

**PROCEEDINGS OF THE BROWN COUNTY
EXECUTIVE COMMITTEE**

Pursuant to Section 19.84 Wis. Stats., a regular meeting of the **Brown County Executive Committee** was held on Monday, February 10, 2020 in Room 200 of the Northern Building, 305 E. Walnut Street, Green Bay, WI.

Present: Chair Lund, Supervisor Ballard (for Supervisor Van Dyck), Supervisor Erickson, Supervisor Sieber, Supervisor Hoyer
Excused: Supervisor Moynihan, Supervisor Van Dyck
Also Present: Director of Administration Chad Weininger, Supervisors Deslauriers, Tran & Borchardt, Corporation Counsel Dave Hemery, Internal Auditor Dan Process, Technology Services Director August Neverman, media and other interested parties

I. **Call meeting to order.**

The meeting was called to order by Chair Tom Lund at 5:30 pm.

II. **Approve/modify agenda.**

Motion made by Supervisor Erickson, seconded by Supervisor Buckley to modify the agenda to take Item 4 following Item 2. Vote taken. **MOTION CARRIED UNANIMOUSLY**

III. **Approve/modify Minutes of January 6, 2020.**

Motion made by Supervisor Sieber, seconded by Supervisor Hoyer to approve. Vote taken. **MOTION CARRIED UNANIMOUSLY**

Comments from the Public. None.

1. **Review Minutes of:** None.

Legal Bills

2. **Review and Possible Action on Legal Bills to be paid.**

Motion made by Supervisor Erickson, seconded by Supervisor Ballard to approve. Vote taken. **MOTION CARRIED UNANIMOUSLY**

Although shown in the proper format here, Item 4 was taken at this time.

Communications

3. **Communication from Supervisor Deslauriers re: Pertaining to Brown County Open Records.** Because the 2009 Records Retention 'Schedule A' in Brown County Ordinances does not specifically itemize if or how modern forms of communication are saved, I am requesting that Corporation Counsel draft a summary document that will specifically state how Brown County captures and retains emails, text messages, phone call records, videos, and meeting recordings. I am requesting that this summary be presented at the County Board Meeting and be published on the Brown County Website. *Action at December meeting: To hold until the February 2020 Executive Committee meeting.*

Corporation Counsel Dave Hemery and Technology Services Director August Neverman addressed the Committee. Hemery outlined how each of the different types of records referenced in the communication are retained as follows:

-E-Mails – This is done through software and e-mails are retained for at least seven years.

-Texts – We rely on our carrier to search for texts. Hemery's advice and practice regarding texts is to only conduct business on a county e-mail account or through documents. If you must send a text, his recommendation is to forward the text to the county e-mail after it is sent and then it is retained the same way e-mails are retained.

-Phone Calls – Currently phone records are kept for one year and those records include when the call came in, when the call ended, and the number in question.

-Videos – Currently we are looking at closed captioning county meetings and prices are being reviewed. As far as recording meetings, currently some meetings are recorded by audio which is considered a draft to allow minutes to be prepared. This applies to the six standing Committees and other meetings handled through the County Clerk's office. These are recorded by audio and the audio is what is used to prepare the minutes and then the minutes become the formal record of the proceeding.

-Social Media – This is something that will be discussed in a later communication on tonight's agenda. Hemery informed the social media piece is a work in progress. He is in the process of creating a master list of every county-related social media site. He has requested information from all departments regarding what social media sites they have and who manages them and indicated that the manager of the social media site is the one responsible for public records requests. He further noted some departments may have a number of different accounts. Currently DoTS is not recording the social media sites so it is up to the person operating the social media sites to retain the records. Hemery feels this communication was helpful and is good because we are taking a hard look at the policy and he reiterated it is a work in progress.

When talking records retention, Hemery noted there was a statewide task force organized by the Public Records Board in 2010 that worked on a retention schedule that then became the statewide standard. It is a very lengthy document that sets forth what each department has to do with each type of record. Most counties adopted the retention schedule, but Brown County is one of the counties that has not adopted it.

