

Former Governor Lee Dreyfus (in an interview with The Capital Times): *I have seen a change in society's standards in my lifetime and the law ought to conform with societal standards. There's no sense in having a law that doesn't, and is therefore unenforceable. It's time for a realistic change.*

The Rev. Dale Coleman, Grace Episcopal Church, Madison: *In spite of my concern about the breakdown of any consensus in our culture about morality, and my fairly conservative moral views in the Christian church, I think a greater danger would come from giving the State police powers to enforce any strict moral code from any religious persuasion.*

Chief David Couper, Madison Police Department: *Private sexual behavior is another area in which we do not really mean what we say...Most of us can conclude the energies and resources of the police can be better used elsewhere.*

The Rev. Paul Flucke, Plymouth United Church of Christ, Milwaukee: *I support this legislation out of a concern, first, for morality; second, for law; and third, for freedom.*

Dr. Lawrence A. Sinclair, Chairperson, Department of Religion, Carroll College: *It is dangerous for any government body to legislate morality and infringe on the privacy rights of individuals.*

Some of the Editorial Support for Consenting Adults Legislation:

*Chance to slam the bedroom door...The Wisconsin Assembly has another chance to approve a bill that would remove criminal sanctions on private, noncommercial sexual acts between consenting adults. Representatives should grasp the opportunity. The Milwaukee Journal, April 5, 1981.*

*Criminal definitions of sex...The state doesn't belong in anyone's bedroom. The Post Crescent has said so editorially for a long time. It's past time for Wisconsin legislators to enact enforceable laws and discard the outmoded one that never should have passed anyway. The Appleton Post Crescent, April 23, 1981.*

*It's not state's job to regulate sexual morality...Twenty - five states have passed consenting adults laws and society has not come apart at the seams. Wisconsin should follow suit. Wisconsin Rapids Daily Tribune, March 7, 1981.*

*Deregulating sex...It's still impossible to legislate moral consensus or to make official designation of right and wrong. Public laws fare better in less private areas. The Janesville Gazette, March 12, 1980.*

*Unnecessary nuisance...It is time our legislators stood up to these threats to our first amendment freedoms and revamped our sex laws. The Milton Courier, May 14, 1981.*

*Out of the bedrooms, snoopers...Why is it that the same people who want to get government off our backs are so reluctant to cast off one of the most intrusive state laws on the books? The Capital Times, May 1, 1981.*

# David Clarenbach

## ISSUES & COMMENT

### THE CONSENTING ADULTS BILL

Bill History: AB 250 was introduced by the Assembly Committee on Criminal Justice and Public Safety and recommended for passage on a bipartisan vote. (Identical legislation has been introduced the past two successive sessions by this committee and the Senate Human Services Committee - at the request of over 50 members of the clergy, religious and law enforcement groups and individuals. Previously, the bill has passed the Senate and came within one vote of passage in the Assembly last session. Both former Governor Dreyfus and Governor Earl have indicated support for this initiative.

Scope of AB 250: Decriminalizes a limited number of private acts. The bill:

- [1] Repeals the cohabitation statute, Wis. Stats. 944.20(3), with respect to adults.
- [2] Adds the words *in public* to the fornication statute, Wis. Stats. 944.15.
- [3] Recreates the perversion statute as a sexual gratification statute, adding the words *in public* to Wis. Stats. 944.17(1)(a).
- [4] Repeals the part of the drivers license statutes, Wis. Stats. 343.30(2)(d), making it no longer possible to deny a license due to conviction under 944.17.

What AB 250 Does NOT Do: Doesn't decriminalize any sexual acts done for pay (prostitution). This bill does not repeal the adultery statute. The current laws on sexual assault continue to apply to all non-consenting sexual acts. All sexual acts between an adult and minor (not the person's spouse) remain criminal. Sexual activity with animals remains criminal.

National Support for Sex Law Reform: Similar legislation has been enacted in 25 states, including Alaska, California, Illinois, Indiana, Iowa, Nebraska, New York, North Dakota, Ohio, Oregon, Pennsylvania, South Dakota and Vermont. Many other states have never had cohabitation statutes.

The model penal code of the American Bar Association contains no criminal sanctions for private sexual acts between consenting adults, and recommends their repeal where they do exist.

The American Bar Association, the American Federation of Teachers, the American Medical Association, the American Psychiatric Association and the National Association of Social Workers support the concept of decriminalization.

(MORE)

Many of the country's largest corporations, including AT&T, IBM, Bank of America, Procter & Gamble, McDonald's, Honeywell and Citicorp, have adopted written policies that guarantee employees' right to privacy in their sexual activity.

