



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-4443/1
CMH:emw

2015 SENATE BILL 614

January 22, 2016 - Introduced by Senators OLSEN and LASSA, cosponsored by Representatives JAGLER, BALLWEG, DUCHOW, HORLACHER, KAHL, KREMER, ROHRKASTE and SUBECK. Referred to Committee on Judiciary and Public Safety.

1 **AN ACT to renumber and amend** 942.09 (2) (bm); **to amend** 942.09 (2) (cm) and
2 942.09 (3m) (b) 1.; and **to create** 942.09 (2) (bm) 2m. of the statutes; **relating**
3 **to:** capturing and distributing a representation of a nude child and providing
4 a criminal penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits a person from photographing, videotaping, or otherwise capturing an image of a nude person without the depicted person's consent. A person who does so or who possesses, distributes, or exhibits the image, knowing the image was without the depicted person's consent, is guilty of a Class I felony. Current law generally excepts a parent, guardian, or legal custodian of a child who photographs, videotapes, or otherwise captures an image of the child nude or who distributes or exhibits an image of the child nude for noncommercial purposes. This bill limits the exception so that it excludes a parent, guardian, or legal custodian of a child who photographs, videotapes, or otherwise captures an image, or distributes or exhibits an image, of the child nude for the purpose of sexual arousal, gratification, humiliation, degradation, or monetary or commercial gain.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SENATE BILL 614**SECTION 1**

1 **SECTION 1.** 942.09 (2) (bm) of the statutes is renumbered 942.09 (2) (bm) 1m.,
2 and 942.09 (2) (bm) 1m. (intro.) and b., as renumbered, are amended to read:

3 942.09 (2) (bm) 1m. (intro.) Notwithstanding par. (am), if the person depicted
4 nude in a representation or reproduction is a child and the capture, possession,
5 exhibition, or distribution of the representation, or making, possession, exhibition,
6 or distribution of the reproduction, does not violate s. 948.05 or 948.12, a parent,
7 guardian, or legal custodian of the child may do any of the following:

8 b. Distribute or exhibit a representation captured or possessed under subd. 1.
9 1m. a., or distribute or exhibit a reproduction made or possessed under subd. 1., if
10 ~~the distribution or exhibition is not for commercial purposes~~ 1m. a.

11 **SECTION 2.** 942.09 (2) (bm) 2m. of the statutes is created to read:

12 942.09 (2) (bm) 2m. Subdivision 1m. does not apply to a parent, guardian, or
13 legal custodian of a child who captures, possesses, makes, distributes, or exhibits a
14 representation depicting the child in violation of s. 948.05 or 948.12 or for the purpose
15 of sexual arousal, gratification, humiliation, degradation, or monetary or
16 commercial gain.

17 **SECTION 3.** 942.09 (2) (cm) of the statutes is amended to read:

18 942.09 (2) (cm) ~~This subsection Paragraph (am)~~ does not apply to a person who
19 receives a representation or reproduction depicting a child from a parent, guardian,
20 or legal custodian of the child under par. (bm) 2. 1m. b., if the possession, exhibition,
21 or distribution is not for the purpose of sexual arousal, gratification, humiliation,
22 degradation, or monetary or commercial purposes gain.

23 **SECTION 4.** 942.09 (3m) (b) 1. of the statutes is amended to read:

24 942.09 (3m) (b) 1. The parent, guardian, or legal custodian of the person
25 depicted if the private representation does not violate s. 948.05 or 948.12 and the

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1 posting or publication is not for the purpose of sexual arousal, gratification,
2 humiliation, degradation, or monetary or commercial purposes gain.

3 (END)