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AB-453 Sexual battery: nonconsensual condom removal. (2021-2022)

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Assembly Bill No. 453

CHAPTER 613

An act to amend Section 1708.5 of the Civil Code, relating to civil law.

[Approved by Governor October 07, 2021. Filed with Secretary of State October 07, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 453, Cristina Garcia. Sexual battery: nonconsensual condom removal.

Existing law provides that a person commits a sexual battery who, among other things, acts with the intent to cause a harmful or offensive contact, as defined, with an intimate part, as defined, of another that directly or indirectly results in a sexually offensive contact with that person. The law makes a person who commits a sexual battery pursuant to those provisions liable for damages and equitable relief.

This bill would additionally provide that a person commits a sexual battery who causes contact between a sexual organ, from which a condom has been removed, and the intimate part of another who did not verbally consent to the condom being removed. The bill would also specify that a person commits a sexual battery who causes contact between an intimate part of the person and a sexual organ of another from which the person removed a condom without verbal consent.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1708.5 of the Civil Code is amended to read:

1708.5. (a) A person commits a sexual battery who does any of the following:

- (1) Acts with the intent to cause a harmful or offensive contact with an intimate part of another, and a sexually offensive contact with that person directly or indirectly results.
- (2) Acts with the intent to cause a harmful or offensive contact with another by use of the person's intimate part, and a sexually offensive contact with that person directly or indirectly results.
- (3) Acts to cause an imminent apprehension of the conduct described in paragraph (1) or (2), and a sexually offensive contact with that person directly or indirectly results.
- (4) Causes contact between a sexual organ, from which a condom has been removed, and the intimate part of another who did not verbally consent to the condom being removed.

(5) Causes contact between an intimate part of the person and a sexual organ of another from which the person removed a condom without verbal consent.

(b) A person who commits a sexual battery upon another is liable to that person for damages, including, but not limited to, general damages, special damages, and punitive damages.

(c) The court in an action pursuant to this section may award equitable relief, including, but not limited to, an injunction, costs, and any other relief the court deems proper.

(d) For the purposes of this section:

(1) "Intimate part" means the sexual organ, anus, groin, or buttocks of any person, or the breast of a female.

(2) "Offensive contact" means contact that offends a reasonable sense of personal dignity.

(e) The rights and remedies provided in this section are in addition to any other rights and remedies provided by law.