2017 ASSEMBLY BILL 425

June 30, 2017 - Introduced by Representatives SARGENT, GENRICH, SINICKI, SPREITZER, CONSIDINE, BERCEAU, ZEPNICK, OHNSTAD and ZAMARRIPA, cosponsored by Senators WIRCH, LARSON and RISSER. Referred to Committee on Criminal Justice and Public Safety.

**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:

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

940.225 (4) (a) “Consent,” as used in this section, means words or overt actions by a person who is competent to give informed consent indicating a freely given agreement to have sexual intercourse or sexual contact.
(e) Consent is not an issue in alleged violations of sub. (2) (c), (cm), (d), (g), (h),
and (i).

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

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

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

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

940.225 (4) (d) If a person freely agrees to have sexual intercourse or sexual
contact with another person on the condition that a sexually protective device is
used, and that other person intentionally removes or damages the sexually
protective device without permission before or during sexual intercourse or sexual
contact, there has been no valid consent.

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

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