2009 ASSEMBLY BILL 839

March 11, 2010 – Introduced by Representative STASKUNAS. Referred to Committee on Criminal Justice.

1   AN ACT *to renumber and amend* 893.587; *to amend* 893.80 (3) and 893.82 (6);

2   and *to create* 893.587 (1), 893.587 (3) and 893.587 (4) of the statutes; **relating**

3   **to:** the statute of limitations for sexual contact with a child and limits on

4   recovery against the state and local political subdivisions.

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.

Under current law, the amount recoverable for damages in an action in tort against a volunteer fire company, political corporation, governmental subdivision or agency, or against their officers, officials, agents, or employees acting within the scope of their official duties is limited to $50,000. For certain specified volunteer fire companies and their officers, officials, agents, or employees, the limit is $25,000. Currently, the amount recoverable for damages in a civil action against a state

officer, employee, or agent, or against a number of others designated to be state officers, employees, or agents, including certain health care providers and pupil services providers, and emergency planning committee members, is limited to $250,000.

This bill removes those limits if the action is to recover damages for an injury caused by an adult's sexual contact with anyone under the age of 18 or by the sexual exploitation of a person under the age of 18 by a member of the clergy.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

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

1   SECTION 1. 893.587 of the statutes is renumbered 893.587 (2) and amended to

2   read:

3   893.587 **(2)** An action to recover damages against any person for injury caused

4   by an act that would constitute a violation of s. 948.02, 948.025, 948.06, 948.085, or

5   948.095 an adult's sexual contact with anyone under the age of 18 or by an act

6   committed by an adult that would create a cause of action under s. 895.442 shall may

7   be commenced before the injured party reaches the age of 35 years or be barred at

8   any time.

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

10   893.587 **(1)** In this section:

11   (a) "Person" means an individual, corporation, business trust, estate, trust,

12   partnership, limited liability company, association, joint venture, or government;

13   governmental subdivision, agency, or instrumentality; public corporation; or any

14   other legal or commercial entity.

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

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

1   893.587 **(3)** A cause of action described under sub. (2) that was barred by a

2   statute of limitations or a time limit in effect before the effective date of this

3   subsection .... [LRB inserts date], is revived and that action may be commenced

4   within 3 years after the effective date of this subsection .... [LRB inserts date].

5   **SECTION 4.** 893.587 (4) of the statutes is created to read:

6   893.587 **(4)** The limits on the amount recoverable under ss. 893.80 (3) and

7   893.82 (6) do not apply to an action to recover damages for a cause of action described

8   under sub. (2).

9   **SECTION 5.** 893.80 (3) of the statutes is amended to read:

10   893.80 **(3)** Except as provided in this subsection <u>and s. 893.587 (4)</u>, the amount

11 recoverable by any person for any damages, injuries or death in any action founded

12 on tort against any volunteer fire company organized under ch. 181 or 213, political

13 corporation, governmental subdivision or agency thereof and against their officers,

14 officials, agents or employees for acts done in their official capacity or in the course

15 of their agency or employment, whether proceeded against jointly or severally, shall

16 not exceed $50,000. ~~The~~ <u>Except as provided in s. 893.587 (4), the</u> amount recoverable

17 under this subsection shall not exceed $25,000 in any such action against a volunteer

18 fire company organized under ch. 181 or 213 or its officers, officials, agents or

19 employees. ~~If~~ <u>Except as provided in s. 893.587 (4), if</u> a volunteer fire company

20 organized under ch. 181 or 213 is part of a combined fire department, the $25,000

21 limit still applies to actions against the volunteer fire company or its officers,

22 officials, agents or employees. No punitive damages may be allowed or recoverable

23 in any such action under this subsection.

24   **SECTION 6.** 893.82 (6) of the statutes is amended to read:

1   893.82 **(6)** ~~The~~ Except as provided in s. 893.587 (4), the amount recoverable by

2   any person or entity for any damages, injuries or death in any civil action or civil

3   proceeding against a state officer, employee or agent, or against a nonprofit

4   corporation operating a museum under a lease agreement with the state historical

5   society, including any such action or proceeding based on contribution or

6   indemnification, shall not exceed $250,000. No punitive damages may be allowed or

7   recoverable in any such action.

8   **(END)**