Director of Administration Chad Weininger said prior to this, because of our records storage and the number of boxes the county is storing, they started looking at the records retention policy. All departments have been reviewed and they are now waiting for a legal opinion from Corporation Counsel on two pieces and when that is done Administration will be bringing forward a new records retention ordinance which will basically adopt the WCA/Wisconsin Records Council recommendation.

Hemery added that this item has been on the agenda for a while and he feels it is very important to give this the time it deserves. This will likely end up with a recommendation to adopt the retention schedule of the State and it will also likely end up with recommendations regarding each type of media identified in the communication by Supervisor Deslauriers.

Hemery continued that he is definitely giving this the attention it needs but noted that his office is extremely busy and he has been working hard, including weekends and evenings, as well as giving back a significant amount of vacation time. He explained further that there have been a number of public records requests lately that take a significant amount of time. Requests may look simple, but when they are sent to the full Board and over 30 departments, he receives a lot of calls from departments and Supervisors with questions and they take a very long time. There are also a number of items that come through his office that are time sensitive that have to be handled in a specific timeframe. The retention policy needs the time put into it that it deserves and Hemery does not want to make any quick recommendations. His suggestion is to keep this on the agenda to be monitored.

Supervisor Deslauriers feels right now e-mail are being handled in a very good way. There are some assumptions with the process that Corporation Counsel has given out to the public for processing open records requests. One of those is concerning receipt of e-mails and right now the county is using Exchange for this. Deslauriers feels Exchange is very poor at auditing receipt of e-mails. One of the requests of Corporation Counsel to the public was to send the request directly to the County Board office to ensure there

would be an audit trail of when the request was received and opened so we know when the clock starts ticking and Exchange is not a very good process for this. Deslauriers used the result of the public records request for his social media as an example and said he received the e-mail, read it in its entirety, and downloaded the attachment, but according to Exchange, unless something is strangely different about the county's e-mail, he does not believe it will show up as a read e-mail. Neverman said the request is in the queue of the engineers and they are able to tell when an e-mail has been opened and noted that there is a standing request which will be fulfilled within the open records timeframe. The engineer would likely be able to say when the e-mail was sent, when it was received and when it was opened in some way. Neverman also mentioned they use a tool called Move-It for any sort of secure communications and that is fully audited and fully logged and anything that requires a chain of trust or any sort of secured communication is done through Move-It.

Deslauriers clarified that the read record for the message is when you click on the message and it un-bolds. Neverman said that is correct. Deslauriers noted that he brings this up because Exchange does not do this in the way Neverman thinks it does; he can fully read a message without it going un-bold and being recorded as read and referenced the record for the response at 7:30 on Sunday and said that he purposely left it that way so they could see what is going on. The process that is in place with going to the County Board office needs to be updated in a way that these receipts can be properly processed because the assumption right now is that when he reads an e-mail, it is logged through Exchange as read, but that is not the case.

Deslauriers asked about security and surveillance camera recordings for County buildings. Neverman informed those are stored for the minimum 121 day requirement per the State recommendation. It is basically locked up and only those with administrative rights have access. There are only a handful of people in the entire county who have the ability to delete anything.

Audio recordings of meetings are retained on the County Board computer in the shared drive, but Weininger noted those recordings are really a draft and could be recorded over because the record of the meeting is actually the minutes. Deslauriers asked that this procedure be more formalized because he feels it is important to have audio records of the meetings in case there is some discrepancy with the recorded minutes. Deslauriers said the audio recordings seem to be treated as more of a temporary file but he does not think there is anything written or codified that obligates the Board office to do so and he would like this included in the retention policy in some way.

Further discussion took place at this time as to when this communication would come back before the Committee again. Weininger clarified that right now for the records retention policy, all department heads have reviewed it and the majority of the concerns have been worked out. The proposed policy is currently in Corporation Counsel's office and there are just a few legal questions that are being researched and they may be working with WCA to have those addressed. When those issues have been resolved, it will go out one more time to the departments per the process and then it will come back to the Committee and Board in the form of an ordinance change.