Three higher courts in the United States have found statutes prohibiting sexual behavior between consenting adults to be an unwarranted invasion of privacy under the U.S. Constitution - in New Jersey, Pennsylvania and New York. The New York Supreme Court at Rochester, ruled that *Personal sexual conduct is a fundamental right protected by the right of privacy because of the transcendental importance of sex to the human condition, the intimacy of conduct, and its relationship to a person's right to control his or her own body.*

Wisconsin and the Law: A 1977 study of the cohabitation statute by University of Wisconsin Law Professor Martha Fineman shows that 73% of Wisconsin district attorneys concurred that *cohabitation is not a matter which can or should be addressed by criminal sanctions or the criminal justice system.* Only 14.5% thought cohabitation should be addressed by the criminal justice system.

Yet, each year Wisconsin adults are prosecuted for cohabitation and for sexual acts performed in the privacy of their own home. Last year, Clark Norton in an article entitled Sex in America: An Outlaw's Guide stated that Wisconsin has the national reputation as the *forerunner in the field of nabbing fornicators.*

Some of the statewide organizations that have endorsed the repeal of these archaic laws are the United Ministry in Higher Education, League of Women Voters, Wisconsin Women's Network, Wisconsin Council on Human Concerns, Wisconsin Federation of Teachers, Wisconsin Chapter of the National Association of Social Workers and Wisconsin AFSCME.

#### Some Statements of Support for Assembly Bill 250:

League of Women Voters: *The League of Women Voters of Wisconsin urges passage of this sex law reform legislation...The current statutes are enforced in an arbitrary and capricious manner...Aggressive enforcement of this law as it applies to private acts of consenting adults implies the necessity of gestapo - like tactics and raises the questions of whether or not privacy rights would be infringed by such enforcement.*

Rodney A. Zemke, District Attorney of Eau Claire County and Former President of the Wisconsin DA's Association: *I heartily endorse your proposed changes regarding sexual activity between consenting adults.*

Bishop Marjorie S. Matthews, the United Methodist Church of Wisconsin: *I feel this is much needed and warranted legislation. I do support its enactment in the state of Wisconsin.*

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# Historical Society reforms

The State Historical Society has a national reputation for its research and archival collections. In recent years, however, these programs have suffered dramatic setbacks due to budget cuts and competing priorities.

Some of the criticism of the Society has been directed at the need to reform the governance structure. While all other state agencies are administered by Secretaries or Boards appointed by the Governor and confirmed by the Senate, the Historical Society has been unique in that their Board was exclusively selected by a private membership organization.

As a result of a compromise reached with the Board of Curators, I authored the legislation that has changed the composition of the Board to include gubernatorial and legislative members. The Speaker of the Assembly has named me as the first citizen appointee. I believe we are working well together in a new spirit of cooperation that will benefit the Society and the people whose history we keep.

## WCLU honors

It was a very special occasion for me to be recognized at the January 7, 1984 Annual Bill of Rights event of the Wisconsin Civil Liberties Union as the recipient of the



William Gorham Rice Civil Libertarian of the Year award. This recognition has particular meaning for me. First, because Bill Rice, a national symbol of protection of civil liberties, was a man with whom my parents and I had the privilege of working and for whom we had deep affection. And second, the award is a reminder of the many friends and co-workers who joined in efforts to protect privacy, human and civil rights, and defend reproductive and sexual freedom.

## Legislative scorecard

Here is the progress to date of some of the bills that I authored or coauthored this session:

