



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1995 ASSEMBLY BILL 841**

March 4, 1996 – Offered by Representative HARSDORF.

1 **AN ACT to amend** 946.82 (4); and **to create** 944.205 of the statutes; **relating to:**
2 possession and distribution of certain photographs, motion pictures, videotapes
3 or other visual representations showing nudity and providing a penalty.

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

4 **SECTION 1.** 944.205 of the statutes is created to read:

5 **944.205 Photographs, motion pictures, videotapes or other visual**
6 **representations showing nudity. (1)** In this section, “nudity” has the meaning
7 given in s. 948.11 (1) (d).

8 **(2)** Whoever does any of the following is guilty of a Class E felony:

9 **(a)** Takes a photograph or makes a motion picture, videotape or other visual
10 representation or reproduction that depicts nudity without the knowledge and
11 consent of the person who is depicted nude, if the person knows or has reason to know
12 that the person who is depicted nude does not know of and consent to the taking or
13 making of the photograph, motion picture, videotape or other visual representation
14 or reproduction.

1 (b) Possesses or distributes a photograph, motion picture, videotape or other
2 visual representation or reproduction that depicts nudity and that was taken or
3 made without the knowledge and consent of the person who is depicted nude, if the
4 person knows or has reason to know that the photograph, motion picture, videotape
5 or other visual representation or reproduction was taken or made without the
6 knowledge and consent of the person who is depicted nude.

7 **(3)** Notwithstanding sub. (2) (a) and (b), if the person in a photograph, motion
8 picture, videotape or other visual representation or reproduction is a minor and the
9 making, possession or distribution of the photograph, motion picture, videotape or
10 other visual representation or reproduction does not violate s. 948.05 or 948.12, a
11 parent, guardian or legal custodian may do any of the following:

12 (a) Make and possess the photograph, motion picture, videotape or other visual
13 representation or reproduction of the child.

14 (b) Distribute a photograph, motion picture, videotape or other visual
15 representation or reproduction made or possessed under par. (a) if the distribution
16 is not for commercial purposes.

17 **(4)** This section does not apply to any book, pamphlet, magazine, printed
18 matter, photograph, motion picture, videotape or other visual representation or
19 reproduction possessed or distributed by any of the following:

20 (a) A law enforcement officer acting within the scope of his or her employment.

21 (b) Any person who is obtaining or reviewing evidence for a criminal
22 investigation or a pending civil action.

23 (c) A medical professional acting within the scope of his or her employment.

24 (d) A person who receives a photograph, motion picture, videotape or other
25 visual representation or reproduction of a minor from a parent, guardian or legal

1 custodian under sub. (3) (b), if the possession and distribution are not for commercial
2 purposes.

3 **SECTION 2.** 946.82 (4) of the statutes, as affected by 1995 Wisconsin Act 133,
4 is amended to read:

5 946.82 (4) "Racketeering activity" means any activity specified in 18 USC 1961
6 (1) in effect as of April 27, 1982 or the attempt, conspiracy to commit, or commission
7 of any of the felonies specified in: chs. 161 and 945 and ss. 49.49, 134.05, 139.44 (1),
8 180.0129, 181.69, 184.09 (2), 185.825, 215.12, 221.17, 221.31, 221.39, 221.40, 551.41,
9 551.42, 551.43, 551.44, 553.41 (3) and (4), 553.52 (2), 940.01, 940.19 (3) to (6), 940.20,
10 940.203, 940.21, 940.30, 940.305, 940.31, 941.20 (2) and (3), 941.26, 941.28, 941.298,
11 941.31, 941.32, 943.01 (2) or (2g), 943.012, 943.013, 943.02, 943.03, 943.04, 943.05,
12 943.06, 943.10, 943.20 (3) (b) to (d), 943.23 (1g), (1m), (1r), (2) and (3), 943.24 (2),
13 943.25, 943.27, 943.28, 943.30, 943.32, 943.34 (1) (b) and (c), 943.38, 943.39, 943.40,
14 943.41 (8) (b) and (c), 943.50 (4) (b) and (c), 943.60, 943.70, 944.205, 944.21 (5) (c) and
15 (e), 944.32, 944.33 (2), 944.34, 945.03, 945.04, 945.05, 945.08, 946.10, 946.11, 946.12,
16 946.13, 946.31, 946.32 (1), 946.48, 946.49, 946.61, 946.64, 946.65, 946.72, 946.76,
17 947.015, 948.05, 948.08, 948.12 and 948.30.

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