Motion made by Supervisor Erickson, seconded by Supervisor Buckley to refer to Corporation Counsel to bring back when complete. Vote taken. MOTION CARRIED UNANIMOUSLY

4. Communication from Supervisor Tran: Send resolution to the state in support of abolishing the statute of limitations on reporting of sexual assault. *Referred from January County Board.*

Hemery provided a copy of 2019 Senate Bill 381, a copy of which is attached. Supervisor Tran said this bill pertains to civil lawsuits, not criminal matters. She outlined the analysis by the Legislative Reference Bureau as set forth on the handout. Hemery noted that similar bills are being proposed throughout the nation for both criminal and civil matters. Many times the criminal ones will not pass because of what is at risk - someone's liberty interest, and it can be very hard to defend against something 30 years after the fact. The bill that Tran is asking for support on is regarding civil actions only. It is not any easier if you are being sued to defend yourself from something that happened 30 years ago, but your liberty interest is not at risk as it is a monetary consequence in a civil matter. It is Hemery's opinion that this type of bill would be more likely to

pass than a criminal one. Lund noted there are currently only three states that have no statute of limitations on criminal sexual assault actions.

Tran asked the Committee to authorize Corporation Counsel to draft a resolution in support of 2019 Senate Bill 381.

Motion made by Supervisor Sieber, seconded by Supervisor Buckley to direct Corporation Counsel to draft resolution in support of 2019 Senate Bill 381. Vote taken. MOTION CARRIED UNANIMOUSLY

5. **Communication from Supervisor Deslauriers: That Brown County cease their use of any messaging or social media platform that has the potential to create official records, until a centralized mechanism is in place to capture the records and safeguard from user deletion. *Referred from January County Board.***

Deslauriers informed he was surprised by some of the reactions he got to his initial communication regarding open records. When he brought up social media, the reactions he got from other Supervisors were numerous saying those were not important records. He feels it is not up to us to determine what is important and what is not; it is our obligation to capture and safeguard those records per State statutes and per the Brown County ordinance and provide those to members of the public that ask for them. The other response Deslauriers got was that the county should not be doing business on social media, but that is not up to us whether that is done or not. The county has provided a platform for public discourse on things that they do and they advertise that on social media. While one Supervisor's constituents may or may not demand or expect interaction with the county on social media, other districts may be different.

This communication was put in because of the responses Deslauriers got and he feels it is worthwhile to talk about it because right now there is no centralized mechanism to capture and safeguard the records created on social media.

Hemery agreed that this is an issue that should be discussed, but advised that it should be discussed in closed session as it is an issue that could deal with county liability.

Deslauriers expressed frustration and noted that we talked about social media last time and if these were things that needed to be done in closed session, he does not understand why that was not brought forward sooner. He does not quite understand the liability side and asked Hemery for an explanation. Hemery responded that he reads Deslauriers' communication as basically an accusation of wrong doing by the county that has consequences and that type of thing needs to be done in closed session. Deslauriers said it is not an accusation of wrong doing, but when there is not a centralized mechanism for capture, a conversation on process and records retention should be done in an open meeting so it is part of the record.

Lund said he will take Hemery's advice regarding closed session. Deslauriers said his argument is that this has been delayed since April of last year incrementally over and over and this could have been handled in closed session this evening. Lund noted he did not know that there was a need for closed session on this until Hemery just advised a closed session was needed and, further, this communication was just put in at the last County Board meeting.

