



DEVIN LEMAHIEU

STATE SENATOR

DATE: October 1, 2015
RE: **Testimony on 2015 Senate Bill 170**
TO: The Senate Committee on Judiciary and Public Safety
FROM: Senator Devin LeMahieu

Mr. Chairman and committee members, thank you for taking time today to discuss Senate Bill 170. SB 170 will increase the criminal statute of limitations for second and third degree sexual assault from 6 to 10 years. While it may seem as easy as changing a number, this bill would make an important change to support sexual assault victims.

Currently, our state has no statute of limitations for all *first degree* sexual assaults and repeated acts of sexual assault of the same child. Similarly, many of the statutes of limitations for sex crimes against children have been extended until the victim reaches age 45.

Second and third degree sexual assault are also egregious crimes (full list attached). They are also some of the most frequent types of sexual assaults facing our communities and college campuses, such as “date rape” and sexual intercourse without consent. Victims of these crimes deserve a larger window of opportunity to come forward. These victims experience trauma and mental anguish that may prevent them from coming forward immediately.

The idea for this legislation was brought forward to me by a constituent who was sexually assaulted in college. While she was not able to testify in person today, I have attached a copy of her testimony for you to read. As her powerful story depicts, sexual assault is a serious crime and memory repression and fear of reporting affects adults, not just children. Unfortunately for my constituent, when she was ready to come forward the statutes of limitations had expired and now the offender is free from any potential consequences.

Listening to my constituent relive her story was the most difficult day I’ve had so far in as a State Senator. Yet, that was only one day. It’s hard to imagine what it must be like for my constituent, and other survivors, who have to deal with the emotional scars of being assaulted every day.

In Wisconsin: 390,000 women have experienced rape, and nearly 1.5 million men and women have experienced other forms of sexual violence. It is important to keep those numbers in mind while also considering that 65% of sexual assaults go unreported, according to the U.S Bureau of Justice.

Sexual assault is also a major issue on our college campuses. In a recent survey conducted by the University of Wisconsin Madison, more than one in four female undergrad students reported being sexually assaulted. That's 4,404 young women who were sexually assaulted during their undergrad career in this city alone.

Extending the statute of limitations for some of the most egregious sex crimes increases the probability that sexual predators and repeat offenders will be brought to justice. It provides a tool for victims and prosecutors to hold offenders accountable for their actions. With constant advancements in technology in terms of evidence collection and preservation, it is essential that we create a bigger window for these crimes to be discovered.

SB 170 would also bring Wisconsin in line with other states across the nation. Currently, 38 states have their statutes of limitations of 10 years or more for similar crimes. Congress recently repealed the statute of limitations on rape and sexual assault for the U.S Military under the 2014 National Defense Authorization Act.

SB 170 has received strong bi-partisan support and I believe this is an issue we can all get behind. Thank you again for your time and consideration.



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Degrees of Sexual Assault in Wisconsin

First degree Sexual Assault (No SoL) . Section 940.225 (1) prohibits sexual contact or sexual intercourse without consent in any of the following situations: 1) the assault causes pregnancy or great bodily harm; 2) the assault involves the use or threat of use of a dangerous weapon, or what appears to be one; 3) the perpetrator is aided or abetted by one or more other persons and the assault involves the use or threat of use of force or violence. Marriage is not a bar to prosecution in any case of sexual assault. This constitutes a Class B felony.

Second degree Sexual Assault (SoL = 6 Years). Section 940.225 (2), prohibits sexual contact or sexual intercourse without consent in situations involving: 1) use of or threat of force or violence; 2) causing an injury, illness, disease or impairment of a sexual or reproductive organ, or mental anguish requiring psychiatric care for the victim; 3) assault upon a victim who suffers from a mental illness or deficiency that renders the person temporarily or permanently incapable of appraising the victim's conduct, and the perpetrator knows of such condition; 4) assault upon a person who the perpetrator knows is unconscious; 5) the assault is abetted by one or more other persons; 6) assault upon a patient or resident of a health or treatment facility or program by an employee of that facility or program; 7) or assault upon a person that the perpetrator knows is under the influence of intoxicants to a degree which renders the person incapable of appraising his or her conduct (Class C felony). If a sexual assault in the context of a social or romantic situation involves one party being under the influence of alcohol or other drugs, it may be an example of so called "date rape" and be a second degree sexual assault. If such an assault occurs and intoxicants were not involved, then the "date rape" incident may be a third degree sexual assault.

