

2011 DRAFTING REQUEST

Bill

Received: **04/14/2011**

Received By: **phurley**

Wanted: **As time permits**

Companion to LRB:

For: **Julie Lassa (608) 266-3123**

By/Representing:

May Contact:

Drafter: **phurley**

Subject: **Courts - torts**
Courts - limitations

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Lassa@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Statute of limitations for sexual assault of a child

Instructions:

redraft 09-2846 but with a 2, not 3, year window.

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>
/?	phurley 04/15/2011	kfollett 04/28/2011		_____			
/1			rschluet 04/28/2011	_____	sbasford 04/28/2011	ggodwin 11/09/2011	

FE Sent For:

None

<END>

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(07 SB 356)
2535

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/?	phurley	1/15/11 4/28		_____	_____		

FE Sent For:

<END>

Hurley, Peggy

From: Kelly, Jessica
Sent: Thursday, April 14, 2011 1:03 PM
To: Hurley, Peggy
Subject: Redraft

Attachments: 09-28461.pdf

Peggy,

Can you please have the attached .pdf redrafted for the current session but change the "window" for bringing civil suit to two years instead of three?

Thank you.



09-28461.pdf (21
KB)

Jessica Ford Kelly

Office of Senator Julie Lassa
State Capitol, Room 7 South
P.O. Box 7882
Madison, WI 53708
1-800-925-7491 tollfree
608-266-3123 local
608-267-6797 fax



State of Wisconsin
2009 - 2010 LEGISLATURE

1923//
LRB-2846/A
RPN:bjk:rs
PSH:kjf

2009 BILL

PWF

note

4-15-11

Reger

1 AN ACT *to renumber and amend* 893.587; and *to create* 893.587 (1) and
2 893.587 (3) of the statutes; **relating to:** the statute of limitations for sexual
3 contact with a child.

Analysis by the Legislative Reference Bureau

Under current law, the time a person has to bring an action (the statute of limitations) for an injury resulting from being sexually assaulted or subject to incest as a child, or from being subject to sexual contact by a member of the clergy as a child, is any time before the injured party reaches the age of 35.

This bill removes the time limit for bringing those actions. In addition, the bill applies this unlimited time period to a broader range of actions. Under the bill, there is no limit on the time a person has to bring an action for injury resulting from being subject, as a child, to any sexual contact by an adult or by an adult member of the clergy. The bill also revives any cause of action that was barred by the present statute of limitations and allows an injured party to bring that action for his or her injury within three years after the effective date of the bill.

two

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

4 SECTION 1. 893.587 of the statutes is renumbered 893.587 (2) and amended to
5 read:

BILL

1 893.587 **(2)** An action to recover damages against any person for injury caused
 2 by ~~an act that would constitute a violation of s. 948.02, 948.025, 948.06, 948.085, or~~
 3 ~~948.095~~ an adult's sexual contact with anyone under the age of 18 or by an act
 4 committed by an adult that would create a cause of action under s. 895.442 ~~shall~~ may
 5 be commenced ~~before the injured party reaches the age of 35 years or be barred at~~ at
 6 any time.

7 **SECTION 2.** 893.587 (1) of the statutes is created to read:

8 893.587 **(1)** In this section:

9 (a) "Person" means an individual, corporation, business trust, estate, trust,
 10 partnership, limited liability company, association, joint venture, or government;
 11 governmental subdivision, agency, or instrumentality; public corporation; or any
 12 other legal or commercial entity.

13 (b) "Sexual contact" has the meaning given in s. 940.225 (5) (b).

14 **SECTION 3.** 893.587 (3) of the statutes is created to read:

15 893.587 **(3)** A cause of action described under sub. (2) that was barred by a
 16 statute of limitations or a time limit in effect before the effective date of this
 17 subsection [LRB inserts date], is revived and that action may be commenced
 18 within 3 years after the effective date of this subsection [LRB inserts date].

19 (E

Handwritten circled number 18 and a large handwritten box containing the number 2.

D-Note

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

LRB-1923/7dn

PSH: kjf

Date

Senator Lassa,

Please review this draft to ensure that it is consistent with your intent. This draft is identical to 2009 SB 319, except that the retroactive "window" for bringing an action has been changed from three years to two years.

As you may be aware, the Wisconsin Supreme Court has held that statutes of limitations are generally substantive (as opposed to procedural or technical) laws and may not be applied retroactively. Section 3 of the draft, which creates the "window" may be considered an unconstitutional deprivation of due process rights to an accused defendant; please let me know if you would like to change this section or would like to discuss this issue further.

Peggy Hurley
Legislative Attorney
Phone: (608) 266-8906
E-mail: peggy.hurley@legis.wisconsin.gov

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

LRB-1923/1dn
PJH:kjf:rs

April 28, 2011

Senator Lassa,

Please review this draft to ensure that it is consistent with your intent. This draft is identical to 2009 SB 319, except that the retroactive "window" for bringing an action has been changed from three years to two years.

As you may be aware, the Wisconsin Supreme Court has held that statutes of limitations are generally substantive (as opposed to procedural or technical) laws and may not be applied retroactively. Section 3 of the draft, which creates the "window" may be considered an unconstitutional deprivation of due process rights to an accused defendant; please let me know if you would like to change this section or would like to discuss this issue further.

Peggy Hurley
Legislative Attorney
Phone: (608) 266-8906
E-mail: peggy.hurley@legis.wisconsin.gov

Godwin, Gigi

From: Kelly, Jessica
Sent: Wednesday, November 09, 2011 3:11 PM
To: LRB.Legal
Subject: Draft Review: LRB 11-1923/1 Topic: Statute of limitations for sexual assault of a child

Please Jacket LRB 11-1923/1 for the SENATE.