Supervisor Ballard said his perception is most of the social media posts that come out of the county are regarding things like events or other things that are also published in some other area and questioned if social media posts would then be part of the records retention policy. Hemery said it needs to be remembered that records retention is one statute and public records requests is another statute. The public records statute does not say you have to keep records; it says if you have records at the time someone requests them, you have to provide them, with different types of exceptions. With regard to records retention, there is one main chapter as well as a number of other chapters scattered throughout which set forth which records need to be kept. First you have to look at the definition of "record" and if what is being talked about meets the definition of "record", then the record retention schedule has to be followed. There are exceptions under the public records law regarding if you have to provide a document if it is freely available elsewhere, but that is under public records law. Under the retention chapter, there is not an exception that if it is published somewhere else that you do not. Hemery said as he goes through this

further, once he has something fully together it will make more sense. What makes it difficult is that public records law does not require retention of anything. There are different penalties and different consequences for records retention and public records and he wants to get this right when he makes a recommendation as far as what should be done moving forward.

Deslauriers said every month this topic is postponed, we lose more records. He wants the Committee to know that these delays mean we are losing more records. The Committee may not agree with the way he conducts his county business, but every month that goes by, more is lost. He feels from an open government and transparency perspective, this is egregious and now there is another artificial delay because of closed sessions that could have been handled tonight. Lund responded that this could not have been handled in closed session tonight because he cannot put a closed session for a communication on the agenda without it going through the Committee and the Committee deciding what to do. His job is to put the communication on the Committee agenda and it is then up to the Committee to make a decision on a closed session based on the advice of Corporation Counsel. Deslauriers said it was obvious from Corporation Counsel's almost immediate request for closed session that this was going to go that way. Hemery noted that he did not discuss this with anyone prior to this meeting and added again that he has been very busy and does not have time to look at every agenda the week before a meeting and analyze everything to see if there should be a closed session. Communications come fresh from the Board meeting and the Committee then decides what to do with them. Hemery did not speak with any members of the Executive Committee regarding this. Deslauriers noted he is not putting this on Chair Lund or the Committee in any way.

The discussion on this continued with different scenarios being discussed, including the estimated cost of retaining social media records and Hemery advising again that this really needs to be done in closed session.

Deslauriers said the biggest point is we are charged statutorily through State statutes and our own ordinance to safeguard, retain and protect records and we are not doing it. His argument is simply to have a process in place and technology in place prior to engaging in the activities that we are not required to do. If we are losing records, then we need to stop doing what we are doing before we get down the path where it is problematic. All of these things should have been flushed out before we engaged in these platforms that create these records.

Motion made by Supervisor Buckley, seconded by Supervisor Ballard to refer to next month for closed session. Vote taken. MOTION CARRIED UNANIMOUSLY

6. **Communication from Supervisor Deslauriers: For Corporation Counsel to carry out the request of any County Board Supervisors for Wisconsin Counties Association legal advice or legal opinion on pending or potential County business the Supervisor is working on. This advice being a free member benefit of the WCA. Referred from January County Board.**

Lund informed Supervisors can go through the office and get legal advice from WCA without going through Corporation Counsel. Deslauriers said this has changed and noted that he has contacted WCA about three times during his term to ask for help and in the past he was told by WCA that legal advice was part of the benefit and WCA would refer him to someone to ask questions. Last time he made a request he was referred by WCA to Attorney Andy Philips. Phillips then contacted Hemery and advised him that because Steve Deslauriers is represented he could not give him advice. Supervisors are represented by Corporation Counsel and the attorney contracted by the WCA could not give advice. Deslauriers then talked to Hemery about this and Hemery advised Deslauriers to send him an e-mail and, on Deslauriers behalf, Hemery would then talk to the WCA attorney. Deslauriers said this process seems reasonable, and it is important that when a Supervisor asks for the process to be carried out simply for Corporation Counsel to refer that question to the WCA on their behalf as their representative, that it be done.

Lund feels what Deslauriers is saying that Supervisors can no longer go directly to WCA for advice needs to be verified. Hemery informed he has not spoken with WCA about this, but he has spoken with Andy Philips. Hemery explained that Brown County has retained Andy Philips to represent Brown County in a number of different matters. Hemery has extensive contact with Philips and his firm and has built a very good relationship with Phillip over the years. Hemery does not abuse this relationship and feels Philips knows that

if Hemery is contacting him, he has already fully researched it himself and just wants some backup from Andy.

