

**BILL HISTORY FOR ASSEMBLY BILL 51 (LRB -0246)**

An Act to amend 940.225 (4) (intro.); and to create 940.225 (2) (h), 940.225 (5) (ab) and 940.225 (5) (ad) of the statutes; relating to: sexual activity involving jail, prison, or community corrections staff or contractors and jail inmates or persons in the custody or under the supervision of the Department of Corrections and providing a penalty. (FE)

2003

02-13. A.	Introduced by Representatives Ladwig, Townsend, Wasserman, Ainsworth, Albers, Balow, Bies, Cullen, J. Fitzgerald, Freese, Gielow, Gundrum, Hahn, Hines, Hundertmark, Jeskewitz, Kestell, Krawczyk, Lassa, J. Lehman, M. Lehman, LeMahieu, Loeffelholz, Lothian, McCormick, Montgomery, Nass, Nischke, Ott, Owens, Petrowski, Plale, Plouff, Pocan, Pope-Roberts, Seratti, Shilling, Stone, Suder, Towns, Van Roy, Vrakas, J. Wood, A. Williams and Gottlieb; cosponsored by Senators S. Fitzgerald, Roessler, Brown, Kanavas, Kedzie, Lazich, Leibham, Reynolds, Risser, Robson and Zien.	
02-13. A.	Read first time and referred to committee on Corrections and the Courts	60
02-26. A.	Fiscal estimate received.	
02-26. A.	Public hearing held.	
03-26. A.	Executive action taken.	
03-26. A.	Assembly substitute amendment 1 offered by committee on Corrections and the Courts (LRB s0047)	147
03-31. A.	Report Assembly substitute amendment 1 adoption recommended by committee on Corrections and the Courts, Ayes 9, Noes 0	148
03-31. A.	Report passage as amended recommended by committee on Corrections and the Courts, Ayes 9, Noes 0	148
03-31. A.	Referred to committee on Rules	148
04-23. A.	Placed on calendar 4-29-2003 by committee on Rules.	
04-29. A.	Read a second time	173
04-29. A.	Representative Hebl added as a coauthor	173
04-29. A.	Assembly amendment 1 to Assembly substitute amendment 1 offered by Representatives Pocan and Ladwig (LRB a0490)	173
04-29. A.	Assembly amendment 1 to Assembly substitute amendment 1 adopted	173
04-29. A.	Assembly substitute amendment 1 adopted	173
04-29. A.	Representative Coggs added as a coauthor	173
04-29. A.	Ordered to a third reading	173
04-29. A.	Rules suspended	173
04-29. A.	Read a third time and passed, Ayes 96, Noes 0	173
04-29. A.	Ordered immediately messaged	174
05-01. S.	Received from Assembly	156
05-01. S.	Read first time and referred to committee on Judiciary, Corrections and Privacy	156
05-13. S.	Public hearing held.	
05-20. S.	Executive action taken.	
05-22. S.	Report concurrence recommended by committee on Judiciary, Corrections and Privacy, Ayes 5, Noes 0	196
05-22. S.	Available for scheduling.	
05-29. S.	Placed on calendar 6-3-2003 by committee on Senate Organization.	
06-04. S.	Read a second time.	
06-04. S.	Senator Darling added as a cosponsor.	
06-04. S.	Ordered to a third reading.	
06-04. S.	Rules suspended.	
06-04. S.	Read a third time and concurred in.	
06-04. S.	Ordered immediately messaged.	
06-05. A.	Received from Senate concurred in.	

**2003  
ENROLLED BILL**

03en AB-51

**ADOPTED DOCUMENTS:**

Orig     Engr

A SubAmdt L

035 00471 / 1

Amendments to above (if none, write "NONE"):

AA1 (00490/1)

Corrections - show date (if none, write "NONE"):

None

Topic

Sexual activity involving jail  
and or prison inmates

6/05/03

Date

Rob/By/Lma

Enrolling/Drafter

**ELECTRONIC PROCEDURE:**

Follow automatic or manual enrolling procedures in *TEXT2000 Reference Guide, Document Specific Procedures, Ch. 20, Engrossing and Enrolling*

**DISTRIBUTION:**

**HOUSE OF ORIGIN:**

- 11 copies plus bill jacket
- Secretary of State's envelope containing 4 copies plus newspaper notice

**REVISOR OF STATUTES:**

- 5 copies

**DEPARTMENT OF ADMINISTRATION:**

- 2 copies

**LRB:**

- Drafting file ..... original
- Drafting attorney ..... 1 copy
- Legislative editors ..... 1 copy each
- Reference section ..... 1 copy
- Bill index librarian ..... 1 copy

**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 2003 ASSEMBLY BILL 51**

March 26, 2003 – Offered by COMMITTEE ON CORRECTIONS AND THE COURTS.

