

Wis. Stat. Ann. § 940.225 is Wisconsin's sexual assault statute. It defines **first degree sexual assault**, a Class B felony, as sexual contact or intercourse: without consent that causes pregnancy or great bodily harm to the victim; without consent by use or threat of use of a dangerous weapon or any object used in a way that leads the victim to believe it is a dangerous weapon; or without consent by use or threat of force or violence.

Wisconsin defines **second degree sexual assault**, a Class C felony, as sexual contact or intercourse: without consent by use or threat of force or violence, without consent that causes injury, illness, disease, or impairment of a sexual/reproductive organ, or mental anguish requiring psychiatric care for the victim; with a victim suffering from a mental illness or defect known to the offender that leads to the victim's inability to assess the offender's conduct; with a victim whom the offender knows is under the influence of alcohol or drugs to the point of the victim's inability to give legal consent; with an unconscious victim whom the offender knows is unconscious; non-consensual and aided by one or more other people; with a patient or resident by an employee of a facility or program; with an individual confined in a correctional institution by a correctional staff member; with an individual who is on probation, parole, or extended supervision if the actor is a probation, parole, or extended supervision agent who supervises the individual; if the offender is an employee or non-client resident and the victim is a client of that entity.

Third degree sexual assault, a Class G felony, involves non-consensual intercourse and/or the non-consensual emission of bodily fluids: intentional penile ejaculation or intentional emission of urine or feces by the defendant or, upon the defendant's instruction, by another person upon any part of the body clothed or unclothed of the complainant if that ejaculation or emission is either for the purpose of sexually degrading or sexually humiliating the complainant or for the purpose of sexually arousing or gratifying the defendant sexually degrading or humiliating the victim or sexually arousing or gratifying the defendant; or intentionally causing the complainant to ejaculate or emit urine or feces on any part of the defendant's body, whether clothed or unclothed.

Fourth degree sexual assault, a Class A misdemeanor, involves non-consensual sexual contact.

Wisconsin defines "consent" as means words or obvious actions by a person who is competent to give informed consent indicating a freely given agreement to have sexual intercourse or sexual contact. The following persons are presumed incapable of legal consent: someone who suffers from a mental illness or defect which impairs their ability to evaluate personal conduct or a person who is unconscious or for any other reason is physically unable to communicate unwillingness to an act.

In Wisconsin, a husband or wife can be prosecuted for any crime listed in this section committed against a spouse. Additionally, it does not matter if the victim survives the attack for purposes of prosecutions under this statute.

Wisconsin is a mandatory Public Law 280 state that has retroceded criminal jurisdiction back to the Menominee Reservation.