

## 2005 ASSEMBLY BILL 47

January 27, 2005 – Introduced by Representatives PETTIS, GUNDERSON, BIES, NASS, PARISI, AINSWORTH, HINES, STONE, SUDER, VRAKAS and WASSERMAN, cosponsored by Senators ROESSLER, TAYLOR, OLSEN, A. LASEE and LASSA. Referred to Committee on Criminal Justice and Homeland Security.

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

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### *Analysis by the Legislative Reference Bureau*

Under current law, the time limit for commencing a prosecution for a crime (the limitations period) is generally six years for a felony and three years for a misdemeanor, as measured from the date that the criminal act was committed. One of the exceptions to the general rule is for certain homicide offenses. They have no limitations period. Thus, prosecution for one of those forms of homicide may be commenced at any time. Current law also provides that for some serious crimes against children (such as sexual assault of a child, repeated acts of sexual assault of a child, incest with a child, sexual exploitation of a child, and certain kinds of physical abuse of a child) a prosecution may be commenced any time before the victim reaches 45 years of age. In addition, under current law, the deadline for commencing a prosecution in a first-degree or second-degree sexual assault case or a sexual assault of a child case does not apply if, before the deadline, the state collects deoxyribonucleic acid (DNA) evidence that theoretically enables it to identify the perpetrator of the offense but that does not, in reality, enable it to do so. In those cases, if an analysis of the DNA evidence after the ostensible deadline results in a probable identification of the perpetrator, the state may begin a prosecution of that person within 12 months of the analysis.

This bill eliminates the limitations period (and all related exceptions) for prosecutions for first-degree sexual assault and sexual assault of a child who is less

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than 13 years old if the limitations period has not yet expired. Thus, under the bill, a prosecution for these crimes may be commenced at any time.

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

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

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

2           939.74 (2) (a) A prosecution under s. 940.01, 940.02, 940.03, ~~or 940.05, 940.225~~  
3           (1), 948.02 (1), or 948.025 (1) (a) may be commenced at any time.

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

5           939.74 (2) (c) A prosecution for violation of s. 948.02 (2), 948.025 (1) (b), 948.03  
6           (2) (a), 948.05, 948.06, 948.07 (1), (2), (3), or (4), 948.075, 948.08, or 948.095 shall be  
7           commenced before the victim reaches the age of 45 years or be barred, except as  
8           provided in sub. (2d) (c).

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

10          939.74 (2d) (b) If before the time limitation under sub. (1) expired, the state  
11          collected biological material that is evidence of the identity of the person who  
12          committed a violation of s. 940.225 ~~(1) or (2)~~, the state identified a deoxyribonucleic  
13          acid profile from the biological material, and comparisons of that deoxyribonucleic  
14          acid profile to deoxyribonucleic acid profiles of known persons did not result in a  
15          probable identification of the person who is the source of the biological material, the  
16          state may commence prosecution of the person who is the source of the biological  
17          material for violation of s. 940.225 ~~(1) or (2)~~ within 12 months after comparison of the  
18          deoxyribonucleic acid profile relating to the violation results in a probable  
19          identification of the person.

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

