



**SENATE SUBSTITUTE AMENDMENT 1,
TO 1995 SENATE BILL 80**

May 25, 1995 - Offered by COMMITTEE ON JUDICIARY.

1 **AN ACT to renumber and amend** 940.225 (5) (b) and 948.01 (5); **to amend**
2 939.22 (34), 939.50 (2), 940.225 (2) (intro.), 940.225 (3), 940.225 (3m), 948.02 (2),
3 948.02 (3), 948.05 (1) (intro.), 948.05 (2), 948.055 (2) (a), 948.06 (intro.), 948.07
4 (intro.) and 948.08; and **to create** 939.50 (1) (bc), 939.50 (3) (bc), 940.225 (5) (b)
5 2. and 948.01 (5) (b) of the statutes; **relating to:** sexual assault, crimes against
6 children and providing penalties.

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

7 **SECTION 1.** 939.22 (34) of the statutes is amended to read:
8 939.22 (34) "Sexual contact" means the intentional touching of the clothed or
9 unclothed intimate parts of another person with any part of the body clothed or
10 unclothed or with any object or device, ~~or~~ the intentional touching of any part of the
11 body clothed or unclothed of another person with the intimate parts of the body
12 clothed or unclothed, or the intentional penile ejaculation of ejaculate or intentional
13 emission of urine or feces upon any part of the body clothed or unclothed of another

1 person, if that intentional touching, ejaculation or emission is for the purpose of
2 sexual humiliation, sexual degradation, sexual arousal or gratification.

3 **SECTION 2.** 939.50 (1) (bc) of the statutes is created to read:

4 939.50 (1) (bc) Class BC felony.

5 **SECTION 3.** 939.50 (2) of the statutes is amended to read:

6 939.50 (2) A felony is a Class A, B, BC, C, D or E felony when it is so specified
7 in chs. 939 to 951.

8 **SECTION 4.** 939.50 (3) (bc) of the statutes is created to read:

9 939.50 (3) (bc) For a Class BC felony, a fine not to exceed \$10,000 or
10 imprisonment not to exceed 20 years, or both.

11 **SECTION 5.** 940.225 (2) (intro.) of the statutes is amended to read:

12 940.225 (2) SECOND DEGREE SEXUAL ASSAULT. (intro.) Whoever does any of the
13 following is guilty of a Class C BC felony:

14 **SECTION 6.** 940.225 (3) of the statutes is amended to read:

15 940.225 (3) THIRD DEGREE SEXUAL ASSAULT. Whoever has sexual intercourse
16 with a person without the consent of that person is guilty of a Class D felony.
17 Whoever has sexual contact in the manner described in sub. (5) (b) 2. with a person
18 without the consent of that person is guilty of a Class D felony.

19 **SECTION 7.** 940.225 (3m) of the statutes is amended to read:

20 940.225 (3m) FOURTH DEGREE SEXUAL ASSAULT. ~~Whoever~~ Except as provided in
21 sub. (3), whoever has sexual contact with a person without the consent of that person
22 is guilty of a Class A misdemeanor.

23 **SECTION 8.** 940.225 (5) (b) of the statutes is renumbered 940.225 (5) (b) (intro.)
24 and amended to read:

25 940.225 (5) (b) (intro.) "Sexual contact" means any ~~intentional~~ of the following:

1 1. Intentional touching by the complainant or defendant, either directly or
2 through clothing by the use of any body part or object, of the complainant's or
3 defendant's intimate parts if that intentional touching is either for the purpose of
4 sexually degrading; or for the purpose of sexually humiliating the complainant or
5 sexually arousing or gratifying the defendant or if the touching contains the
6 elements of actual or attempted battery under s. 940.19 (1).

7 **SECTION 9.** 940.225 (5) (b) 2. of the statutes is created to read:

8 940.225 **(5)** (b) 2. Intentional penile ejaculation of ejaculate or intentional
9 emission of urine or feces by the defendant upon any part of the body clothed or
10 unclothed of the complainant if that ejaculation or emission is either for the purpose
11 of sexually degrading or sexually humiliating the complainant or for the purpose of
12 sexually arousing or gratifying the defendant.

13 **SECTION 10.** 948.01 (5) of the statutes is renumbered 948.01 (5) (intro.) and
14 amended to read:

15 948.01 **(5)** (intro.) "Sexual contact" means any intentional of the following:

16 (a) Intentional touching by the complainant or defendant, either directly or
17 through clothing by the use of any body part or object, of the complainant's or
18 defendant's intimate parts if that intentional touching is either for the purpose of
19 sexually degrading or sexually humiliating the complainant or sexually arousing or
20 gratifying the defendant.

21 **SECTION 11.** 948.01 (5) (b) of the statutes is created to read:

22 948.01 **(5)** (b) Intentional penile ejaculation of ejaculate or intentional emission
23 of urine or feces by the defendant upon any part of the body clothed or unclothed of
24 the complainant if that ejaculation or emission is either for the purpose of sexually

1 degrading or sexually humiliating the complainant or for the purpose of sexually
2 arousing or gratifying the defendant.

3 **SECTION 12.** 948.02 (2) of the statutes is amended to read:

4 948.02 (2) SECOND DEGREE SEXUAL ASSAULT. Whoever has sexual contact or
5 sexual intercourse with a person who has not attained the age of 16 years is guilty
6 of a Class C BC felony.

7 **SECTION 13.** 948.02 (3) of the statutes is amended to read:

8 948.02 (3) FAILURE TO ACT. A person responsible for the welfare of a child who
9 has not attained the age of 16 years is guilty of a Class C BC felony if that person has
10 knowledge that another person intends to have, is having or has had sexual
11 intercourse or sexual contact with the child, is physically and emotionally capable
12 of taking action which will prevent the intercourse or contact from taking place or
13 being repeated, fails to take that action and the failure to act exposes the child to an
14 unreasonable risk that intercourse or contact may occur between the child and the
15 other person or facilitates the intercourse or contact that does occur between the
16 child and the other person.

17 **SECTION 14.** 948.05 (1) (intro.) of the statutes is amended to read:

18 948.05 (1) (intro.) Whoever does any of the following with knowledge of the
19 character and content of the sexually explicit conduct involving the child is guilty of
20 a Class C BC felony:

21 **SECTION 15.** 948.05 (2) of the statutes is amended to read:

22 948.05 (2) A person responsible for a child's welfare who knowingly permits,
23 allows or encourages the child to engage in sexually explicit conduct for a purpose
24 proscribed in sub. (1) (a), (b) or (c) is guilty of a Class C BC felony.

25 **SECTION 16.** 948.055 (2) (a) of the statutes is amended to read:

