

1981 Assembly Bill 752

Date published: May 6, 1982

CHAPTER 366 , Laws of 1981

AN ACT to renumber and amend 971.37 (1); to amend 971.37 (5); and to create 971.37 (1) of the statutes, relating to deferred prosecution agreements.

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

PREFATORY NOTE: Presently, section 971.37 of the statutes provides statutory authority for a district attorney to enter into a deferred prosecution agreement with a person accused of battery against a person with whom he or she lives or has lived in a spousal relationship. Under such an agreement, prosecution is suspended for a definite period, not to exceed one year, if the person agrees to comply with specified conditions. Upon successful completion of the conditions, the criminal charge is dropped. The law states that it does not preclude the use of deferred prosecution agreements for other crimes.

The bill deletes the provision that currently limits the length of deferred prosecution agreements to one year.

The bill adds the following crimes involving children to the list of crimes for which the statute authorizes the use of deferred prosecution agreements: sexual exploitation (s. 940.203), sexual assault (s. 940.225) and incest (s. 944.06). Under the bill, the alleged offender must (a) live with or have lived with the child, (b) be related to the child, (c) be a guardian or legal custodian of the child or (d) be, or appear to be, in a position of power or control over the child.

SECTION 1. 971.37 (1) of the statutes is renumbered 971.37 (1m) and amended to read:

971.37 (1m) (a) The district attorney may enter into a deferred prosecution agreement under this section with a person accused of, or charged with, child sexual abuse or a violation of s. 940.19 (1) or (1m) if the alleged victim lives with or has lived with the person in a spousal relationship, as defined in s. 46.95 (1) (c).

(b) The agreement shall provide that the prosecution will be suspended for a specified period, ~~not to exceed one year from the date of the agreement,~~ if the person complies with conditions specified in the agreement. The agreement shall be in writing, signed by the district attorney or his or her designee and the person, and shall provide that the person waives his or her right to a speedy trial and that the agreement will toll any applicable civil or criminal statute of limitations during the period of the agreement, and, furthermore, that the person shall file with the district attorney a monthly written report certifying his or her compliance with the conditions specified in the agreement. The district attorney shall provide the spouse of the accused person and the alleged victim or the parent or guardian of the alleged victim with a copy of the agreement.

SECTION 2. 971.37 (1) of the statutes is created to read:

971.37 (1) In this section, “child sexual abuse” means an alleged violation of s. 940.203, 940.225 or 944.06 if the alleged victim is a minor and the person accused of, or charged with, the violation:

- (a) Lives with or has lived with the minor;
- (b) Is nearer of kin to the alleged victim than a 2nd cousin;
- (c) Is a guardian or legal custodian of the minor; or
- (d) Is or appears to be in a position of power or control over the minor.

SECTION 3. 971.37 (5) of the statutes is amended to read:

971.37 (5) This section does not preclude use of deferred prosecution agreements for ~~other crimes~~ any alleged violations not subject to this section.

SECTION 4. **Cross-reference changes.** In the sections of the statutes listed in Column A, the cross-references shown in Column B are changed to the cross-references shown in Column C:

	A	B	C
Statute Sections		Old Cross-References	New Cross-References
971.37 (3) and (4)		sub. (1)	sub. (1m)