Hemery outlined a chain of e-mails that were sent between Phillips, Hemery and Deslauriers wherein Hemery advised Deslauriers that Phillips is retained by Hemery's office, but he is not retained to provide advice to County Board members and that legal ethics typically do not allow Phillips to provide advice to a represented individual and that Deslauriers could hire his own attorney. Hemery continued that although Deslauriers can waive the attorney/client privilege, what Hemery is trying to say is Phillips is not going to provide Deslauriers with free legal advice. Deslauriers asked Hemery to request a separate written opinion from WCA's attorney, Andy Phillips. Hemery said this is something that is going to cost money. It is one thing to call Phillips for a quick question, but for anything more than that, Hemery will be charged. The issue Deslauriers was looking for an opinion on is clear in Hemery's mind and he does not feel he needs a second opinion and he is not going to pay for one.

Deslauriers said he called the WCA as a courtesy because he cannot talk directly to Phillips; he was not calling Phillips on his behalf, he was calling him as WCA referred him to Phillips. He feels Phillips misunderstood and thought he was calling him cold for no reason and not through a WCA referral. The attorneys that take referrals from the WCA will no longer engage in that way because of that private attorney relationship that got messed up. Hemery again said Deslauriers can waive that. WCA advised Deslauriers that as a WCA member, he can ask for legal advice and WCA then does the referral to the contracted attorney and that is how the legal advice is provided. He has never circumvented this or never assumed that it would be Phillips that he was referred to. In the process of all of this, he was contacted by Hemery who advised him that he really needs to ask his own attorney first. Buckley questioned why Deslauriers would not go to Hemery first. Deslauriers said that he did go to Hemery first, but he wanted an outside agnostic opinion.

Hemery informed the Code says if a department head wants an outside opinion, they need to go through Corporation Counsel, but there is nothing in the Code about Supervisors. This is being made to look like Hemery is prohibiting a Supervisor from getting an opinion but that is not the case. Any Supervisor can feel free to call any attorney they want, but if they are looking for a formal opinion for Brown County, which is Hemery's client, then he would ask that the Board take a vote on whether or not to seek an outside opinion. If the Board votes for an outside opinion, Hemery is all in favor.

Deslauriers said he did exactly what Hemery asked him to do – put his question in an e-mail that Hemery said he would then forward to Phillips. If this is not the appropriate process, then a conversation should be had with the WCA. Deslauriers does not feel Supervisors should have to beg to get an outside opinion. Hemery responded that outside opinions are something that are handled on an issue by issue basis and when Hemery knows what a Supervisor is asking he typically sends it to Phillips. The communication before us tonight is so that any Supervisor can ask any questions and if that is the case, it is likely that Hemery will lose Phillips as a resource thus losing his best attorney.

Lund noted past practice has been for a Supervisor to talk to the Chair or Vice Chair of the Board. There is a difference between legal advice and an opinion. There have been times that the County Board has disagreed with the position of Corporation Counsel and then the County Board goes out and gets an outside opinion. The County Board asks for these opinions as the strength of the County Board; not as one member of the Board. Hemery added that WCA will provide general legal advice, but the opinion being talked about here is something that would take a lot of time and research and someone is going to get a bill for that.

Buckley said if a Supervisor is looking for an opinion from the WCA, the request should go through the Board Chair and/or Executive Committee to see if the expense is warranted. He would not expect WCA to give legal opinions to every County Supervisor and it is ridiculous to think they would offer something like that. Deslauriers said that is a decision of the WCA and indicated he would be glad to waste his time to clarify what WCA has to offer when it comes to legal opinions. He can bring back whatever he learns to next month's meeting. He wants to be sure that if WCA offers free legal service, Supervisors can avail themselves of that when they need it.

