (a), Stats.

An analysis of the relationship between the elector disqualification statute [in particular, s. 6.03 (1) (b), Stats.] and the election fraud statute [in particular, s. 12.13 (1) (a), Stats.] is contained in a letter from Thomas J. Balistreri, Assistant Attorney General, to E. Michael McCann, Milwaukee County District Attorney, dated March 15, 2001 (copy attached). In his analysis, Mr. Balistreri concludes that a conviction for violation of s. 12.13 (1) (a), Stats., requires proof beyond a reasonable doubt of a criminal intent to perform an act that is a violation of the law (i.e., voting without the necessary elector qualifications) but does not require proof that he or she knew about the law that makes his or her conduct criminal or that he or she intended to violate a law of which he or she was not aware. As expressed by Mr. Balistreri: "It is not an intent to violate the law but the intentional performance of an act which is in fact in violation of the law that is proscribed by a statute having intent as an element." [*Id.* at p. 3; citations omitted.] However, Mr. Balistreri emphasizes: "Although knowledge of the criminal law is not necessary to act intentionally, however, knowledge of the civil law is necessary to intentionally commit election fraud." [*Id.*] Quoting from a Legislative Council report describing the 1953 revisions of the Wisconsin Criminal Code, Mr. Balistreri explains his conclusion as follows: "If there are facts set forth [after the word "intentionally" in s. 12.13 (intro.), Stats.] which are dependent upon rules of law, knowledge of law in this sense is required." Concludes Mr. Balistreri:

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> To intentionally vote an election without having the necessary elector qualifications, it is necessary that the person know he or she does not have the necessary elector qualifications, and to know this, a convicted felon who is still serving his sentence has to have knowledge of the rule of civil law set forth in Wis. Stat. s. 6.03 (1) (b). In other words, to prove the intent element of Wis. Stat. s. 12.13 (1) (a), the state has to prove the defendant knew that a person is disqualified from voting because of his life felony conviction.
>
> If a defendant does not know that he is not supposed to be voting because he has been convicted of a felony and is still on probation or parole, he cannot be convicted of the additional felony of election fraud. [*Id.*]

Thus, in order for the state to prove a violation of s. 12.13 (1) (a), Stats., which proscribes intentional voting at an election by a person who does not have the necessary elector qualifications, it is necessary to prove that the defendant knew he or she was disqualified from voting by reason of that felony conviction pursuant to s. 6.03 (1) (b), Stats.

I conclude that Mr. Balistreri's analysis of the law, in general, and the intent and knowledge elements that the prosecutor is required to prove to obtain a conviction under s. 12.13 (1) (a), Stats., in particular, is a well-reasoned legal analysis. Essentially, the burden on the prosecutor is to prove that the defendant knew he or she was disqualified from voting under s. 6.03 (1) (b), Stats., as a result of a felony conviction. If the prosecutor can prove this knowledge requirement, the prosecution should be able to prove a violation of s. 12.13 (1) (a), Stats., relating to election fraud.

It should be an easy matter to prove that the defendant knew he or she was ineligible to vote under s. 6.03 (1) (b), Stats., due to his or her felony conviction, if the Department of Corrections (DOC) provides notice to probationers and parolees under its supervision that, in addition to complying with other requirements and constraints during their period of supervision, they are also disqualified from voting under s. 6.03 (1) (b), Stats. If the DOC does not routinely provide this notice, it should be encouraged to do so. The DOC should not be resistant to such an obligation because the DOC currently addresses voting rights restoration in its discharge notice. The discharge notice, which is issued pursuant to s. 304.078, Stats., also specifies that certain civil rights are automatically restored to felons who have been discharged. In particular, the discharge notice specifies that the individual's right to vote is restored upon discharge (a copy of a recent discharge notice is attached).