Third degree Sexual Assault (SoL = 6 Years). Section 940.225 (3) prohibits sexual intercourse without consent. It also prohibits nonconsensual sexual contact involving intentional ejaculation or emission of urine or feces if such conduct is either for the purposes of sexual degradation or humiliation or sexual arousal or gratification (Class G felony).

Fourth degree Sexual Assault (SoL = 3 Years). Section 940.225 (3m) prohibits nonconsensual sexual contact involving the intentional touching of clothed or unclothed intimate body parts (Class A misdemeanor).

SB 170 would extend the statute of limitations for 2nd and 3rd degree sexual assaults from 6 years to 10 years

*Reference – Wis. Stats 940.225

September 15, 2015

To Whom It May Concern:

My name is Rae [REDACTED]. I am a chiropractor, a wife to a U.S. Army Soldier, and mother of a wonderful four year-old boy. This letter is about how Wisconsin's current criminal statute of limitations (six-years) for second-degree sexual assault (rape) has negatively affected me and potentially kept a criminal from being prosecuted. If my sexual assault had occurred in a majority of other states the perpetrator in my case could have still been prosecuted.

I was sexually assaulted twice as a 19 year-old freshman at the University of Wisconsin – Steven Point on the night of February 22nd and morning of February 23rd in 2005. I remember this date well because it was the 21st birthday of my friend [REDACTED]. I knew my friend was overindulging that night and was concerned about him. Late on February 22nd I received a call that the group was back from the bars, so I went to check on my friend. He was blacked / passed out in his dorm room. Concerned that he drank too much I kept an eye on him, as his roommate was not around, refilling his water glass and keeping the garbage can in front of his face. [REDACTED] friends stated that his roommate started out with the group but had disappeared after the first bar and no one had seen him all night.

While I was tending to [REDACTED] his roommate, [REDACTED] came into the room. I explained why I was there and he understood. He said he was hungry and asked if I wanted to go get something to eat. I stated that I was hungry too but didn't want to leave [REDACTED] alone in case something happened. I then asked him if he would pick something up for me if I gave him money but he declined as he wasn't interested in getting food anymore. Suddenly the conversation turned from food to my virginity with him asking if I was really a virgin. Apparently my friend had told him I was. I didn't think it was any of his business but I confirmed that yes, I was a virgin. He went on about how he didn't believe it and that it was hard to believe any college girl could still be a virgin. The next thing I knew, I was on the floor and [REDACTED] was sitting on me and holding me down. I felt like I was paralyzed. I couldn't move or speak. I couldn't believe this was happening to me. Confused, paralyzed, and in shock all I could do was watch what he was doing to me while I tried to process what was actually happening. Thankfully I had on a brand new belt that he unsuccessfully tried to remove. Once he realized that belt wasn't coming off he moved up further on my abdomen and chest and began to try to force me to give him oral sex. I refused to do this and kept turning my head away from him. Despite my clear objections he still was able to insert his penis into my mouth at times as he tried to keep me still. Finally, I had the idea to tell him that he shouldn't be doing this especially with [REDACTED] in the room. He agreed and just like that he stopped. I couldn't believe that had worked. He then told me he would walk me home so that I would get there safely, but I knew this was not a safe option.

After he stopped we each left the room separately. I sat outside for a few minutes, trying to process what had just happened. Having not seen [REDACTED] come out I decided it would be safe to walk back to my dorm. During my walk across campus I was relieved that the assault was over. I started to think about how I would let [REDACTED] know what happened. Just as I was unlocking the door to my dorm building Ben came out of the bushes and put his arm around me. He forcibly escorted me upstairs and once we

got to my room the assault started all over again. He immediately pinned me down against the futon and continued where he had left off, trying to force me to give him oral sex. I again kept on turning my head away and tried to resist to limited avail. Ultimately, he masturbated and ejaculated in my hair. Once he got off of me I sat up on the futon. The commotion woke up my roommate who I did not even know was there and was in a casual relationship with [REDACTED]. She came down from her lofted bed and sat down with him on the other end of the futon. She asked why he was there and then he started to make out with her. I looked over to see him groping her breast and felt even more disgusted. After a few minutes he told her he would see her later and he left. Once he left I went to take a very long shower. I felt so disgusted and still couldn't believe what had happened.

