

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

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

Analysis by the Legislative Reference Bureau

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

- 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.

1 This paragraph does not apply if the individual with whom the actor has sexual
2 contact or sexual intercourse is subject to prosecution for the sexual contact or sexual
3 intercourse under this section.

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. This paragraph does
11 not apply if the individual with whom the actor has sexual contact or sexual
12 intercourse is subject to prosecution for the sexual contact or sexual intercourse
13 under this section.

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

15 940.225 (4) CONSENT. (intro.) "Consent", as used in this section, means words
16 or overt actions by a person who is competent to give informed consent indicating a
17 freely given agreement to have sexual intercourse or sexual contact. Consent is not
18 an issue in alleged violations of sub. (2) (c), (cm), (d) and, (g), (h), and (i). The following
19 persons are presumed incapable of consent but the presumption may be rebutted by
20 competent evidence, subject to the provisions of s. 972.11 (2):

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

22 940.225 (5) (ab) "Correctional institution" means a jail or correctional facility,
23 as defined in s. 961.01 (12m), a secured correctional facility, as defined in s. 938.02
24 (15m), or a secure detention facility, as defined in s. 938.02 (16).

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

