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## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

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**2005 Assembly Bill 1029**

**Assembly Amendment 1 and  
Assembly Amendment 1 to  
Assembly Amendment 1**

*Memo published:* March 2, 2006

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*Assembly Bill 1029* requires the Department on Agriculture, Trade and Consumer Protection (DATCP) to create a family and school communications protection registry. Under the bill, a parent, guardian, or legal custodian of a minor may request that DATCP include in the registry an electronic mail address, a wireless telephone number, or certain other electronic contact information (“contact point”). The bill prohibits sending certain types of solicitations, identified in the bill as restricted messages, to a contact point that has been registered for more than 30 days. Also, an administrator of a school or state institution that primarily serves minors may register an Internet domain name associated with the school or institution if a minor may obtain an electronic mail address that contains that domain name. The bill contains civil and criminal penalties for violating the provisions of the bill.

*Assembly Amendment 1* makes the following changes to the bill:

- Under the amendment, a parent, guardian, or legal custodian of a minor may register a contact point for which the parent, guardian, or legal custodian *is responsible* if the contact point *may be accessed* by a minor. Under the bill, a parent, guardian, or legal custodian of a minor may register a contact point that *pertains* to the minor or to the parent, guardian, or legal custodian.
- The amendment permits an institution that serves minors, instead of a *state* institution that serves minors, to register an Internet domain name associated with the school or institution, if a minor may obtain an electronic mail address that contains that domain name.
- The amendment deletes the requirement that DATCP notify the Department of Justice when it receives a report that a message has been sent in violation of the bill.
- For a private cause of action brought by a parent, guardian, or legal custodian against a person who has sent a prohibited message a registered contact point, the amendment specifies that the damages for such an action is the greater of the following: (a) the amount of actual

damages sustained by the parent, guardian, or legal custodian; (b) an amount equal to \$1,000 per message sent to a registered contact point; or (c) an amount equal to \$3,000 per message sent to a registered contact point if the message is viewed by a minor.

- The amendment deletes a provision under which a person may not be subject to civil penalties under the bill or a private action for a violation of the bill if the person has, in good faith, used the verification procedure to verify whether certain contact points are registered within the 30-day period immediately preceding the violation.
- Instead of requiring DATCP to promulgate emergency rules relating to the family and school communications protection registry, the amendment exempts from the definition of “rule” in ch. 227, Stats., DATCP’s procedures for the creation, maintenance, and updating of the registry and the verification procedures for verifying that a contact point is not registered.

*Assembly Amendment 1 to the amendment* corrects a typographical error in the amendment. Also, the amendment modifies the definition of “restricted message” under the bill. Under the bill, a “restricted message” means any communication in which the primary purpose is to encourage the recipient to *purchase or view* obscene material or material that depicts sexually explicit conduct. The amendment deletes “or view” so that a restricted message must have the primary purpose of encouraging the recipient to *purchase* obscene material or material that depicts sexually explicit conduct.

### *Legislative History*

Representative Davis offered Assembly Amendment 1. The Assembly Committee on Children and Families offered Assembly Amendment 1 to Assembly Amendment 1. On March 1, 2006, the Assembly Committee on Children and Families unanimously recommended adoption of Assembly Amendment 1 and Assembly Amendment 1 to the amendment. The committee recommended passage of the bill, as amended, on a vote of Ayes, 7; Noes, 1.

AS:jal