

2013 DRAFTING REQUEST

Bill

Received: 12/4/2013 Received By: chanaman
Wanted: As time permits Same as LRB: -3296
For: Legislative Council - LRC By/Representing: Anne Sappenfield
May Contact: Drafter: chanaman
Subject: Criminal Law - procedure Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Anne.Sappenfield@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

0494/2, 0495/2, 0501/1, 0510/1, and 0635/1

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>
/1	chanaman 12/4/2013	kfollett 12/4/2013		_____	mbarman 12/4/2013	srose 12/4/2013	

FE Sent For:

*None
Needed*

<END>

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Instructions:

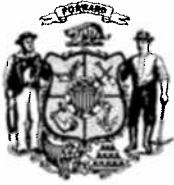
See attached

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/1	chanaman	1/15 12/14		_____			

FE Sent For:

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State of Wisconsin
2013 - 2014 LEGISLATURE



-3757/1

LRB-3296/1
CMH:kjf&eev:rs

2013 BILL

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rejection

1 **AN ACT to renumber** 968.375 (2), 968.375 (3), 968.375 (6), 968.375 (7), 968.375
2 (9), 968.375 (10), 968.375 (11), 968.375 (12), 968.375 (13) and 968.375 (14); **to**
3 **renumber and amend** 968.375 (4), 968.375 (5) and 968.375 (15); and **to**
4 **amend** 175.60 (14) (a), 939.74 (2) (c) and 948.02 (1) (e) of the statutes; **relating**
5 **to:** fixing an incorrect cross-reference under the statute of limitations for
6 repeated sexual assault of the same child; numbers of subsections; sexual
7 assault of a child; suspension of license to carry a concealed weapon if the
8 person is prohibited from possessing a dangerous weapon as a condition of
9 release when charged with a felony or misdemeanor (suggested as remedial
10 legislation by the Department of Justice).

Analysis by the Legislative Reference Bureau

This bill corrects an incorrect cross-reference so that the statutes of limitations are consistent for all offenses of repeated first-degree sexual assault of a child and so that prosecution for repeated second-degree sexual assault of a child must commence before the victim reaches 45 years of age, which is consistent with the statute of limitation for second-degree sexual assault of a child. The incorrect

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cross-reference under current law results in two inconsistent provisions for certain offenses of repeated first-degree sexual assault of a child; one provides that prosecution may commence at any time and the other provides that prosecution must generally commence before the victim reaches age 45. In addition, the incorrect cross-reference results in a time limitation for commencing prosecution of six years after the commission of repeated second-degree sexual assault of a child, which is inconsistent with the time limitation for second-degree sexual assault of a child, under which prosecution must commence before the victim reaches age 45.

Under current law, under first-degree sexual assault of a child, whoever has sexual contact with a person who is under 13 years of age is guilty of a Class B felony. "Sexual contact" is defined in current law so that it includes "sexual intercourse." For clarity, this bill specifies that whoever has sexual contact *or sexual intercourse* with a person who is under 13 years of age is guilty of a Class B felony.

Under current law, if, before a trial, a court releases a person who is charged with a felony or a misdemeanor without bail or upon the execution of an unsecured appearance bond, the court may prohibit the person from possessing any dangerous weapon as a condition of the release. If the person who is subject to this prohibition has a license to carry a concealed weapon, the court must revoke the license and the court must suspend the license, subject to restoration if the prohibition is removed. This bill clarifies that the license must be suspended, not revoked, if the court imposes such a condition.

This bill also renumbers subsections to eliminate gaps in numbering.

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Justice and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4. and 5., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

✓

- 1 **SECTION 1.** 175.60 (14) (a) of the statutes is amended to read:
 2 175.60 (14) (a) The department shall revoke a license issued under this section
 3 if the department determines that sub. (3) (b), (c), (~~d~~), (e), (f), or (g) applies to the
 4 licensee.

NOTE: Deletes the requirement that the Department of Justice revoke a license to carry a concealed weapon if the license holder is ordered not to possess a dangerous weapon as a condition of release on a pending criminal charge. This provision is in conflict with current law under which such a license must be suspended under these conditions

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and the department must restore the license upon notice that the person is no longer prohibited from possessing a dangerous weapon.

