

2005 DRAFTING REQUEST

Bill

Received: 11/11/2004

Received By: mdsida

Wanted: As time permits

Identical to LRB:

For: Mark Pettis (608) 267-2365

By/Representing: Kimber

This file may be shown to any legislator: NO

Drafter: mdsida

May Contact:

Addl. Drafters:

Subject: Criminal Law - sex offenses
Criminal Law - crimes agnst kids

Extra Copies:

Submit via email: YES

Requester's email: Rep.Pettis@legis.state.wi.us

Carbon copy (CC:) to: robin.ryan@legis.state.wi.us
cathlene.hanaman@legis.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Statute of limitations for first degree sexual assault

Instructions:

Redraft of 2003 AB-795

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>
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LRB-0776

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/?	mdsida		<i>Jb</i>	<i>Pg</i>			
				<u>123</u>			

FE Sent For:

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Sections Affected Post-Drafting-Check For 03-3818/1

Friday, December 3, 2004 8:53 am

Current Wisconsin Statutes updated through 2003 Act 327

SECTION (Sub)(Par)	TREATMENT	AFFECTED BY
939.74(2)(a)	am.	Act 0196
939.74(2)(c)	am.	Act 0279
939.74(2)(c)	(aff. 2003 WisAct 279) am.	Act 0326

0776/1

2005

2003 ASSEMBLY BILL 795

Proof w. state.

February 2, 2004 - Introduced by Representatives PETTIS, MUSSER, KAUFERT, HINES, OWENS, GUNDERSON, OTT, NASS, HEBL, PETROWSKI, SINICKI, STONE, VRAKAS and BIES, cosponsored by Senators A. LASEE, ROESSLER, STEPP and LAZICH. Referred to Committee on Criminal Justice.

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.

refer

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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, which have no limitations period. Thus, prosecution for 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 31 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.

They

45

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

ASSEMBLY BILL 795

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.

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 ~~or~~, 940.03, 940.225 (1),
3 948.02 (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 31 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:

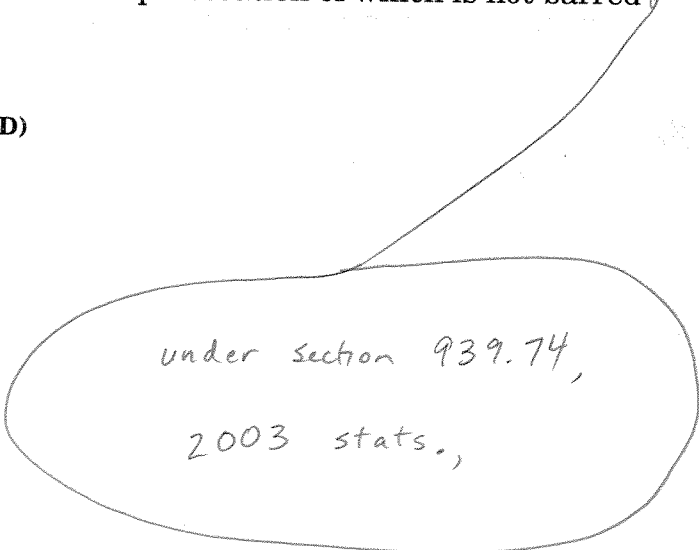
ASSEMBLY BILL 795

1 939.74 **(2d)** (c) If before the time limitation under sub. (2) (c) expired, the state
2 collected biological material that is evidence of the identity of the person who
3 committed a violation of s. 948.02 ~~(1)~~ or (2) or 948.025 (1) (b), the state identified a
4 deoxyribonucleic acid profile from the biological material, and comparisons of that
5 deoxyribonucleic acid profile to deoxyribonucleic acid profiles of known persons did
6 not result in a probable identification of the person who is the source of the biological
7 material, the state may commence prosecution of the person who is the source of the
8 biological material for violation of s. 948.02 ~~(1)~~ or (2) or 948.025 (1) (b) within 12
9 months after comparison of the deoxyribonucleic acid profile relating to the violation
10 results in a probable identification of the person.

11 **SECTION 5. Initial applicability.**

12 (1) This act first applies to any offense the prosecution of which is not barred,
13 on the effective date of this subsection.

14 **(END)**



under section 939.74,
2003 stats.,

Emery, Lynn

From: Colvin, Alan
Sent: Tuesday, January 04, 2005 3:22 PM
To: LRB.Legal
Subject: Draft review: LRB 05-0776/1 Topic: Statute of limitations for first degree sexual assault

It has been requested by <Colvin, Alan> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-0776/1 Topic: Statute of limitations for first degree sexual assault