It didn't go very well when I let [REDACTED] know what had happened. It was hard for him to believe his roommate would do such a thing. When he confronted his roommate he was told that I instigated it and asked for it. He claimed that I was a willing participant and made the move on him. After [REDACTED] told me this I showed him the bruises on my body. I had small fingerprint size bruises on both breasts and the same around my pelvis. Consensual relations shouldn't result in bruises on either party. Even after showing him this I felt that he still didn't believe me. I felt so embarrassed, ashamed, and stupid for having this happen to me. I didn't know what to do and the people close to me didn't seem to believe me.

I'm not sure how many days after I suppressed the memory of this event but at some point the memories were gone and I went on with my life. I had an aversion towards [REDACTED]'s roommate and avoided him at all costs but didn't consciously think about why that was. I had a work-study job at the counseling center on campus. At some point I had designed an informative poster about sexual assault and that didn't even bring the memories back. One of my friends was raped the summer after I was assaulted. I instructed her to not change her clothes, took her to the hospital, and sat with her while she spoke to an officer. Even that didn't bring back my memories of what happened to me. I saw a counselor for my panic attacks a few years ago and when she asked me if I had a history of a traumatic event or had ever been trapped or bound up I said to her, "No, nothing bad has ever happened to me." I had no recollection of the assault at that time. We couldn't figure out what event had triggered my anxiety disorder and my hyper vigilance. It all makes sense now.

It wasn't until my husband deployed overseas and I moved back home to Wisconsin by my family that the memories started to come back. I think it was a combination of driving past UW-Stevens Point, the stress of my husband being deployed, and an article I saw about my attacker being painted in a mural that the memories came back; 9 years after it happened. I started having nightmares of the attack happening all over again. I had flashbacks and cried a lot. The memories were very disturbing and I felt like I had no one to talk to about it because I didn't think anyone would believe me. I pushed the memories back again and after a couple weeks I forgot about it all over again. A new health issue had taken up my thoughts and I focused on getting better and supporting my family while my husband was gone.

After my husband redeployed we moved back to Washington State to be together as a family for the 2 1/2 months until our permanent change of station move to Virginia. One day while my husband was at work I was startled by a person in our backyard near the window. This incident triggered a panic attack and also triggered my memories of the sexual assault. It was at this time when I told my husband about the sexual assault without suppressing the memories. I went back to my therapist and told her

the whole story as well. It was now real and I felt I had the support system missing after the initial encounter and felt empowered to take action.

When we started our permanent change of station move we visited family in Wisconsin before traveling to Virginia. On our way we stopped in Stevens Point and I reported the assault to an officer at protective services. This coincidentally occurred almost exactly 10 years to the date of when the assault happened. Due to the statute of limitations I knew that nothing could be done but I still felt the need to report it so that someone in authority knew what had happened. This was part of my healing process no matter what the outcome was. My next step was to meet with Senator Devin LeMahieu and see if there was anything he could do.

The statute of limitations is aiding in keeping a criminal on the streets where he is potentially doing this or already has done this to other women. I feel the message this sends to people like him is that if you traumatize someone enough you can get away with a crime because they will likely suppress the memories long enough to avoid prosecution. That is what happened in this case and it isn't right. Remembering the assault and finding out the statute of limitations was up made me feel like a victim all over again.

I'd like to thank Senator LeMahieu and his staff for taking the time to meet with my husband and me and for taking this seriously. I'd also like to thank everyone else for listening to my story. It is not an easy thing to hear and especially is not easy for me to talk about. Please consider changing the statute of limitations and give prosecutors a chance to bring charges against individuals that commit rape that they currently have in many other states.

Sincerely,



Rae 



STATE REPRESENTATIVE

SAMANTHA KERKMAN

Senate Bill 170

Sexual Assault Statute of Limitations Changes

Committee on Judiciary and Public Safety

Thursday, October 1, 2015

Chairman Wanggaard and committee members: good afternoon and thank you for holding a hearing on Senate Bill 170, the bill that would extend sexual assault statute of limitations.

As alluded to in my introduction, this bill would specifically extend the current statute of limitations for second degree sexual assault and third degree sexual assault from six years to ten years. Extending the sexual assault statute of limitation would bring Wisconsin up to par with the majority of the states in the country.

Sexual assault is a form of sexual violence. While anyone from any walk of life can experience sexual violence, victims, more often than not, are female. According to the Center for Disease Control, the perpetrator is often a male and is known to the victim, meaning he is a relative, friend, or colleague. Having a close relationship with the perpetrator, the victim may find herself in a difficult position to report the crime. By extending the statute of limitation it is more likely that sexual perpetrators will be brought to justice.