1 **SECTION 2.** 939.74 (2) (c) of the statutes [✓]is amended to read:

2 939.74 (2) (c) A prosecution for violation of s. 948.02 (2), 948.025 (1) (b) (e),
3 948.03 (2) (a), 948.05, 948.051, 948.06, 948.07 (1), (2), (3), or (4), 948.075, 948.08,
4 948.085, or 948.095 shall be commenced before the victim reaches the age of 45 years
5 or be barred, except as provided in sub. (2d).

NOTE: Removes the reference to an offense of engaging in repeated acts of sexual assault of the same child from the statute of limitations under which a prosecution must be commenced before the victim reaches age 45 years. This offense is also referenced in the statute of limitations for offenses for which a prosecution may be commenced at any time. This SECTION replaces the cross-reference with a cross-reference to another offense of engaging in repeated acts of sexual assault of the same child which currently is not specifically referenced and, therefore, is treated as felonies are in general. For felonies that are not subject to another statute of limitations, prosecution must be commenced within six years of the commission of the offense.

6 **SECTION 3.** 948.02 (1) (e) of the statutes [✓]is amended to read:

7 948.02 (1) (e) Whoever has sexual contact or sexual intercourse with a person
8 who has not attained the age of 13 years is guilty of a Class B felony.

NOTE: Adds having sexual intercourse to the offense prohibiting having sexual contact with a person who has not attained the age of 13 years. Among other offenses relating to sexual assault of a child, current law prohibits having sexual intercourse with a person who has not attained the age of 12 years and prohibits having sexual contact with a person who has not attained the age of 13 years.

9 **SECTION 4.** 968.375 (2) of the statutes [✓]is renumbered 968.375 (1).

10 **SECTION 5.** 968.375 (3) of the statutes [✓]is renumbered 968.375 (2).

11 **SECTION 6.** 968.375 (4) of the statutes [✓]is renumbered 968.375 (3), and 968.375
12 (3) (b), as renumbered, is amended to read:

13 968.375 (3) (b) A record or information [✓]described under sub. (3) (2) (a).

14 **SECTION 7.** 968.375 (5) of the statutes is renumbered 968.375 (4) and amended
15 to read:

16 968.375 (4) BASIS, APPLICATION FOR, AND ISSUANCE OF SUBPOENA OR WARRANT.

17 Section 968.12 (2) and (3) applies to the basis and application for, and issuance of,

BILL

1 a subpoena under sub. (3) (2) or a warrant under sub. (4) (3) as it applies to the basis
2 and application for, and issuance of, a search warrant under s. 968.12.

3 **SECTION 8.** 968.375 (6) of the statutes is renumbered 968.375 (5). ✓

4 **SECTION 9.** 968.375 (7) of the statutes is renumbered 968.375 (6). ✓

5 **SECTION 10.** 968.375 (9) of the statutes is renumbered 968.375 (7). ✓

6 **SECTION 11.** 968.375 (10) of the statutes is renumbered 968.375 (8). ✓

7 **SECTION 12.** 968.375 (11) of the statutes is renumbered 968.375 (9). ✓

8 **SECTION 13.** 968.375 (12) of the statutes is renumbered 968.375 (10). ✓

9 **SECTION 14.** 968.375 (13) of the statutes is renumbered 968.375 (11). ✓

10 **SECTION 15.** 968.375 (14) of the statutes is renumbered 968.375 (12). ✓

11 **SECTION 16.** 968.375 (15) of the statutes is renumbered 968.375 (13), and
12 968.375 (13) (intro.), as renumbered, is amended to read:

13 **968.375 (13) DISCLOSURE WITHOUT SUBPOENA OR WARRANT.** (intro.) A provider of
14 electronic communication or remote computing service may disclose records or
15 information described under sub. (3) (2) (a) of a customer or subscriber or the content
16 of communications of a customer or subscriber described under sub. (4) (3) without
17 a subpoena or warrant if any of the following applies:

NOTE: SECTIONS 4 to 16 of this bill renumber subsections in s. 968.375, stats., to eliminate gaps in the numbering and to correct cross-references to renumbered subsections where necessary.

Rose, Stefanie

From: Sappenfield, Anne
Sent: Wednesday, December 04, 2013 3:26 PM
To: LRB.Legal
Subject: Draft Review: LRB -3757/1 Topic: 0494/2, 0495/2, 0501/1, 0510/1, and 0635/1

Please Jacket LRB -3757/1 for the SENATE.