

CHAPTER 944.

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SEXUAL CRIMES WITHOUT CONSENT.

944.01 Rape. (1) Any male who has sexual intercourse with a female he knows is not his wife, by force and against her will, may be imprisoned not more than 30 years.

(2) In this section the phrase "by force and against her will" means either that her utmost resistance is overcome or prevented by physical violence or that her will to resist is overcome by threats of imminent physical violence likely to cause great bodily harm.

History: 1955 c. 696.

944.02 Sexual intercourse without consent. Any male who has sexual intercourse under any of the following circumstances with a female he knows is not his wife may be imprisoned not more than 15 years:

(1) If she is incapable of resisting or consenting because of stupor or abnormal condition of the mind and he knows of her incapacity; or

(2) If she is mentally ill, mentally infirm or mentally deficient and he knows of her incapacity; or

(3) If she submits because she is deceived as to the nature of the act or because she believes that the intercourse is marital and this deception or belief is intentionally induced by him.

History: 1955 c. 696.

SEXUAL CRIMES WHICH AFFECT THE FAMILY.

944.05 Bigamy. (1) Whoever does any of the following may be fined not more than \$1,000 or imprisoned not more than 5 years or both:

(a) Contracts a marriage in this state with knowledge that his prior marriage is not dissolved; or

(b) Contracts a marriage in this state with knowledge that the prior marriage of the person he marries is not dissolved; or

(c) Cohabits in this state with a person whom he married outside this state with knowledge that his own prior marriage had not been dissolved or with knowledge that the prior marriage of the person he married had not been dissolved.

(2) In this section "cohabit" means to live together under the representation or appearance of being married.

History: 1955 c. 696.

944.06 Incest. Whoever marries or has nonmarital sexual intercourse with a person he knows is a blood relative and such relative is in fact related in a degree within which the marriage of the parties is prohibited by the law of this state may be imprisoned not more than 10 years.

History: 1955 c. 696.

SEXUAL CRIMES WHICH INVOLVE CHILDREN.

944.10 Sexual intercourse with a child. Any male who has sexual intercourse with a female he knows is not his wife may be penalized as follows:

(1) If the female is under the age of 18, fined not more than \$1,000 or imprisoned not more than 5 years or both; or

(2) If the female is under the age of 16, and the male is 18 years of age or over, imprisoned not more than 15 years; or

(3) If the female is under the age of 12, and the male is 18 years of age or over, imprisoned not more than 30 years.

History: 1955 c. 696.

In a prosecution under 340.47 (Stats. 1953), an accused may be convicted of statutory rape on the uncorroborated testimony of a complaining witness. The explanation of the complaining witness, who became pregnant, that she was ashamed and did not tell her parents about the offense for 6 months thereafter because she thought nothing would come of it, did not express such an abnormal attitude as to require disbelief of her testimony but was for the jury to consider, together with all other facts and circumstances. *State v. Pickett*, 259 W 593, 49 NW (2d) 712.

944.11 Indecent behavior with a child. Any of the following may be fined not more than \$500 or imprisoned not more than 5 years or both:

(1) Any male who takes indecent liberties with a female under the age of 16; or

(2) Whoever takes indecent liberties with the privates of any person under the age of 18; or

(3) Whoever consents to the indecent use of his own privates by any person under the age of 18.

History: 1955 c. 696.

No corroborative testimony is required in a case of this kind, and this is particularly true where the testimony of the minor victim is straightforward and consistent and no motive is shown which would have caused her to testify falsely. Testimony concerning immoral conduct of the defendant with persons other than the complaining witness related to acts bearing such a close relationship in both time and character to the specific conduct with which the defendant was charged as to show that the crime charged grew out of a general state of mind and was part of a general pattern of conduct indulged in by the defendant on the night in question, and was admissible as part of the *res gestae*. *State v. Perlin*, 268 W 529, 68 NW (2d) 32.

944.12 Enticing a child for immoral purposes. Any person 18 years of age or over, who, with intent to commit a crime against sexual morality, persuades or entices any child under 18 years of age into any vehicle, building, room or secluded place may be fined not more than \$500 or imprisoned not more than 5 years or both.

History: 1955 c. 696.

SEXUAL CRIMES BETWEEN ADULTS WITH CONSENT.

944.15 Fornication. Whoever has sexual intercourse with a person not his spouse may be fined not more than \$200 or imprisoned not more than 6 months or both.

History: 1955 c. 696.

The state, presenting proof that the parties were not married to each other, need not prove the unmarried status of the woman, but such status will be presumed in the absence of evidence tending to the contrary. The presumption of sanity is sufficient to establish the fact in the absence of a plea of insanity pursuant to 957.11 (Stats. 1953). *Datka v. State*, 266 W 124, 62 NW (2d) 420.

