

2017 DRAFTING REQUEST

Bill

For: Melissa Sargent (608) 266-0960

Drafter: mjohns

By:

Secondary Drafters:

Date: 5/2/2017

May Contact:

Same as LRB:

Submit via email: YES
Requester's email: Rep.Sargent@legis.wisconsin.gov
Carbon copy (CC) to: Melinda.Johns@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Sexual Assault

Instructions:

Modify the definition of "consent" for the sexual assault statutes to clarify the following: if a person consents to intercourse with a sexually protective device, and that device is removed without permission, that there is has not been valid consent to that sex act.

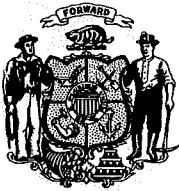
Drafting History:

Table with columns: Vers., Drafted, Reviewed, Submitted, Jacketed, Required. Includes handwritten notes: 'Per MJL' with an arrow pointing to the 'Jacketed' column.

FE Sent For:

not needed

<END>



State of Wisconsin
2017 - 2018 LEGISLATURE

DUE TODAY
5/2/17 THANKS!

LRB-3346?
MLJ:

Handwritten initials and signature

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

X

Gen

1 AN ACT ...; relating to: the definition of consent in sexual assault cases. ✓

Analysis by the Legislative Reference Bureau

This bill modifies the definition of "consent" for sexual assault. ✓ Under the bill, if an actor removes a sexually protective device such as a condom before or during sexual intercourse or other sexual contact without his or her partner's permission, there has been no valid consent to that sexual act. ✓

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

2 SECTION 1. 940.225 (4) (intro.) of the statutes is renumbered 940.225 (4) (a) and
3 amended to read:

4 940.225 (4) (a) "Consent", as used in this section, means words or overt
5 actions by a person who is competent to give informed consent indicating a freely
6 given agreement to have sexual intercourse or sexual contact.

7 (e) Consent is not an issue in alleged violations of sub. (2) (c), (cm), (d), (g), (h),
8 and (i).

1 (f) ✓ The following persons are presumed incapable of consent but the
 2 presumption may be rebutted by competent evidence, subject to the provisions of s.
 3 972.11 (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. 273, 344, 388, 435, 436; 2013 a. 83.

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

5 940.225 (4) (d) Consent is limited to the scope of the actions that a person has
 6 freely agreed to. If a person freely agrees to have sexual intercourse or sexual contact
 7 with another person while utilizing a sexually protective device, and that other
 8 person removes the sexually protective device without permission before or during
 9 sexual intercourse or sexual contact, there has been no valid consent.

10 **SECTION 3.** 940.225 (4) (b) ✓ of the statutes is renumbered 940.225 (4) (f) 1. ✓

11 **SECTION 4.** 940.225 (4) (c) ✓ of the statutes is renumbered 940.225 (4) (f) 2. ✓

12 **SECTION 5.** 940.225 (5) (cm) ✓ of the statutes is created to read:

13 940.225 (5) (cm) "Sexually protective device" ✓ means a male or female condom,
 14 spermicide, diaphragm ✓, cervical cap, contraceptive sponge, dental dam, or any other
 15 physical device intended to prevent pregnancy or sexually transmitted infection. ✓

16 (END)



State of Wisconsin
2017 - 2018 LEGISLATURE

TODAY 5/3/17

thanks!

LRB-3346/P1
MLJ:jld

o/pz
kjf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to renumber* 940.225 (4) (b) and 940.225 (4) (c); *to renumber and*
2 *amend* 940.225 (4) (intro.); and *to create* 940.225 (4) (d) and 940.225 (5) (cm)
3 of the statutes; **relating to:** the definition of consent in sexual assault cases.

Analysis by the Legislative Reference Bureau

This bill modifies the definition of "consent" for sexual assault. Under the bill, if an actor removes a sexually protective device such as a condom before or during sexual intercourse or other sexual contact without his or her partner's permission, there has been no valid consent to that sexual act.

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

4 **SECTION 1.** 940.225 (4) (intro.) of the statutes is renumbered 940.225 (4) (a) and
5 amended to read:

6 940.225 (4) (a) "Consent", " as used in this section, means words or overt
7 actions by a person who is competent to give informed consent indicating a freely
8 given agreement to have sexual intercourse or sexual contact.

1 (e) Consent is not an issue in alleged violations of sub. (2) (c), (cm), (d), (g), (h),
2 and (i).

3 (f) The following persons are presumed incapable of consent but the
4 presumption may be rebutted by competent evidence, subject to the provisions of s.
5 972.11 (2):

6 SECTION 2. 940.225 (4) (b) of the statutes is renumbered 940.225 (4) (f) 1.

7 SECTION 3. 940.225 (4) (c) of the statutes is renumbered 940.225 (4) (f) 2.

8 SECTION 4. 940.225 (4) (d) of the statutes is created to read:

9 940.225 (4) (d) Consent is limited to the scope of the actions that a person has

10 freely agreed to. If a person freely agrees to have sexual intercourse or sexual contact
11 with another person ^{on the condition that} while utilizing a sexually protective device, ^{is used} and that other
12 person ^{or intentionally damages} removes the sexually protective device without permission before or during
13 sexual intercourse or sexual contact, there has been no valid consent.

14 SECTION 5. 940.225 (5) (cm) of the statutes is created to read:

15 940.225 (5) (cm) "Sexually protective device" means a male or female condom,
16 spermicide, diaphragm, cervical cap, contraceptive sponge, dental dam, or any other
17 physical device intended to prevent pregnancy or sexually transmitted infection.

18 (END)



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-3346/P2/11
MLJ:jld&kjf

DUE TODAY 5/3/17
Thanks
(again!)

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to renumber* 940.225 (4) (b) and 940.225 (4) (c); *to renumber and*
2 *amend* 940.225 (4) (intro.); and *to create* 940.225 (4) (d) and 940.225 (5) (cm)
3 of the statutes; **relating to:** the definition of consent in sexual assault cases.

Analysis by the Legislative Reference Bureau

This bill modifies the definition of “consent” for sexual assault. Under the bill, if an actor removes a sexually protective device such as a condom before or during sexual intercourse or other sexual contact without his or her partner’s permission, there has been no valid consent to that sexual act.

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

4 **SECTION 1.** 940.225 (4) (intro.) of the statutes is renumbered 940.225 (4) (a) and
5 amended to read:

6 940.225 (4) (a) “Consent”, as used in this section, means words or overt
7 actions by a person who is competent to give informed consent indicating a freely
8 given agreement to have sexual intercourse or sexual contact.

1 (e) Consent is not an issue in alleged violations of sub. (2) (c), (cm), (d), (g), (h),
2 and (i).

3 (f) The following persons are presumed incapable of consent but the
4 presumption may be rebutted by competent evidence, subject to the provisions of s.
5 972.11 (2):

6 **SECTION 2.** 940.225 (4) (b) of the statutes is renumbered 940.225 (4) (f) 1.

7 **SECTION 3.** 940.225 (4) (c) of the statutes is renumbered 940.225 (4) (f) 2.

8 **SECTION 4.** 940.225 (4) (d) of the statutes is created to read:

9 940.225 (4) (d) If a person freely agrees to have sexual intercourse or sexual

10 contact with another person on the condition that a sexually protective device is
11 used, and that other person ~~removes or~~ intentionally damages the sexually
12 protective device without permission before or during sexual intercourse or sexual
13 contact, there has been no valid consent.

14 **SECTION 5.** 940.225 (5) (cm) of the statutes is created to read:

15 940.225 (5) (cm) "Sexually protective device" means a male or female condom,
16 spermicide, diaphragm, cervical cap, contraceptive sponge, dental dam, or any other
17 physical device intended to prevent pregnancy or sexually transmitted infection.

18 (END)