



## 2005 SENATE BILL 409

October 31, 2005 - Introduced by Senators DARLING, TAYLOR, LAZICH, PLALE, ROESSLER, LASSA and A. LASEE, cosponsored by Representatives KLEEFISCH, GUNDRUM, WASSERMAN, NASS, JENSEN, SHERMAN, LOTHIAN, GRIGSBY, JESKEWITZ, PETTIS, HINES, AINSWORTH, ALBERS, GUNDERSON, MUSSER, STRACHOTA and NERISON. Referred to Committee on Judiciary, Corrections and Privacy.

1     **AN ACT** *to renumber and amend* 940.225 (5) (b) 1. and 948.01 (5) (a); *to amend*  
2             939.22 (34), 940.225 (5) (b) 2. and 948.01 (5) (b); and *to create* 940.225 (5) (b)  
3             1. a., 940.225 (5) (b) 1. b., 948.01 (5) (a) 1. and 948.01 (5) (am) of the statutes;  
4             **relating to:** the definition of sexual contact and providing penalties.

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### *Analysis by the Legislative Reference Bureau*

Convicting a person of sexual assault or sexual assault of a child requires proof of unlawful sexual intercourse or unlawful sexual contact. "Sexual intercourse" is defined in this context under current law to include conduct involving the victim and a third person if it is undertaken at the defendant's instruction. But definitions of "sexual contact" do not explicitly cover conduct of that type.

This bill specifies that sexual contact includes conduct involving a victim and a third person if it is undertaken at the defendant's instruction.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

**SENATE BILL 409****SECTION 1**

1           **SECTION 1.** 939.22 (34) of the statutes is amended to read:

2           939.22 (34) “Sexual contact” means the intentional touching by the defendant  
3 or, upon the defendant’s instruction, by a third person of the clothed or unclothed  
4 intimate parts of another person with any part of the body clothed or unclothed or  
5 with any object or device, the intentional touching by the defendant or, upon the  
6 defendant’s instruction, by a third person of any part of the body clothed or unclothed  
7 of another person with the intimate parts of the body clothed or unclothed, or the  
8 intentional penile ejaculation of ejaculate or intentional emission of urine or feces by  
9 the defendant or, upon the defendant’s instruction, by a third person upon any part  
10 of the body clothed or unclothed of another person, if that intentional touching,  
11 ejaculation or emission is for the purpose of sexual humiliation, sexual degradation,  
12 sexual arousal or gratification.

13           **SECTION 2.** 940.225 (5) (b) 1. of the statutes is renumbered 940.225 (5) (b) 1.  
14 (intro.) and amended to read:

15           940.225 (5) (b) 1. (intro.) ~~Intentional~~ Any of the following types of intentional  
16 ~~touching by the complainant or defendant, either directly, whether direct or through~~  
17 ~~clothing by the use of any body part or object, of the complainant’s or defendant’s~~  
18 ~~intimate parts,~~ if that intentional touching is either for the purpose of sexually  
19 degrading; or for the purpose of sexually humiliating the complainant or sexually  
20 arousing or gratifying the defendant or if the touching contains the elements of  
21 actual or attempted battery under s. 940.19 (1);:

22           **SECTION 3.** 940.225 (5) (b) 1. a. of the statutes is created to read:

23           940.225 (5) (b) 1. a. Intentional touching by the defendant or, upon the  
24 defendant’s instruction, by another person, by the use of any body part or object, of  
25 the complainant’s intimate parts.

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1           **SECTION 4.** 940.225 (5) (b) 1. b. of the statutes is created to read:

2           940.225 (5) (b) 1. b. Intentional touching by the complainant, by the use of any  
3 body part or object, of the defendant's intimate parts or, if done upon the defendant's  
4 instructions, the intimate parts of another person.

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

6           940.225 (5) (b) 2. Intentional penile ejaculation of ejaculate or intentional  
7 emission of urine or feces by the defendant or, upon the defendant's instruction, by  
8 another person upon any part of the body clothed or unclothed of the complainant if  
9 that ejaculation or emission is either for the purpose of sexually degrading or  
10 sexually humiliating the complainant or for the purpose of sexually arousing or  
11 gratifying the defendant.

12           **SECTION 6.** 948.01 (5) (a) of the statutes is renumbered 948.01 (5) (a) (intro.)  
13 and amended to read:

14           948.01 (5) (a) (intro.) ~~Intentional~~ Any of the following types of intentional  
15 touching by the complainant or defendant, either directly, whether direct or through  
16 clothing by the use of any body part or object, of the complainant's or defendant's  
17 intimate parts, if that intentional touching is either for the purpose of sexually  
18 degrading or sexually humiliating the complainant or sexually arousing or  
19 gratifying the defendant.;

20           **SECTION 7.** 948.01 (5) (a) 1. of the statutes is created to read:

21           948.01 (5) (a) 1. Intentional touching by the defendant or, upon the defendant's  
22 instruction, by another person, by the use of any body part or object, of the  
23 complainant's intimate parts.

24           **SECTION 8.** 948.01 (5) (am) of the statutes is created to read:

