

1987 Senate Bill 543

Date of enactment: **April 21, 1988**  
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## 1987 Wisconsin Act 352

AN ACT to renumber 940.225 (5) (a) and (b); to amend 895.70 (1) (d), 940.22 (1) (d), 940.225 (4) (intro.) and 946.42 (3) (c); and to create 51.30 (4) (b) 19, 940.225 (2) (f), 940.225 (5) (a) and 940.225 (5) (d) of the statutes, relating to sexual assaults by employes of inpatient and state treatment facilities, escape by persons committed to the department of health and social services and release of information from mental health records to law enforcement agencies.

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

SECTION 1. 51.30 (4) (b) 19 of the statutes is created to read:

51.30 (4) (b) 19. To state and local law enforcement agencies for the purpose of reporting an apparent crime committed on the premises of an inpatient treatment facility or nursing home, if the facility or home has treatment records subject to this section, or observed by staff or agents of any such facility or nursing home. Information released under this subdivision is limited to identifying information that may be released under subd. 16 and information related to the apparent crime.

SECTION 2. 895.70 (1) (d) of the statutes is amended to read:

895.70 (1) (d) "Sexual contact" has the meaning designated in s. 940.225 (5) (~~a~~) (b).

SECTION 3. 940.22 (1) (d) of the statutes is amended to read:

940.22 (1) (d) "Sexual contact" has the meaning designated in s. 940.225 (5) (~~a~~) (b).

SECTION 4. 940.225 (2) (f) of the statutes is created to read:

940.225 (2) (f) Is an employe of an inpatient facility or a state treatment facility and has sexual contact or sexual intercourse with a person who is a patient or resident of the facility.

SECTION 5. 940.225 (4) (intro.) of the statutes is amended to read:

940.225 (4) CONSENT. (intro.) “Consent”, as used in this section, means words or overt actions by a person who is competent to give informed consent indicating a freely given agreement to have sexual intercourse or sexual contact. Consent is not an issue in alleged violations of subs. (1) (d) and (2) (c), (d) ~~and~~, (e) and (f). The following persons are presumed incapable of consent but the presumption may be rebutted by competent evidence, subject to the provisions of s. 972.11 (2):

SECTION 6. 940.225 (5) (a) and (b) of the statutes are renumbered 940.225 (5) (b) and (c).

SECTION 7. 940.225 (5) (a) of the statutes is created to read:

940.225 (5) (a) “Inpatient facility” has the meaning designated in s. 51.01 (10).

SECTION 8. 940.225 (5) (d) of the statutes is created to read:

940.225 (5) (d) “State treatment facility” has the meaning designated in s. 51.01 (15).

SECTION 9. 946.42 (3) (c) of the statutes is amended to read:

946.42 (3) (c) Committed to the department of health and social services pursuant to ch. 971 or 975.