

2003 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB51)

Received: 03/25/2003

Received By: mdsida

Wanted: As time permits

Identical to LRB:

For: Frank Lasee (608) 266-9870

By/Representing: Lance

This file may be shown to any legislator: NO

Drafter: mdsida

May Contact:

Addl. Drafters:

Subject: Criminal Law - sex offenses
Correctional System - probation
Correctional System - parole
Correctional System - ext superv

Extra Copies: rlr
rpn

Submit via email: YES

Requester's email: Rep.Lasee@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Sexual activity involving someone working at a prison and an inmate; sexual activity involving a probation, parole, or extended supervision agent and a person on probation, parole, or ES

Instructions:

See Attached

Drafting History:

Table with 8 columns: Vers., Drafted, Reviewed, Typed, Proofed, Submitted, Jacketed, Required. It contains two rows of drafting history entries.

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			03/25/2003 _____		03/25/2003	03/25/2003	

FE Sent For:

<END>

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1?	mdsida	1 cr 3/25 03	1 cr 3/26	Self 3/26			

FE Sent For:

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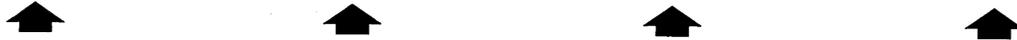


State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Added To File: 03-25-2003 (Per md)



The drafting file for 2001 LRB _____ has been transferred to the drafting file for **2003 LRB** _____

This cover sheet, the final request sheet, and the final version of the 2001 draft were copied on yellow paper, and returned to the original 2001 drafting file.

For research purposes, because the attached 2001 draft was incorporated into a new 2003 draft, this cover sheet and the complete drafting file was transferred, as a separate appendix, to the 2003 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

The drafting file for 2003 LRB 50040 has been copied/added to the drafting file for **2003 LRB** 50047

For research purposes, because the attached 2003 draft was incorporated into another 2003 draft, the attached drafting file was copied on yellow paper (darkened/auto centered/reduced to 90%), and added, as a appendix, to the new 2003 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

This cover sheet was copied on yellow paper and added to rear of the original 2003 drafting file. The drafting file was then returned, intact, to its folder and filed.

ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2003 ASSEMBLY BILL 51

Now

Repeal cat

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 alcohol or 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:

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.

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
14 freely given agreement to have sexual intercourse or sexual contact. Consent is not

1 an issue in alleged violations of sub. (2) (c), (cm), (d) ~~and (g), (h), and (i)~~. The following
2 persons are presumed incapable of consent but the presumption may be rebutted by
3 competent evidence, subject to the provisions of s. 972.11 (2):

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

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

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

9 940.225 (5) (ad) "Correctional staff member" means an individual who works
10 at a correctional institution, including a volunteer.

11 (END)