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## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

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**2005 Wisconsin Act 430**  
[2005 Assembly Bill 784]

**Minimum Prison Terms for Certain  
Child Sex Offenders**

*2005 Wisconsin Act 430* modifies the offense of sexual assault of a child and requires minimum terms of confinement in prison for certain offenders.

Under *prior law*, a person who had sexual contact or intercourse with a child who is less than 13 years old was guilty of first-degree sexual assault of a child. First-degree sexual assault of a child was a Class B felony and is punishable by a maximum term of confinement in prison of 40 years and a maximum term of extended supervision of 20 years. Having sexual contact or intercourse with a child who was less than 16 years old was classified as second-degree sexual assault. Second-degree sexual assault of a child was a Class C felony and punishable by a maximum term of confinement in prison of 25 years and a maximum term of extended supervision of 15 years. Under prior law, there was no mandatory minimum term of confinement for a conviction of sexual assault of a child except for certain repeat offenses.

*Act 430* creates a new definition of “sexual intercourse” for purposes of the offense of sexual assault of a child. Under the Act, “sexual intercourse” means vulvar penetration as well as cunnilingus, fellatio, or anal intercourse between persons or any intrusion of an inanimate object into the genital or anal opening either by the defendant or upon the defendant’s instruction. The emission of semen is not required. Under prior law, “sexual intercourse” for purposes of the offense of sexual assault of a child also included the intrusion, however slight, of any part of a person’s body into the genital or anal opening either by the defendant or upon the defendant’s instruction.

Under the Act, the offense of sexual assault of a child is as follows:

- Whoever has sexual intercourse with a person who has not attained the age of 12 years is guilty of a ***Class B felony*** and is subject to a ***mandatory minimum term of confinement in prison of 25 years***.

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.state.wi.us/>.

- Whoever has sexual intercourse with a person who has not attained the age of 16 years by the use or threat of force or violence is guilty of a ***Class B felony*** and is subject to a ***mandatory minimum term of confinement in prison of 25 years***.
- Whoever has sexual contact with a person who has not attained the age of 16 years by the use or threat of force or violence if the actor is at least 18 years of age when the sexual contact occurs is guilty of a ***Class B felony*** and is subject to a ***mandatory minimum term of confinement in prison of five years***.
- Whoever has sexual contact with a person who has not attained the age of 13 years is guilty of a ***Class B felony***.
- Whoever has sexual intercourse or sexual contact with a person who has not attained the age of 16 years is guilty of a ***Class C felony***.

The Act also clarifies that less serious charges of sexual assault of a child are included when a person is charged with a more serious charge of sexual assault of a child. Under current law, upon prosecution for a crime, the actor may be convicted of either the crime charged or an included crime, but not both. The Act provides that an included offense may be a crime that is a less serious or equally serious type of violation under s. 948.02, Stats. (sexual assault of a child) than the one charged.

***Effective Date:*** Act 430 takes effect on June 6, 2006.

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May 24, 2006

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