Motion made by Supervisor Buckley, seconded by Supervisor Ballard to receive and place on file. Vote taken. MOTION CARRIED UNANIMOUSLY

7. Communication from Supervisor Nicholson: Review the ordinance on Public Comments with possible action. *Referred from January County Board.*

Motion made by Supervisor Erickson, seconded by Supervisor Sieber to hold for one month. Vote taken. MOTION CARRIED UNANIMOUSLY

8. Communication from Supervisor Borchardt: To recognize January as Human Trafficking month here in Brown Country. *Referred from January County Board.*

Supervisor Borchardt informed she can bring this back next year since January is already passed. Lund asked how Borchardt would like to recognize Human Trafficking month and Borchardt said she would like to see it observed in a similar way as Mental Health Month. Perhaps something coming out of Public Safety or Human Services or on the County website with notifications of different meetings, gatherings or resources.

Motion made by Supervisor Erickson, seconded by Supervisor Ballard to approve for January 2021. Vote taken. MOTION CARRIED UNANIMOUSLY

Internal Auditor

9. 2020 Status Update: January 1 – January 31, 2020.

Internal Auditor Dan Process informed Veterans Services has addressed the gift card issue by pretty much eliminating the gift cards. With regard to the Sheriff and fundraising, Process received a letter from the Sheriff that they have had a meeting with the Benevolent Association and they have agreed to assist.

Ballard asked Process about the POS systems in the County and if each system has a separate vendor. Process believes there may be different vendors or systems for each point of sale. Ballard asked how glitches are rectified when they happen with the POS. Process said he can look at the different vendors we have and discuss it with TS as it is likely an issue for them as well. Many times the POS system depends on what type of activities the institution is trying to serve.

Motion made by Supervisor Erickson, seconded by Supervisor Buckley to receive and place on file. Vote taken. MOTION CARRIED UNANIMOUSLY

Corporation Counsel

10. Oral Report.

Hemery was asked about the workload in his office. He informed that one of the staff deputies has been moved to Risk Management, but is still able to help out in Corporation Counsel when needed. Ballard asked if the open records requests ebb and flow or if they are pretty consistent. Hemery responded that they ebb and flow and the larger ones can take most of a week to handle. His new deputy has been doing quite a few of these requests, but the more odd requests are handled by Hemery himself. Ballard asked if Hemery is able to pass things off to other attorneys when he is busy. Hemery explained the first thing that is done with a public records request is a balancing test. First you ascertain if you have the records, and then the statutes are reviewed for any exceptions and case law exceptions are also looked at. If the records are available and there are no exceptions in the Statutes or case law, a balancing test still has to be done to balance whether or not the public interest and disclosure of the record is outweighed by an even greater public interest in keeping the records confidential and he used rape cases as an example of this. He can farm requests out, but the balancing test still must be done and Hemery feels it is good to have Corporation Counsel do the balancing as he feels he is most in tune with the Board regarding what factors are very important and that type of thing. Overall his office is doing okay.

Hoyer asked if there has to be a rationale given when someone submits an open records request. Hemery responded that no rationale needs to be given and, further, they can be done anonymously.

Motion made by Supervisor Buckley, seconded by Supervisor Sieber to receive and place on file. Vote taken. MOTION CARRIED UNANIMOUSLY

Resolutions, Ordinances

11. Resolution Regarding Table of Organization Change for the Health and Human Services Department – Community Services Division Social Worker/Case Manager (CLTS).

Motion made by Supervisor Erickson, seconded by Supervisor Ballard to suspend the rules to take Items 11 – 15 together. Vote taken. MOTION CARRIED UNANIMOUSLY

Motion made by Supervisor Erickson, seconded by Supervisor Ballard to approve Items 11 – 15. Vote taken. MOTION CARRIED UNANIMOUSLY

12. Resolution Regarding Table of Organization Change for the Health and Human Services Department – Community Treatment Center Division Dietary Unit.

See action at Item 11 above.

13. Resolution Regarding Table of Organization Change for UW Extension LTE 4-H Program Assistant.

See action at Item 11 above.

