

2007 DRAFTING REQUEST

Bill

Received: **09/29/2006**

Received By: **phurley**

Wanted: **As time permits**

Identical to LRB:

For: **Dale Schultz (608) 266-0703**

By/Representing: **Jonathon or Todd**

This file may be shown to any legislator: **NO**

Drafter: **phurley**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - miscellaneous
Criminal Law - sex offenses**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Schultz@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Necrophilia and disturbing a grave

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	phurley 10/18/2006	jdyer 10/19/2006		_____			S&L Crime
/1	phurley 04/24/2007	jdyer 04/25/2007	nmatzke 10/19/2006	_____	lparisi 10/19/2006		S&L Crime
/2			nmatzke 04/25/2007	_____	lparisi 04/25/2007	sbasford 07/20/2007	

FE Sent For: "12" AT INTRO 7-25-2007

<END>

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/1		1/2 4/25 jld	nnatzke 10/19/2006	_____	lparisi 10/19/2006		
			nwn 4/25	nwn 4/25			

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/?	phurley	1/10/19 jcd	nwn 10/19	nwn/pg 10/19			

FE Sent For:

<END>

Schultz

necrophilia law

CL = death occurs during/after assault

1. - so. Anyone who has sex w/ a corpse is guilty of a Class ~~5~~

- 943.012 damage to cemetery

2. Disturbing a grave = Class X
(not graffiti, not stealing a corpse)
like - ch. 157

can
A3. Lisa Rinnek
Anthony Perzosi - ~~not~~

4080

Handwritten initials: "jld" with a checkmark above it.

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Handwritten date: "10-18-06"

Handwritten word: "Gen"

1

AN ACT ...; relating to: sexual contact with a corpse. ✓

Analysis by the Legislative Reference Bureau

Current sexual assault law prohibits a person from having sexual contact or sexual intercourse with another person without the consent of that person. The severity of penalties relating to sexual assault depends upon several factors, including the amount of force used, whether a weapon was employed, and the degree of injury or harm suffered by the victim. Under current law, a sexual assault may occur whether the victim is alive or dead at the time of the sexual contact or sexual intercourse. ✓

This bill makes it a crime to have sexual contact or sexual intercourse with a corpse. The bill defines a "corpse" ✓ as the body of a human being that has been declared dead by a physician, coroner, or medical examiner. Under the bill, having sexual contact or sexual intercourse with a corpse is a Class G felony, which is punishable by a fine not to exceed \$10,000, ✓ imprisonment not to exceed 6 years, or both. ✓

* (Handwritten asterisk)

6 six (Handwritten circled 6 and the word "six")

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.

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

1 SECTION 1. 940.225 (4) (intro.) of the statutes is amended to read:

2 940.225 (4) CONSENT. (intro.) "Consent", as used in this section, means words
3 or overt actions by a person who is competent to give informed consent indicating a
4 freely given agreement to have sexual intercourse or sexual contact. Consent is not
5 an issue in alleged violations of sub. (2) (c), (cm), (d), (g), (h), and (i) or (3r). The
6 following persons are presumed incapable of consent but the presumption may be
7 rebutted by competent evidence, subject to the provisions of s. 972.11 (2):

History: 1975 c. 184, 421; 1977 c. 173; 1979 c. 24, 25, 175, 221; 1981 c. 89, 308, 309, 310, 311; 1985 a. 134; 1987 a. 245, 332, 352; 1987 a. 403 ss. 235, 236, 256; 1993 a. 445; 1995 a. 69; 1997 a. 220; 2001 a. 109; 2003 a. 51; 2005 a. 27, 344, 388, 435, 436.

8 SECTION 2. 940.225 (7) of the statutes is amended to read:

9 940.225 (7) DEATH OF VICTIM. This section applies Subsections (1), (2), (3), and (3m)
10 1, 2, 3, and 3m apply whether a victim is dead or alive at the time of the sexual contact or sexual
11 intercourse.

History: 1975 c. 184, 421; 1977 c. 173; 1979 c. 24, 25, 175, 221; 1981 c. 89, 308, 309, 310, 311; 1985 a. 134; 1987 a. 245, 332, 352; 1987 a. 403 ss. 235, 236, 256; 1993 a. 445; 1995 a. 69; 1997 a. 220; 2001 a. 109; 2003 a. 51; 2005 a. 27, 344, 388, 435, 436.

12 SECTION 3. 940.225 (3r) of the statutes is created to read:

13 940.225 (3r) SEXUAL ASSAULT OF A CORPSE. Whoever has sexual contact or sexual
14 intercourse with a corpse is guilty of a Class G felony. For the purpose of this
15 subsection, a "corpse" is the body of a human being who, at the time of the sexual
16 intercourse or sexual contact, had been declared dead by a physician, coroner, or
17 medical examiner.

18 (END)



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0414/1

PJH:aldawn

stays

2007 BILL

Gen

and disturbing a burial site

1

AN ACT ...; relating to: sexual contact with a corpse

Analysis by the Legislative Reference Bureau

Current sexual assault law prohibits a person from having sexual contact or sexual intercourse with another person without the consent of that person. The severity of penalties relating to sexual assault depends upon several factors, including the amount of force used, whether a weapon was employed, and the degree of injury or harm suffered by the victim. Under current law, a sexual assault may occur whether the victim is alive or dead at the time of the sexual contact or sexual intercourse.

Current law prohibits a person from disturbing a burial site or land contiguous to a burial site. A person who does so is subject to a forfeiture of not less than \$500 nor more than \$2000 if the burial site is not on land that is platted specifically as a cemetery, or to a forfeiture of not less than \$1000 nor more than \$10,000 if the burial site is on land that is platted specifically as a cemetery.

This bill makes it a crime to have sexual contact or sexual intercourse with a corpse. The bill defines a "corpse" as the body of a human being that has been declared dead by a physician, coroner, or medical examiner. Under the bill, having sexual contact or sexual intercourse with a corpse is a Class G felony, which is punishable by a fine not to exceed \$10,000, imprisonment not to exceed six years, or both.

The bill also prohibits any person from disturbing, opening, or exposing a burial site or a buried human corpse. Anyone who does so is guilty of a Class I felony, which is punishable by a fine not to exceed \$10,000, imprisonment not to exceed three years and six months, or both.

six

three

BILL

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

8 **SECTION 2.** 940.225 (7) of the statutes is amended to read:

9 940.225 (7) DEATH OF VICTIM. ~~This section applies Subsections (1), (2), (3), and~~
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15 subsection, a "corpse" is the body of a human being who, at the time of the sexual
16 intercourse or sexual contact, had been declared dead by a physician, coroner, or
17 medical examiner.

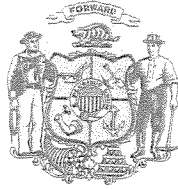
18 **SECTION 4.** 943.0125 of the statutes is created to read:

BILL

1 **943.0125 Disturbing a burial site.**✓ Whoever disturbs, exposes, or disinters
2 a burial site or a buried human corpse is guilty of a Class I felony.✓ A person may not
3 be charged under this section and under s. 157.70 (2r)✓ for acts arising out of the same
4 incidence or occurrence.✓

5

(END)



WISCONSIN STATE SENATE
MAJORITY LEADER
DALE W. SCHULTZ

Peggy,

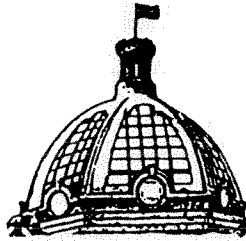
Please see the attached letter from Grant Co. Sheriff Gouvier regarding LRB-0414, which you drafted. The Sheriff makes two comments on the bill regarding unintentional or lawful disinterment of a corpse.

Please contact me to discuss these comments at a time convenient for you. Thank you for your help.