In conclusion, if the DOC were to provide routine notice to probationers and parolees under its supervision that they are disqualified from voting until they have served their sentence and received their notice of discharge, a district attorney would have no difficulty proving that the individual violated s. 12.13 (1) (a), Stats., by voting with knowledge that he or she was not qualified to vote as a result of his or her felony conviction. Additionally, if a probationer or parolee was given written notice by the DOC of his or her voting disqualification, the department could petition for probation or parole revocation as a result of a violation of the condition.

If you have further questions regarding this matter, please contact me.

SPH:rv:tlu;rv

Attachments

Attachment

Sections 12.13 (1) (a) and 12.60 (1) (a), Stats.

12.13 **(1)** (a) Votes at any election or meeting if that person does not have the necessary elector qualifications and residence requirements.

12.60 **(1)** (a) Whoever violates s. 12.09, 12.11 or 12.13 (1), (2) (b) 1. to 7. or (3) (a), (e), (f), (j), (k), (L), (m), (y) or (z) may be fined not more than $10,000 or imprisoned for not more than 4 years and 6 months or both.

JAMES E. DOYLE
ATTORNEY GENERAL

Burneatta L. Bridge
Deputy Attorney General

123 West Washington Avenue
P.O. Box 7857
Madison, WI 53707-7857

Thomas Balistreri
Assistant Attorney General
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608/266-1523
FAX 608/267-2223

March 15, 2001

Mr. E. Michael McCann
District Attorney
Safety Building, Room 405
821 West State Street
Milwaukee, WI 53233

Re: *Unlawful Voting By Felons*

Dear Mike:

Thank you for inviting the Attorney General to file a brief in the circuit court in the cases in which you have charged three felons with election fraud under Wis. Stat. § 12.13(1)(a). However, after reviewing the matter, Matthew Frank, the Administrator of the Division of Legal Services, Susan Crawford, the Director of the Criminal Appeals Unit, Alan Lee, the Director of the Government Operations and Administrative Law Unit and the attorney primarily responsible for handling election issues in our office and I all agree that we should not become involved in these cases at this time.

First, it does not appear that the Attorney General can file a brief as a matter of right. The Attorney General can defend a statute when its constitutionality is attacked. Wis. Stat. § 806.04(11). But it does not appear that the constitutionality of Wis. Stat. § 6.03(1)(b) is actually at issue in these cases. The United States Constitution does not prohibit the states from disenfranchising felons. *Richardson v. Ramirez*, 418 U.S. 24 (1974). And the state constitution has always and still does expressly permit the Legislature to enact this kind of statute prohibiting felons from voting. Wis. Const. art. III, § 2(4)(a). It appears that the question is really one of statutory construction, *i.e.*, whether the particular statute presently on the books was impliedly repealed when the provision of the constitution under which it was enacted was amended to effectively repeal and recreate that provision. Whether Wis. Stat. § 12.13(1)(a) requires the state to prove the defendants knew they violated the criminal law by voting is clearly an issue of statutory construction rather than constitutionality, and therefore the Attorney General has no right to file a brief in the circuit court discussing the elements the state would have to prove to obtain a conviction for violating this section.

Regardless of whether the Attorney General has a right to file an additional brief, though, we do not think there would be any reason for us to file one at this stage of the litigation.

Your office seems to have a good handle on the issue involving the viability of wis. Stat. § 6.03(1)(b). You argued in your letter brief that the Legislature had authority dating back to the adoption of the constitution to enact a statute disenfranchising felons, that the amendment of the constitution simply continued the same authority in different language and that drafters' comments indicate the amendment did not affect statutory law then in effect regarding voting rights. You attached a number of exhibits from the Legislative Reference Bureau and Legislative Council to support your arguments. If we were to file a brief, we would merely reiterate the same arguments.

