

# Criminal Justice

## AB 27 – Definition of sexual intercourse for the crime of incest

Rep. Cullen

### Summary of Bill:

[Assembly Bill \(AB\) 27](#) - Under s. 944.06, Wis. Stats, whoever marries or has nonmarital sexual intercourse with a person he or she 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 is guilty of a Class F felony.

Under the applicable definitions section, "sexual intercourse" requires only vulvar penetration and does not require emission." Assembly Bill 27 expands the definition of "sexual intercourse" to also include cunnilingus, fellatio or anal intercourse between persons or any other intrusion, however slight, of any part of a person's body or any object into the genital or anal opening either by the defendant or upon the defendant's instruction.

### Fiscal Effect:

#### [Circuit Courts / Court of Appeals / Supreme Court](#)

Additional court proceedings could be generated under the terms of this bill, but it is impossible to predict how many such crimes will be filed in the circuit court. Additional proceedings require additional judge, court reporter, court staff and juror time. These costs are borne by both the state and the county. An accurate estimate of the additional costs is impossible with the data available.

#### [Department of Justice](#)

Since AB 27 broadens the types of activities that can be prosecuted as felonies under s. 944.06, it is possible that the enactment of the bill could result in an increased caseload for the department's Criminal Litigation and Criminal Appeals units. However, the department anticipates that any increased caseload would be relatively small and could most likely be absorbed with existing resources

### Supporters Message:

- By expanding the definition of incest to include that are related to sexual intercourse and similar to acts related to non-consensual sexual abuse, AB 27 assists law enforcement when investigating and prosecuting crimes of incest and sexual abuse.

### Opponents Message:

- Although the spirit of AB 27 is laudable, the letter of this bill does not relate to the act of incest.
- AB 27 expands the definition of sexual intercourse for the crime of incest to include acts that are not sexually reproductive, but rather sexually abusive.
- The penalties associated with the act of incest reflect scientific evidence of the genetic dangers of incest and societies interest to prevent such abnormalities that often arise from the act of incest.

### Key Supporters:

Representative David Cullen (author); Julie Lassa (lead Senate author); Attorney General J.B. Van Hollen, Wisconsin Department of Justice; Milwaukee Police Association; Association of State Prosecutors. Disability Rights Wisconsin; Wisconsin Sheriffs and Deputy Sheriffs Association registered in support with the Ethics Board.

### Key Opponents:

No one testified or registered against AB 27, and no one registered against it with the Ethics Board.

### Committee Vote:

On April 17, 2009, the Assembly Committee on Criminal Justice recommended passage of AB 27 on a vote of 8-1. [Kessler voted no; Staskunas and Soletski were absent]

### Ranking Member Author of Bill Summary

Daniel Lindstedt; Office of Rep. Joel Kleefisch (6-8551)