1995 ASSEMBLY BILL 1058

March 21, 1996 – Introduced by Representatives ALBERS, DUFF, GROTHMAN, DOBYNS, OWENS, WALKER, GREEN, SERATTI, HANDRICK, LADWIG and FREESE, cosponsored by Senator PETAK. Referred to Committee on Criminal Justice and Corrections.

1   AN ACT *to amend* 944.21 (2) (c) 2. and 944.21 (2) (d) 2.; and *to create* 944.21 (2)

2   (em) of the statutes; **relating to:** obscene sexual conduct.

Analysis by the Legislative Reference Bureau

Under current obscenity law, there are penalties for selling or transferring obscene material or producing or performing in an obscene performance and related offenses. Currently, the determination of whether material or performances are obscene is based on a 3–part test. One of the parts of the test focuses on whether the material or performance shows sexual conduct in a patently offensive way. This bill specifies that the sexual conduct shown in the material or performance may be either actual or simulated sexual conduct.

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

3   SECTION 1. 944.21 (2) (c) 2. of the statutes is amended to read:

4   944.21 **(2)** (c) 2. Under contemporary community standards, describes or shows

5   actual or simulated sexual conduct in a patently offensive way; and

6   SECTION 2. 944.21 (2) (d) 2. of the statutes is amended to read:

7   944.21 **(2)** (d) 2. Under contemporary community standards, describes or

8   shows actual or simulated sexual conduct in a patently offensive way; and

9   SECTION 3. 944.21 (2) (em) of the statutes is created to read:

1   944.21 **(2)** (em) "Simulated sexual conduct" means the explicit depiction or

2   description of sexual conduct that creates the appearance of actual sexual conduct.

3   **SECTION 4.   Initial applicability.**

4   (1) This act first applies to offenses committed on the effective date of this

5   subsection, but does not preclude the counting of other offenses as prior offenses for

6   sentencing a person.

7   **(END)**