Many times, as politicians, we are criticized for being too partisan, too political. I would like to take the opportunity to point out that this bill has received sweeping bipartisan support. I hope that members of this committee would support this bill and move this forward.



WISCONSIN COALITION AGAINST SEXUAL ASSAULT

To: Members of the State Senate Committee on Judiciary and Public Safety
From: Wisconsin Coalition Against Sexual Assault
Subject: Testimony in Support of SB 170: Expanding the Statute of Limitation for 2nd and 3rd Degree Sexual Assault
Date: October 1, 2015

Good morning, my name is Dominic Holt, public policy and communications coordinator for the Wisconsin Coalition Against Sexual Assault (WCASA). WCASA is a statewide membership agency comprised of organizations and individuals working to end sexual violence in Wisconsin. Among these are the 51 sexual assault service provider agencies throughout the state that offer support, advocacy and information to survivors of sexual assault and their families.

WCASA thanks Chairman Wanggaard and Vice Chairperson Vukmir for their leadership in bringing SB 170 before the committee today. WCASA also thanks Senators LeMahieu and Lassa and Representatives Kerkman and Goyke for spearheading sponsorship of this legislation. We particularly appreciate the bipartisan list of cosponsors, which helps illustrate the fact that addressing sexual violence requires bipartisan collaboration.

After all, sexual violence does not discriminate. It affects Wisconsinites from every walk of life and every part of the state. Furthermore, the estimated numbers of survivors in Wisconsin are staggering. An estimated 390,000 women — essentially one in five — have been raped in Wisconsin.ⁱ An estimated 912,000 women have experienced sexual violence other than rape in the state.ⁱⁱ And an estimated 507,000 men have experienced sexual violence other than rape in Wisconsin.ⁱⁱⁱ

To help address this matter, this bill would expand from six years to 10 years the criminal statute of limitations for commencing prosecution for second and third degree sexual assault. WCASA supports SB 170 for several reasons.

First, WCASA believes survivors of sexual violence deserve justice no matter how long it takes. Survivors need and deserve as much time as possible to gather the strength, courage, and support necessary to report the crime to law enforcement and to participate fully in the often lengthy and difficult criminal justice process. Many survivors are unable or unwilling to come forward until long after the assault occurred, because of the scrutiny, blame, fear, intimidation, and shaming that survivors commonly face.

WCASA also believes our communities are safer when we hold sexual assault perpetrators accountable, especially since many are serial perpetrators. Widening the window for reporting and prosecuting sexual assault increases the probability that the criminal justice system will bring perpetrators to justice. This, in turn, will reduce the number of assaults in the end and make our communities safer.

Furthermore, this bill is the logical next step in the legislature's evolution on this matter. Over the last quarter-century, Wisconsin has increasingly lengthened or abolished its statute of limitations for child sexual assault. And most recently in 2011, Wisconsin Act 282 abolished the statute of limitations for first-degree sexual assault and attempted first-degree sexual assault of

an adult victim. This history illustrates the legislature's acknowledgment that 1) an arbitrary time period should not prevent the criminal justice system from prosecuting sexual assault, and 2) the length of that time period gauges how seriously a state takes sexual violence.

This legislation will also bring Wisconsin in line with other states across the nation. For offenses comparable to our second and third degree sexual assault, 35 other states and the District of Columbia have set their statute of limitations to more than six years — with the vast majority of them at 10 years or more.^{iv}

Lastly, in the 2014 National Defense Bill, Congress repealed the military's five-year statute of limitations on sexual assault and sexual assault of a child. Thus, at both the state and federal level, the natural evolution to expand or abolish statute of limitations for sexual assault continues.

By supporting SB 170, this committee has an opportunity to show that Wisconsin is willing, once again, to do its part to help survivors seek justice and make our communities safer.

Thank you for your consideration. If you have any questions, you can reach me at dominich@wcasa.org or at the phone number above.

ⁱ Prevalence estimates from the National Intimate Partner and Sexual Violence Survey: 2010 Summary Report. Published 2011. Centers for Disease Control and Prevention.

ⁱⁱ *ibid.*

ⁱⁱⁱ *ibid.*

^{iv} Ericksen and Knecht. Statutes of Limitations for Sexual Assault: A State-By-State Comparison. Current as of August 21, 2013. The National Center for Victims of Crime. The list includes: Alaska, Arizona, California, Colorado, Delaware, District of Columbia, Georgia, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, and Wyoming.