



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-3346/1
MLJ:jld&kjf

2017 ASSEMBLY BILL 425

June 30, 2017 - Introduced by Representatives SARGENT, GENRICH, SINICKI, SPREITZER, CONSIDINE, BERCEAU, ZEPNICK, OHNSTAD and ZAMARRIPA, cosponsored by Senators WIRCH, LARSON and RISSER. Referred to Committee on Criminal Justice and Public Safety.

1 **AN ACT** *to renumber* 940.225 (4) (b) and 940.225 (4) (c); *to renumber and*
2 *amend* 940.225 (4) (intro.); and *to create* 940.225 (4) (d) and 940.225 (5) (cm)
3 of the statutes; **relating to:** the definition of consent in sexual assault cases.

Analysis by the Legislative Reference Bureau

This bill modifies the definition of “consent” for sexual assault. Under the bill, if an actor removes a sexually protective device such as a condom before or during sexual intercourse or other sexual contact without his or her partner’s permission, there has been no valid consent to that sexual act.

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

4 **SECTION 1.** 940.225 (4) (intro.) of the statutes is renumbered 940.225 (4) (a) and
5 amended to read:

6 940.225 (4) (a) “Consent”, „ as used in this section, means words or overt
7 actions by a person who is competent to give informed consent indicating a freely
8 given agreement to have sexual intercourse or sexual contact.

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1 (e) Consent is not an issue in alleged violations of sub. (2) (c), (cm), (d), (g), (h),
2 and (i).

3 (f) The following persons are presumed incapable of consent but the
4 presumption may be rebutted by competent evidence, subject to the provisions of s.
5 972.11 (2):

6 **SECTION 2.** 940.225 (4) (b) of the statutes is renumbered 940.225 (4) (f) 1.

7 **SECTION 3.** 940.225 (4) (c) of the statutes is renumbered 940.225 (4) (f) 2.

8 **SECTION 4.** 940.225 (4) (d) of the statutes is created to read:

9 940.225 (4) (d) If a person freely agrees to have sexual intercourse or sexual
10 contact with another person on the condition that a sexually protective device is
11 used, and that other person intentionally removes or damages the sexually
12 protective device without permission before or during sexual intercourse or sexual
13 contact, there has been no valid consent.

14 **SECTION 5.** 940.225 (5) (cm) of the statutes is created to read:

15 940.225 (5) (cm) “Sexually protective device” means a male or female condom,
16 spermicide, diaphragm, cervical cap, contraceptive sponge, dental dam, or any other
17 physical device intended to prevent pregnancy or sexually transmitted infection.

18

(END)