<b>AB 34</b>	Creates a one-stop permit center for businesses	<b>Enacted</b> (Act 91)
<b>AB 35</b>	Establishes a labor training fund	<b>Enacted</b> (Act 27, Budget Bill)
<b>AB 47</b>	Makes Martin Luther King's birthday a state holiday	<b>Enacted</b> (Act 7)
<b>AB 76</b>	Grants collective bargaining rights	<b>Recommended</b> by Labor Committee; referred to Joint Finance
<b>AB 138</b>	Bans phosphates in detergents	<b>Enacted</b> (Act 73)
<b>AB 196</b>	Restructures Historical Society	<b>Enacted</b> (Act 27, Budget Bill)
<b>AB 200</b>	Marital property reform bill	<b>Awaiting</b> further Senate and Assembly action
<b>AB 240</b>	"Whistleblower Bill" — protects government employes who disclose wrongdoing	<b>Recommended</b> by JCRAR and Finance; In Assembly
<b>AB 250</b>	Removes criminal sanctions against sexual activity between consenting adults in private	<b>Enacted</b> (Act 17)
<b>AB 314</b>	Continues employe health insurance after cessation of business operations	<b>In</b> Financial Institutions and Insurance Committee
<b>AB 315</b>	Requires advance notice to employes of plant closing	<b>Passed</b> by Assembly; In Senate
<b>AB 595</b>	Protects groundwater from pollution	<b>In</b> Environmental Resources Committee
<b>AB 622</b>	Licenses and regulates social and mental health workers	<b>Rec.</b> by Commerce & Consumer Affairs Committee; ref. to Jt. Finance
<b>AB 687</b>	Creates tax exemption for retirement benefits	<b>In</b> Joint Committee on Tax Exemptions
<b>AB 733</b>	Reinstates public funding for abortions	<b>In</b> Family and Economic Assistance Committee
<b>AB 826</b>	Declares moratorium on the construction of nuclear power plants	<b>Recommended</b> by Energy & Utilities Committee; In Assembly
<b>AB 845</b>	Creates incentives and council for employe-owned businesses	<b>In</b> Economic Development Committee
<b>AB 854</b>	Compensates Elwin Donaldson for wrongful conviction and imprisonment	<b>In</b> Joint Finance Committee
<b>AB 895</b>	Creates criminal penalty for impeding rescue vehicles and personnel	<b>Rec.</b> by Criminal Justice & Public Safety Committee; In Assembly
<b>AB 909</b>	"Patients Bill of Rights"	<b>In</b> Health and Human Services Committee
<b>AR 9</b>	Declares Peace and Jobs Week	<b>Adopted</b>
<b>AJR 75</b>	Calls for immediate withdrawal of U.S. troops from Lebanon	<b>Recommended</b> by Veterans & Military Affairs Committee; In Assembly
<b>AJR 76</b>	Requests that Legislative Council study state-operated health insurance plan	<b>In</b> Health and Human Services Committee
<b>SSAB 4</b>	Reduces small business regulation	<b>Enacted</b> (Act 90)
<b>SSAB 6</b>	Creates Wisconsin Economic Development Authority	<b>Enacted</b> (Act 83)
<b>SSAB 7</b>	"Wisconsin Dairy Act"	<b>Enacted</b> (Act 92)
<b>SB 116</b>	Expands prohibition against discrimination in employment because of age	<b>Passed</b> by Senate; In Assembly
<b>SB 118</b>	Toxic substances and employes right-to-know law	<b>Passed</b> by Senate; In Assembly
<b>SB 182</b>	Restricts mortgage foreclosures	<b>Passed</b> by Senate; In Assembly
<b>SJR 19</b>	Makes Wisconsin Nuclear Free Zone	<b>Passed</b> by Senate; In Assembly

# Legislative scorecard

Here is the final status for this session of some of the bills I authored and helped further:

