



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2013 Wisconsin Act 243
[2013 Senate Bill 367]

**Distribution of Sexually
Explicit Images**

2013 Wisconsin Act 243 relates to distribution of sexually explicit images without consent.

Act 243 provides that whoever does either of the following is guilty of a Class A misdemeanor:¹

- Posts, publishes, or causes to be posted or published, a private representation if the actor knows that the person depicted does not consent to the posting or publication of the private representation.
- Posts, publishes, or causes to be posted or published, a depiction of a person that he or she knows is a private representation without the consent of the person depicted.

The Act defines “post or publish” to include posting or publishing on a website on the Internet, if the website may be viewed by the general public. The Act defines “private representation” as a representation² depicting a nude or partially nude person³ or depicting a

¹ The penalty for a Class A misdemeanor is a fine not to exceed \$10,000 or imprisonment not to exceed nine months, or both. [s. 939.51 (3) (a), Stats.]

² “Representation” means “a photograph, exposed film, motion picture, videotape, other visual representation, or data that represents a visual image.” [s. 942.09 (1) (c), Stats.]

³ “Nude or partially nude person” means “any human being who has less than fully and opaquely covered genitals, pubic area or buttocks, any female human being who has less than a fully opaque covering over any portion of a breast below the top of the nipple, or any male human being with covered genitals in a discernibly turgid state.” [ss. 942.08 (1) (a) and 942.09 (1) (am), Stats.]

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.wisconsin.gov>.

person engaged in sexually explicit conduct that is intended by the person depicted to be captured, viewed, or possessed only by the person who, with the consent of the person depicted, captured the representation or to whom the person depicted directly and intentionally gave possession of the representation.

The Act provides that the provisions of the Act do not apply to the following:

- The parent, guardian, or legal custodian of the person depicted if the private representation does not violate the crime of sexual exploitation of a child or possession of child pornography, and the posting or publication is not for commercial purposes.
- A law enforcement officer or agent, acting in his or her official capacity in connection with the investigation or prosecution of a crime.
- A person who posts or publishes a private representation that is newsworthy or of public importance.
- A provider of electronic communication services that provides Internet access service to customers.

Effective date: Act 243 takes effect on April 10, 2014.

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