1 **AN ACT to amend** 940.225 (4) (intro.); and **to create** 940.225 (2) (h), 940.225 (2)  
2 (i), 940.225 (5) (ab) and 940.225 (5) (ad) of the statutes; **relating to:** sexual  
3 activity involving a person working at a jail or prison or a community  
4 corrections staff member and an inmate or a person otherwise in the custody  
5 or under the supervision of the Department of Corrections and providing a  
6 penalty.

---

***Analysis by the Legislative Reference Bureau***

Under current law a person who has sexual contact or sexual intercourse with another person without the other person's consent commits the crime of sexual assault. In addition, current law prohibits a person from having sexual contact or sexual intercourse with another person under certain circumstances regardless of whether the other person has consented. Under those provisions a person commits the crime of sexual assault when he or she has sexual contact or sexual intercourse with any of the following: 1) a person who is under the influence of drugs or drugs and alcohol or who suffers from a mental illness, so as to preclude him or her from effectively consenting; 2) a person who is unconscious; 3) a patient or resident in an adult family home, a community-based residential facility, or a health or mental

health treatment facility that employs the other person; or 4) a person under the age of 16. A person convicted of sexual assault under one of those provisions is guilty of a Class C felony, which is punishable by a fine of not more than \$100,000, a term of imprisonment (consisting of a term of confinement in state prison followed by a term of extended supervision) of up to 40 years, or both.

This bill prohibits a person who works at a correctional institution (which, under the bill, means a juvenile detention facility, a juvenile correctional facility, a state prison, a county or municipal jail or house of corrections, a Huber facility, a lockup facility, or a county work camp) from having sexual contact or sexual intercourse with a person who is confined in a correctional institution. The bill also prohibits a probation, parole, or extended supervision agent from having sexual contact or sexual intercourse with an individual who is on probation, parole, or extended supervision if either: 1) the agent supervises the individual, either directly or through a subordinate; or 2) the agent has influenced or has attempted to influence another agent's supervision of the individual. A person who violates this prohibition is guilty of a Class C felony.

---

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

2-3 (AA) ✓

1 SECTION 1. 940.225 (2) (h) of the statutes is created to read.

2 940.225 (2) (h) Has sexual contact or sexual intercourse with an individual who  
3 is confined in a correctional institution if the actor is a correctional staff member. ✓

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

5 940.225 (2) (i) Has sexual contact or sexual intercourse with an individual who  
6 is on probation, parole, or extended supervision if the actor is a probation, parole, or  
7 extended supervision agent who supervises the individual, either directly or through  
8 a subordinate, in his or her capacity as a probation, parole, or extended supervision  
9 agent or who has influenced or has attempted to influence another probation, parole,  
10 or extended supervision agent's supervision of the individual. ✓

2-10 (AA) ✓

11 SECTION 3. 940.225 (4) (intro.) of the statutes is amended to read:

12 940.225 (4) CONSENT. (intro.) "Consent", as used in this section, means words  
13 or overt actions by a person who is competent to give informed consent indicating a

1 freely given agreement to have sexual intercourse or sexual contact. Consent is not  
2 an issue in alleged violations of sub. (2) (c), (cm), (d) ~~and~~, (g), (h), and (i). The following  
3 persons are presumed incapable of consent but the presumption may be rebutted by  
4 competent evidence, subject to the provisions of s. 972.11 (2):

5 **SECTION 4.** 940.225 (5) (ab) of the statutes is created to read:

6 940.225 (5) (ab) “Correctional institution” means a jail or correctional facility,  
7 as defined in s. 961.01 (12m), a secured correctional facility, as defined in s. 938.02  
8 (15m), or a secure detention facility, as defined in s. 938.02 (16).

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

10 940.225 (5) (ad) “Correctional staff member” means an individual who works  
11 at a correctional institution, including a volunteer.

12 (END)

**ASSEMBLY AMENDMENT 1,  
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 2003 ASSEMBLY BILL 51**

April 29, 2003 - Offered by Representatives POCAN and LADWIG.

1 At the locations indicated, amend the substitute amendment as follows:

2 ✓ 1. Page 2, line 3: after "member." insert "This paragraph does not apply if the  
3 2-3 individual with whom the actor has sexual contact or sexual intercourse is subject  
4 to prosecution for the sexual contact or sexual intercourse under this section."

5 ✓ 2. Page 2, line 10: after "individual." insert "This paragraph does not apply if  
6 2-10 the individual with whom the actor has sexual contact or sexual intercourse is  
7 subject to prosecution for the sexual contact or sexual intercourse under this  
8 section."  
9

(END)