AB 34	Creates a one-stop permit center for businesses	<b>Enacted</b>
AB 35	Establishes a labor training fund	<b>Enacted</b> (Act 27, Budget Bill)
AB 47	Makes Martin Luther King's birthday a state holiday	<b>Enacted</b>
AB 138	Bans phosphates in detergents	<b>Enacted</b>
AB 196	Restructures Historical Society	<b>Enacted</b> (Act 27, Budget Bill)
AB 200	Marital property reform	<b>Enacted</b>
AB 240	"Whistleblower bill" — protects state employees who disclose wrongdoing	<b>Enacted</b>
AB 250	Removes criminal sanctions against sexual activity between consenting adults in private	<b>Enacted</b>
AB 309	Verification of nursing home payroll records	<b>Passed</b> Assembly; in Senate
AB 314	Continues employee health insurance after cessation of business operations	<b>In</b> Financial Institutions & Insurance Committee
AB 315	Requires advance notice to employees of plant closing and layoffs	<b>Enacted</b>
AB 577	Prohibits residency requirements for municipal employees	<b>Passed</b> Assembly; in Senate
AB 595	Protects groundwater from pollution	<b>Enacted</b>
AB 622	Licenses and regulates social and mental health workers	<b>Recommended</b> by Commerce & Consumer Affairs; in Joint Finance
AB 687	Creates tax exemption for retirement benefits	<b>Recommended</b> by Joint Committee on Tax Exemptions; in Joint Finance
AB 698	Prevents domestic abuse	<b>Enacted</b>
AB 733	Reinstates public funding for abortions	<b>In</b> Family and Economic Assistance Committee
AB 826	Declares moratorium on the construction of nuclear power plants	<b>Enacted</b>
AB 845	Creates incentives and council for employe-owned businesses	<b>Passed</b> Assembly; in Senate
AB 854	Compensates Elwin Donaldson for wrongful conviction and imprisonment	<b>Awaiting</b> action by Claims Board
AB 895	Creates penalty for impeding rescue vehicles and personnel	<b>Enacted</b>
AB 909	"Patients Bill of Rights"	<b>In</b> Health and Human Services Committee
AB 954	Funds Comparable Worth Task Force	<b>Enacted</b>
AB 1076	Sets occupational safeguards for video display terminal users	<b>In</b> Labor Committee
AB 1085	Promotes the use of real dairy products in public food service operations	<b>Recommended</b> by Agriculture Committee; in Rules Committee
AB 1123	Adds student to UW Board of Regents	<b>In</b> Higher Education Committee
AB 1131	Student loan bonding expanded	<b>Passed</b> Assembly; in Senate
AR 9	Declares Jobs with Peace Week	<b>Adopted</b>
AJR 75	Calls for immediate withdrawal of U.S. troops from Lebanon	<b>Adopted</b> by Assembly
AJR 76	Requests that Legislative Council study state-operated health insurance plan	<b>In</b> Health and Human Services Committee
SSAB 4	Reduces small business regulation	<b>Enacted</b>
SSAB 6	Creates Wisconsin Economic Development Authority	<b>Enacted</b>
SSAB 7	"Wisconsin Dairy Act"	<b>Enacted</b>
SB 55	Grants teaching assistants collective bargaining rights	<b>Passed</b> Senate; in Assembly Rules Committee
SB 116	Expands prohibition against discrimination in employment because of age	<b>Enacted</b>
SB 118	Toxic substances and employees right-to-know	<b>Enacted</b>
SB 182	Restrict mortgage foreclosure	<b>Passed</b> Senate; in Assembly Rules Committee
SB 253	Fetal alcohol syndrome information program	<b>Passed</b> Senate; in Assembly Health & Human Services Committee
SB 398	Limits sulfur dioxide emissions	<b>Enacted</b>
SB 542	School Board members elected to at-large numbered seats	<b>Enacted</b> (Amendment to AB 540)
SB 568	Increased retirement benefits for public employees	<b>Enacted</b>
SJR 19	Makes Wisconsin Nuclear Free Zone	<b>Adopted</b> by Senate



**David E. Clarenbach**

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# Congressional Record

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A TRIBUTE TO  
AN OUTSTANDING LEGISLATOR:  
DAVID E. CLARENBACH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. KASTENMEIER) is recognized for 5 minutes.

Mr. KASTENMEIER. Mr. Speaker, whoever said that youth was wasted on the young never met Wisconsin State Representative David E. Clarenbach. Next month David will celebrate his 30th birthday. He will also observe his 12th year as an elected public official and his 10th year in the Wisconsin State Legislature.

David's remarkable career is a testament to the ability of young people, if they care, to have a meaningful impact on public policy. Elected to the Dane County Board of Supervisors at the age of 18, he spent 2 years on the county board and then was elected to the Madison City Council in 1974. That same year he ran for the Wisconsin State Assembly and began an illustrious career which already spans 10 years and which is clearly only the beginning.

During his service in the assembly, David has chaired two standing committees—Government Operations in 1981 and the Joint Survey Committee on Tax Exemptions in 1979. This year he was elected speaker pro tem of the assembly.

He also initiated and chaired two legislative council special committees, both of which addressed key issues and resulted in the introduction and passage of legislation: the Study Committee on the Privacy of Personal Records and the Study Committee on Economic Development. The Economic Development Committee has resulted in the establishment for the first time of permanent committees in both the assembly and senate to address this issue.

David is a legislator in the most progressive Wisconsin tradition. Invariably ahead of his time, he has introduced and worked for numerous legislative initiatives that many thought were hopeless causes when they were first offered. Today, he can look back on key accomplishments that resulted from his vision and his persistence: regulation of the use of lie detectors, a moratorium on nuclear powerplant construction, the mandate of emergency plans for nuclear powerplant accidents, the end of criminal sanctions for private consensual sexual activity, and the Nation's first statewide prohibition on discrimination based on sexual orientation.

David has been honored many times with awards for his achievements, most recently by the Wisconsin Women's Political Caucus, the Wisconsin Civil Liberties Union, the Wisconsin State Employees Union, and Environmental Decade. He has also been selected as one of the "Outstanding Young Men in America."

This would be an enviable career for an individual who had served decades in public office and was looking forward to retirement. Yet, those of us who know David and have worked with him during his years in public office know that there are vistas yet to be explored and still further imprints to be left on history.

I join his many friends in congratulating David Clarenbach for a truly remarkable 10 years and wish him continued success as he enters his second decade in the State legislature.