944.16 Adultery. Either of the following may be fined not more than \$1,000 or imprisoned not more than 3 years or both:

(1) A married person who has sexual intercourse with a person not his spouse; or

(2) A person who has sexual intercourse with a person who is married to another.

History: 1955 c. 696.

944.17 Sexual perversion. Whoever does either of the following may be fined not more than \$500 or imprisoned not more than 5 years or both:

(1) Commits an abnormal act of sexual gratification involving the sex organ of one person and the mouth or anus of another; or

(2) Commits an act of sexual gratification involving his sex organ and the sex organ, mouth or anus of an animal.

History: 1955 c. 696.

OBSCEINITY.

944.20 Lewd and lascivious behavior. Whoever does any of the following may be fined not more than \$500 or imprisoned not more than one year in county jail or both:

(1) Commits an indecent act of sexual gratification with another with knowledge that they are in the presence of others; or

(2) Publicly and indecently exposes a sex organ; or

(3) Openly cohabits and associates with a person he knows is not his spouse under circumstances that imply sexual intercourse.

History: 1955 c. 696.

944.21 Lewd, obscene or indecent matter, pictures and performances. (1) Whoever intentionally does any of the following may be fined not more than \$5,000 or imprisoned not more than 5 years or both:

(a) Imports, prints, advertises, sells, has in his possession for sale, or publishes, exhibits, or transfers commercially any lewd, obscene or indecent written matter, picture, sound recording, or film; or

(b) Has in his possession any lewd, obscene or indecent sound recording or motion picture film; or

(c) Has in his possession, with intent to transfer or exhibit to a person under the age of 18 years, any matter prohibited by this section; or

(d) Advertises, produces or performs in any lewd, obscene or indecent performance.

(2) Whoever requires, as a condition to the purchase of periodicals, that a retailer accept material known by the distributor to be lewd, obscene or indecent may be fined not more than \$5,000 or imprisoned not more than 5 years or both.

History: 1955 c. 696.

944.22 Possession of lewd, obscene or indecent matter. Whoever knowingly has in his possession any lewd, obscene or indecent written matter or a lewd, obscene or indecent picture may be fined not more than \$1,000 or imprisoned in the county jail not more than one year or both.

History: 1955 c. 696.

944.23 Making lewd, obscene or indecent drawings. Whoever makes any lewd, obscene or indecent drawing or writing in any public place may be fined not more than \$100 or imprisoned not more than 60 days or both.

History: 1955 c. 696.

PROSTITUTION.

944.30 Prostitution. Any female who intentionally does any of the following may be fined not more than \$500 or imprisoned not more than one year or both:

(1) Has or offers to have nonmarital sexual intercourse for money; or

(2) Commits or offers to commit an act of sexual perversion for money; or

(3) Is an inmate of a place of prostitution.

History: 1955 c. 696.

944.31 Patronizing prostitutes. Any male who enters or remains in any place of prostitution with intent to have nonmarital sexual intercourse or to commit an act of sexual perversion may be fined not more than \$100 or imprisoned not more than 3 months or both.

History: 1955 c. 696.

944.32 Soliciting prostitutes. Whoever intentionally solicits or causes any female to practice prostitution or establishes any female in a place of prostitution may be fined not more than \$1,000 or imprisoned not more than 5 years or both. If the female is under the age of 18, the defendant may be fined not more than \$2,000 or imprisoned not more than 10 years or both.

History: 1955 c. 696.

944.33 Pandering. (1) Whoever does any of the following may be fined not more than \$200 or imprisoned not more than 6 months or both:

(a) Solicits another to have nonmarital sexual intercourse or to commit an act of sexual perversion with a female he knows is a prostitute; or

(b) With intent to facilitate another in having nonmarital intercourse or committing an act of sexual perversion with a prostitute, directs or transports him to a prostitute or directs or transports a prostitute to him.

(2) If the accused received compensation from the earnings of the prostitute, he may be fined not more than \$5,000 or imprisoned not more than 10 years or both.

(3) In a prosecution under this section, it is competent for the state to prove other similar acts by the accused for the purpose of showing his intent and disposition.

History: 1955 c. 696.

944.34 Keeping place of prostitution. Whoever intentionally does any of the following may be fined not more than \$5,000 or imprisoned not more than 5 years or both:

(1) Keeps a place of prostitution; or

(2) Grants the use or allows the continued use of a place as a place of prostitution.

History: 1955 c. 696.

944.35 Evidence of place of prostitution. Evidence that a place has a general reputation as a place of prostitution or that, at or about the time in question, it was frequently visited at unseasonable hours by a number of men not residents therein is admissible on the issue of whether it is a place of prostitution.

History: 1955 c. 696.