



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2009 ASSEMBLY BILL 480**

February 5, 2010 – Offered by Representative GUNDRUM.

1 **AN ACT** *to create* 893.583 and 895.437 of the statutes; **relating to:** creating a
2 civil cause of action for acts of domestic or sexual violence.

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

3 **SECTION 1.** 893.583 of the statutes is created to read:

4 **893.583 Domestic or sexual violence.** Notwithstanding ss. 893.16, 893.54,
5 and 893.57, an action under s. 895.437 shall be commenced within 7 years after the
6 cause of action accrues or, if the victim is under the age of 18 at the time the cause
7 of action accrues, within 7 years of the victim’s 18th birthday, or be barred.

8 **SECTION 2.** 895.437 of the statutes is created to read:

9 **895.437 Domestic or sexual violence; action for.** (1) In this section:

10 (a) “Act of domestic or sexual violence” means any of the following:

11 1. The intentional infliction of physical pain, physical injury, or illness or the
12 intentional impairment of a victim’s physical condition that the actor commits

1 against his or her spouse or former spouse, against a person with whom the actor has
2 or had a dating relationship, as defined in s. 813.12 (1) (ag), or against a person with
3 whom the actor has a child in common.

4 2. Sexual contact as defined in s. 940.225 (5) (b) or sexual intercourse as defined
5 in s. 940.225 (5) (c) that the actor commits under coercive conditions or without
6 consent as defined in s. 940.225 (4).

7 3. If the actor has previously committed an act described in subd. 1. or 2., a
8 threat to commit an act described in subd. 1. or 2.

9 (b) “Victim” means a person against whom an act of domestic or sexual violence
10 has been committed.

11 (2) A victim has a cause of action for injunctive relief and for damages, as
12 provided in sub. (4), against the person who commits an act of domestic or sexual
13 violence that results in a physical injury, emotional distress, or damage to or loss of
14 property to the victim.

15 (3) The burden of proof in a civil action under sub. (2) rests with the victim to
16 prove that the defendant committed an act of domestic or sexual violence and that
17 the victim suffered harm as a result of the act by a preponderance of the credible
18 evidence.

19 (4) If the plaintiff prevails in a civil action under sub. (2), he or she may recover
20 special and general damages, including damages for emotional distress; punitive
21 damages; and costs.

22 (5) A person may bring a civil action under sub. (2) regardless of whether there
23 has been a criminal action related to the act described in sub. (2) and regardless of
24 the outcome of any such criminal action. If there is a final judgment or decree
25 rendered in favor of the state in any criminal proceeding against the defendant, a

1 defendant may not deny the essential allegations of the criminal offense in any action
2 under this section.

3 (6) This section does not limit the right of a person to recover from any parent
4 or parents under s. 895.035.

5 (END)