Of course, since you filed only a short letter brief, your basic arguments can be filled out a bit, primarily by discussing the applicable rules of statutory construction, in particular the rule which states that implied repeal of statutes is not favored. The cases are collected in Chapter 45 of the *Criminal Law Decisions*. I would suggest *State v. Mata*, 199 Wis. 2d 315, 319, 544 N.W.2d 578 (Ct. App. 1996) and *State v. Gonnelly*, 173 Wis. 2d 503, 512, 496 N.W.2d 671 (Ct. App. 1992) to start. Also relevant are *Printz v. U.S.*, 521 U.S. 898, 905 (1997), and *Polk County v. State Public Defender*, 188 Wis. 2d 665, 674, 524 N.W.2d 389 (1994), which indicate that the action or inaction of the Legislature which initiated a constitutional amendment is relevant in determining what effect the amendment might have on statutory provisions.

On the second issue, you took the position in your letter brief that conviction of the crime of election fraud does not require proof that the defendants knew their conduct was criminal. This position is correct.

As I have argued in other cases, intent is an element of a crime only to the extent specified by statute. *State v. Swanson,* 92 Wis. 2d 310, 320, 284 N.W.2d 655 (1979). The election fraud statute requires that any violation be committed "intentionally." Wis. Stat. § 12.13(1). This term has the same meaning given in the criminal code. Wis. Stat. § 12.02.

To perform an act intentionally, the actor must have a purpose to do the thing specified, as well as knowledge of those facts set out in the statute after the word "intentionally" which are necessary to make the conduct criminal. Wis. Stat. § 939.23(3). This is all that is statutorily necessary for specific intent. *See id.* There is no additional requirement that the actor must have any intent to violate the law in order to act intentionally. *See id.*

To the contrary, criminal intent does not even require knowledge of the existence of the law under which the defendant is prosecuted, or of the scope or meaning of the terms used in that section. Wis. Stat. § 939.23(5). Obversely, a defendant's failure to know that his conduct is punishable as a crime is not a defense. *State v. Britzke,* 108 Wis. 2d 675, 683, 324 N.W.2d 289

(Ct. App. 1982), *aff'd*, 110 Wis. 2d 728, 329 N.W.2d 207 (1983); Wis. Stat. § 939.43(1); 7 Wisconsin Legislative Council, *1950 Report, Judiciary - Part III, Criminal Code* 17-18 (1951). Since knowledge of the criminal law is not an element of the offense, an error regarding that law cannot negate the intent necessary to commit it. *1950 Report* at 18.

If a defendant does not even have to know about the law which makes his conduct criminal, he certainly does not have to have an intent to violate the law of which he is unaware in order to commit a crime. It is not an intent to violate the law but the intentional performance of an act which is in fact in violation of the law that is proscribed by a statute having intent as an element. 1 Wayne R. LaFave and Austin W. Scott, Jr., *Substantive Criminal Law* § 5.1(d), at 585-86 (1986). *See also 1950 Report* at 17-18.

Although knowledge of the criminal law is not necessary to act intentionally, however, knowledge of the civil law is necessary to intentionally commit election fraud.

As the authors of the criminal code stated in discussing the requirements of the element of intent, "If there are facts set forth [after the word "intentionally"] which are dependent upon rules of law, knowledge of law in this sense is required." 5 Wisconsin Legislative Council, *Judiciary Committee Report on the Criminal Code* 21 (1953). Obversely, a mistake of non-criminal law which rebuts the existence of the requisite mental state is a defense. *Id.* at 35-36.

To intentionally vote at an election without having the necessary elector qualifications, it is necessary that the person know he or she does not have the necessary elector qualifications, and to know this, a convicted felon who is still serving his sentence has to have knowledge of the rule of civil law set forth in Wis. Stat. § 6.03(1)(b). In other words, to prove the intent element of Wis. Stat. § 12.13(1)(a), the state has to prove the defendant knew that a person is disqualified from voting because of his life felony conviction.

If a defendant does not know that he is not supposed to be voting because he has been convicted of a felony and is still on probation or parole, he cannot be convicted of the additional felony of election fraud.

We do not believe that the defendants' claims have much merit, and we think that you have done a good job of addressing those claims in your letter brief. We hope that you find the additional information I am providing helpful in the event that you decide to expand your arguments in an additional brief.

