

1       **AN ACT** *to amend* 939.74 (2) (a); *to repeal and recreate* 939.74 (2d) (c); and *to create*  
 2           939.74 (2d) (d) of the statutes; **relating to:** time to prosecute a crime that is related  
 3           to a sexual assault.

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

**JOINT LEGISLATIVE COUNCIL PREFATORY NOTE:** This bill draft was prepared for the Joint Legislative Council’s Special Committee on Review of Crimes Against Children.

Current law imposes time limits for commencing prosecution for most crimes. The 2003 Wisconsin statutes required that prosecution for a sexual assault of a child be commenced before the victim reaches the age of 45. However, also under the 2003 statutes, if the state collected deoxyribonucleic acid (DNA) evidence in connection with a sexual assault of a child before the time period for commencing prosecution of the sexual assault expired (e.g., before the victim reached the age of 45) and did not match the DNA evidence with an identified person until after the time period expired, the state was permitted to commence prosecution of the person who was the source of the DNA for the sexual assault within one year after making the match.

The statutes were affected by 2 Wisconsin acts.

2005 Act 60 provides that if the state collects DNA evidence in connection with a sexual assault of a child and does not match the DNA evidence with an identified person, as described above, the one–year extension to the time period for commencing prosecution for the sexual assault also applies to prosecution for a crime that is related to the sexual assault.

2005 Act 276 eliminates all time limits for commencing prosecution for a first–degree sexual assault of a child.

This bill draft eliminates the time limits for commencing a prosecution of first–degree sexual assault of a child and the various offenses of engaging in repeated acts of first–degree sexual assault of a child.

The bill draft provides that, within 12 months after a DNA profile is matched to an identified person for a violation of second–degree sexual assault of a child, a prosecution may be brought for the second–degree

sexual assault of a child violation or for a crime that is related to the sexual assault violation, or both.

Finally, the bill draft provides that, within 12 months after a DNA profile is matched to an identified person for a violation of first-degree sexual assault of a child, a prosecution may be brought for a crime that is related to the sexual assault violation.

1           **SECTION 1.** 939.74 (2) (a) of the statutes, as affected by 2005 Wisconsin Act 276, is  
2 amended to read:

3           939.74 (2) (a) A prosecution under s. 940.01, 940.02, 940.03, 940.05, 948.02 (1), or  
4 948.025 (1) (a), (b), or (c) may be commenced at any time.

**NOTE:** This SECTION adds cross references to additional offenses of engaging in repeated acts of first-degree sexual assault of the same child to be consistent with language in WLC: 0006/1, reconciling acts that affect the offense of repeated acts of sexual assault of the same child. Under this SECTION, there is no time limitation for prosecuting any first-degree sexual assault of a child offense.

5           **SECTION 2.** 939.74 (2d) (c) of the statutes, as affected by 2005 Wisconsin Acts 60 and  
6 276, is repealed and recreated to read:

7           939.74 (2d) (c) If before the time limitation under sub. (2) (c) expired, the state collected  
8 biological material that is evidence of the identity of the person who committed a violation  
9 of s. 948.02 (2) or 948.025 (1) (b), the state identified a deoxyribonucleic acid profile from  
10 the biological material, and comparisons of that deoxyribonucleic acid profile to  
11 deoxyribonucleic acid profiles of known persons did not result in a probable identification of  
12 the person who is the source of the biological material, the state may commence prosecution  
13 of the person who is the source of the biological material for the violation of s. 948.02 (2) or  
14 948.025 (1) (b) or a crime that is related to the violation or both within 12 months after  
15 comparison of the deoxyribonucleic acid profile relating to the violation results in a probable  
16 identification of the person.

**NOTE:** This SECTION provides that, within 12 months after a DNA profile is matched to an identified person for a violation of second-degree sexual assault of a child, a prosecution may be brought for the second-degree sexual assault of a child violation or for a crime that is related to the sexual assault violation, or both.

1           **SECTION 3.** 939.74 (2d) (d) of the statutes is created to read:

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

**NOTE:** This SECTION provides that, within 12 months after a DNA profile is matched to an identified person for a violation of first-degree sexual assault of a child, a prosecution may be brought for a crime that is related to the sexual assault violation if the state collected DNA evidence before the statute of limitations for the prosecution of the related crime expired.

Under current law, crimes are related if they are committed against the same victim, are proximate in time, and are committed with the same intent, purpose, or opportunity so as to be part of the same course of conduct.

12           **SECTION 4. Initial applicability.**

13           (1) This act first applies to offenses the prosecution of which is not barred before the  
14 effective date of this subsection.

**NOTE:** This SECTION provides that the bill draft's provisions apply to offenses for which the statute of limitations has not expired on the effective date.

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(END)