



## 2009 ASSEMBLY BILL 480

October 6, 2009 – Introduced by Representatives BERCEAU, ROYS, BLACK, SINICKI, DEXTER, GRIGSBY, PASCH, TOLES and PARISI, cosponsored by Senators COGGS, HANSEN and TAYLOR. Referred to Committee on Corrections and the Courts.

1     **AN ACT to amend** 814.04 (intro.); and **to create** 893.583 and 895.437 of the  
2             statutes; **relating to:** creating a civil cause of action for acts of violence  
3             motivated by gender.

---

### *Analysis by the Legislative Reference Bureau*

This bill creates a civil cause of action for a person who suffers physical, emotional, or economic harm as a result of a gender-based act. Under the bill, a gender-based act is an act that is committed, at least in part, on the basis of the victim's gender or a physical intrusion that is sexual in nature and that the actor commits under coercive conditions.

Under the bill, a victim must commence a civil action against the actor within seven years after the gender-based act occurs or, if the victim is under the age of 18, within seven years after the victim's 18th birthday. A victim who prevails in a civil action for a gender-based act may recover damages for emotional distress, punitive damages, and investigation or litigation costs, including attorney fees.

---

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

4             **SECTION 1.** 814.04 (intro.) of the statutes, as affected by 2009 Wisconsin Act 20,  
5             is amended to read:

**ASSEMBLY BILL 480****SECTION 1**

1           **814.04 Items of costs.** (intro.) Except as provided in ss. 93.20, 100.195 (5m)  
2 (b), 100.30 (5m), 106.50 (6) (i) and (6m) (a), 111.397 (2) (a), 115.80 (9), 281.36 (2) (b)  
3 1., 767.553 (4) (d), 769.313, 802.05, 814.245, 895.035 (4), 895.437 (4), 895.443 (3),  
4 895.444 (2), 895.445 (3), 895.446 (3), 895.506, 943.212 (2) (b), 943.245 (2) (d), 943.51  
5 (2) (b), and 995.10 (3), when allowed costs shall be as follows:

6           **SECTION 2.** 893.583 of the statutes is created to read:

7           **893.583 Gender-based harm.** Notwithstanding ss. 893.16, 893.54, and  
8 893.57, an action under s. 895.437 shall be commenced within 7 years after the cause  
9 of action accrues or, if the victim is under the age of 18 at the time the cause of action  
10 accrues, within 7 years of the victim’s 18th birthday, or be barred.

11           **SECTION 3.** 895.437 of the statutes is created to read:

12           **895.437 Gender-based harm; action for. (1)** In this section:

13           (a) “Gender-based act” means either of the following:

- 14           1. An act that is committed, at least in part, on the basis of the victim’s gender.  
15           2. A physical intrusion or invasion of a sexual nature that the actor commits  
16 under coercive conditions.

17           (b) “Victim” means a person against whom a gender-based act has been  
18 committed.

19           **(2)** A victim has a cause of action for injunctive relief and for damages, as  
20 provided in sub. (4), against the person who commits a gender-based act that results  
21 in a physical injury, emotional distress, or damage to or loss of property to the victim.

22           **(3)** The burden of proof in a civil action under sub. (2) rests with the victim to  
23 prove that the defendant committed a gender-based act and that the victim suffered  
24 harm as a result of the act by a preponderance of the credible evidence.