14. Resolution To Approve Gas Line Easement Regarding the Devils River State Trail.

See action at Item 11 above.

15. Resolution Authorizing County Trunk Highway Jurisdictional Revisions on County Highway S, in the Town of Lawrence, Brown County.

See action at Item 11 above.

Department of Administration & Human Resources

16. Director of Administration Report.

Motion made by Supervisor Sieber, seconded by Supervisor Hoyer to receive and place on file. Vote taken. MOTION CARRIED UNANIMOUSLY

17. Human Resources Report.

Weininger said Human Resources continues to work on Chapter 4 to be sure that there is continuity with the employee handbook and they also continue to work on various policies throughout the County.

Motion made by Supervisor Sieber, seconded by Supervisor Ballard to receive and place on file. Vote taken. MOTION CARRIED UNANIMOUSLY

County Executive - No report.

Other

18. Audit of the bills.

Motion made by Supervisor Ballard, seconded by Supervisor Buckley to receive and place on file. Vote taken. MOTION CARRIED UNANIMOUSLY

Weininger said there has always been a lot of talk about auditing the bills and why this is included on the agendas as the bills have already been paid. He has worked with the Internal Auditor and Corporation Counsel on this and it was determined that technically these do not need to be approved. Chapter 2 could be

changed to take this requirement out of the Committee requirements. He noted that the bills would still be posted publicly.

Process questioned if there is any value to the paid bills reports that are sent to each of the Committees as well as the bills over \$5,000. He does not have a problem doing this if there is value, but noted that the bills have to be reviewed by department heads to see if there is information on the bills that need to be redacted. For example, for Public Safety, all of the names of the witnesses need to be redacted. Process noted that the process has to be done whether the bills are provided to the Committees or published. In the past, the bills were only seen by the Committee members and not published. Lund asked Process to include this as an agenda item on the next agenda or on the April agenda.

19. **Such other matters as authorized by law.** None.

20. **Adjourn.**

Motion made by Supervisor Ballard, seconded by Supervisor Erickson to adjourn at 6:55 pm. Vote taken.
MOTION CARRIED UNANIMOUSLY

Respectfully submitted,

Therese Giannunzio
Administrative Specialist

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LRB-1718/1

MLJ:ahc

2019 - 2020 LEGISLATURE

2019 SENATE BILL 381

August 29, 2019 - Introduced by Senators L. TAYLOR, SCHACHTNER and LARSON, cosponsored by Representatives C. TAYLOR, SARGENT, GRUSZYNSKI, VINING, STUBBS, NEUBAUER, MILROY, L. MYERS, BILLINGS, ANDERSON, BROSTOFF, SUBECK, POPE, CONSIDINE, BOWEN, VRUWINK, SINICKI, SPREITZER and OHNSTAD. Referred to Committee on Insurance, Financial Services, Government Oversight and Courts.

1 AN ACT to renumber and amend 893.587; to amend 893.587 (title); and
2 to
3 create 893.587 (1) and 893.587 (3) of the statutes; relating to: the statute of limitations for sexual contact with a child.

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.

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

4 SECTION 1 . 893.587 (title) of the statutes is amended to read:
5 893.587 (title) ~~Sexual assault of~~ contact with a child; limitation.

1 SECTION 2. 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
4 caused
5 ~~by an act that would constitute a violation of s. 948.02, 948.025, 948.06, 948.085, or~~
6 948.095 an adult's sexual contact with anyone under the age of 18 or by an act
7 committed by an adult that would create a cause of action under s. 895.442 shall
8 may
9 be commenced ~~before the injured party reaches the age of 35 years or be barred at~~
10 any time.

9 SECTION 3. 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 4. 893.587 (3) of the statutes is created to read:
17 893.587 (3) A cause of action described under sub. (2) that was barred by a
18 statute of limitations or a time limit in effect before the effective date of this
19 subsection [LRB inserts date], is revived and that action may be commenced
20 within 3 years after the effective date of this subsection [LRB inserts date].

21 (END)