Jonathan Klein

STATE CAPITOL
ROOM 211 SOUTH
PO BOX 7882
MADISON, WI 53707-7882

(608) 266-0703 VOICE
(800) 978-8008 TOLL-FREE
(608) 267-0375 FAX
WWW.LEGIS.STATE.WI.US/SENATE/SEN17/NEWS/



GRANT COUNTY SHERIFF

Keith D. Govier, Sheriff

P.O. Box 506 • Lancaster, WI 53813
Phone: (608) 723-2157 • NCIC: WI 0220000
Fax: (608) 723-2377

Jack R. Johnson, Chief Deputy

November 16, 2006

Dale W. Schultz
State Capitol
Room 211 South
PO Box 7882
Madison, WI 53707-7882

Dear Dale:

Thank you for your quick response in addressing the need for the statutory change in regards to necrophilia. I have reviewed the draft and feel it is an appropriate answer to the crime that took place in Cassville this summer, or other similar crimes.

I have a suggestion for Section 4. I feel that the word "intentionally" should be inserted after the word "whoever". I also think that we should properly address the legal disinterment by a cemetery official or a Coroner. The exceptions under statute 157.112 and 69.18(4) should be inserted in this paragraph. With those two changes I feel that this is an excellent piece of legislation.

I would like to again thank you for your support on this issue and your response to the family and the Cassville community. In this time of political uncertainty, it is nice to know we have a responsive and understanding voice in the senate representing our district.

Sincerely,

Keith Govier, Sheriff
Grant County Sheriff's Department

2007 BILL

Soon
4.24.07

Regen

1 AN ACT to amend 940.225 (4) (intro.) and 940.225 (7); and to create 940.225 (3r)
2 and 943.0125 of the statutes; relating to: sexual contact with a corpse and
3 disturbing a burial site.

Analysis by the Legislative Reference Bureau

Current sexual assault law prohibits a person from having sexual contact or sexual intercourse with another person without the consent of that person. The severity of penalties relating to sexual assault depends upon several factors, including the amount of force used, whether a weapon was employed, and the degree of injury or harm suffered by the victim. Under current law, a sexual assault may occur whether the victim is alive or dead at the time of the sexual contact or sexual intercourse.

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BILL

The bill also prohibits any person from ^{intentionally} disturbing, opening, or exposing a burial site or a buried human corpse. Anyone who does so is guilty of a Class I felony, which is punishable by a fine not to exceed \$10,000, imprisonment not to exceed three years and six months, or both. *

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BILL

✓
intentionally

1 SECTION 4. 943.0125 of the statutes is created to read:
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3 a burial site or a buried human corpse is guilty of a Class I felony. A person may not
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5 incidence or occurrence.

6

(END)

Insert
A ✓

**2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0414/lins
PJH:jld:nwn

INSERT A:

NO This section[✓] does not apply to a person who acts under s. 69.18 (4)[✓] or 157.112.[✓]

Barman, Mike

From: Klein, Jonathan
Sent: Wednesday, April 25, 2007 2:59 PM
To: Barman, Mike
Subject: LRB-0414/2

Mike,

Could you please send me an electronic copy of LRB-0414/2? Thank you.

Jonathan Klein
Office of Senator Dale Schultz
800-978-8008
608-266-0703

Barman, Mike

From: Barman, Mike
Sent: Wednesday, April 25, 2007 3:05 PM
To: Sen.Schultz; Klein, Jonathan
Subject: LRB 07-0414/2 (un-introduced) (attached - requested by Jonathan)

Attachments: 07-0414/2



07-04142.pdf (17
KB)

Mike Barman (Senior Program Assistant)
State of Wisconsin - Legislative Reference Bureau
Legal Section - Front Office
1 East Main Street, Suite 200, Madison, WI 53703
(608) 266-3561 / mike.barman@legis.wisconsin.gov

Basford, Sarah

From: Klein, Jonathan
Sent: Thursday, July 19, 2007 4:51 PM
To: LRB.Legal
Subject: LRB-0414/2

Please send a jacketed copy of LRB-0414/2 to Senator Schultz at Rm. 127 S. State Capitol.

Jonathan Klein
Office of Senator Dale Schultz
800-978-8008
608-266-0703