Since the crime charged is a felony, the Attorney General will have the responsibility to file the state's brief if these cases reach the court of appeals. That will give us an adequate opportunity to become involved.

Sincerely,

Thomas J. Balistreri
Assistant Attorney General
State Bar #1009785

TJB:ajl

balistreritj\letters\mccann, michael.doc

STATE OF WISCONSIN
DEPARTMENT OF CORRECTIONS

D I S C H A R G E

TO WHOM IT MAY CONCERN:

IT APPEARING TO THE DEPARTMENT OF CORRECTIONS THAT

[redacted]ER, 267738-A "A" CASE

WAS PLACED ON PROBATION

AND, THE DEPARTMENT HAVING DETERMINED THAT THE ABOVE NAMED HAS SATISFIED SAID PROBATION

IT IS ORDERED THAT EFFECTIVE MAY 5, 1995

[redacted]

IS DISCHARGED ABSOLUTELY.

CIVIL RIGHTS INFORMATION STATED BELOW IS NOT FOR MISDEMEANOR CONVICTIONS.

RESTORATION OF CIVIL RIGHTS:

THIS CERTIFIES THAT THE FOLLOWING CIVIL RIGHTS ARE RESTORED TO FELON:
1. THE RIGHT TO VOTE;
2. THE OBLIGATION FOR JURY DUTY.

CIVIL RIGHTS THAT ARE NOT RESTORED TO FELON:
1. FIREARMS MAY NOT BE USED OR POSSESSED UNLESS A PARDON IS RECEIVED FROM THE GOVERNOR WHICH DOES NOT RESTRICT POSSESSION OF FIREARMS;
2. PUBLIC OFFICE CAN NOT BE HELD UNLESS A PARDON IS OBTAINED FROM THE GOVERNOR.

PERSONS COMMITTING CRIMES AFTER 4/9/90 MAY HAVE A CIVIL JUDGMENT ISSUED FOR ANY UNPAID RESTITUTION.

DATE SIGNED

SECRETARY
DEPARTMENT OF CORRECTIONS

DOC-48A (REV. 03/95)

WIS. STATUTES, CHAPTERS 304 & 973


FORWARD
E PLURIBUS UNUM

Gilbert, Melissa

From: Walker, Scott
Sent: Thursday, May 03, 2001 11:01 AM
To: Karius, Bob
Subject: DNA bill

Here is a another reason to bring up the DNA bill soon:

Rape charge time limit lifted

May 3, 2001

ASSOCIATED PRESS

LANSING -- Johnene Barr, 33, was traumatized when she was raped by a stranger who tied her up, beat her and left her so injured she needed skull X-rays.

But the Ferndale woman said Wednesday she was upset all over again when she learned her attacker could not be charged once six years had passed. The crime, committed in Kalamazoo when Barr was in college, has not been solved.

Under a new measure signed into law Wednesday, rapists no longer will be able to thumb their nose at the law once six years go by. First-degree sexual conduct now joins murder as the crimes in Michigan with no time limit on when someone can be charged.

Barr attended the bill signing.

"I'm thinking, 'Why is it OK to stop looking after six years?' " said Barr. "I felt abandoned by the state -- abandoned and ignored. I'm thrilled no other woman will have to feel that way."

In addition to lifting the statute of limitations on first-degree criminal sexual conduct, the new law also extends to 10 years the statute of limitations for other sexual crimes, attempted murder and manslaughter. The previous limit had been six years.

The law also puts a hold on the statute of limitations for crimes where DNA evidence is available but no suspect matching

the evidence has been found.

State Sen. Shirley Johnson, R-Royal Oak, sponsored a similar bill last year, but it failed to pass before the end of the session. She renewed her efforts this year and said testimony by Barr before the House Judiciary Committee was the reason the bill was amended to totally lift the statute of limitations on violent rapes.

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