



1997 ASSEMBLY BILL 189

March 20, 1997 - Introduced by Representatives OTTE, DOBYNS, F. LASEE, ZIEGELBAUER, BAUMGART, GARD, WASSERMAN, MUSSER, HAHN, BRANDEMUEHL, VRAKAS, BOYLE, LADWIG, RYBA, FREESE, ALBERS, KELSO, LAZICH, OWENS, PLALE and GRONEMUS, cosponsored by Senators C. POTTER, HUELSMAN, DRZEWIECKI, BUETTNER, A. LASEE, WELCH, ROSENZWEIG and CLAUSING. Referred to Committee on Criminal Justice and Corrections.

1 **AN ACT** *to renumber* 948.11 (1) (a); *to amend* 948.11 (title), 948.11 (1) (b) (intro.),
2 948.11 (1) (b) 2., 948.11 (2) (a) and 948.11 (2) (b); and *to create* 948.11 (1) (ag),
3 948.11 (1) (bm) and 948.11 (2) (am) of the statutes; **relating to:** exposing a child
4 to harmful descriptions or narrations and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits a person from exposing a child to harmful material by selling, renting, exhibiting, transferring or loaning such material to a child. The types of material covered under current law are as follows: 1) any visual representation or image (such as a picture or drawing) of a person or portion of the human body that depicts nudity, sexually explicit conduct, sadomasochistic abuse, physical torture or brutality, or any printed matter (such as a book or magazine) that contains such a visual representation or image; and 2) any sound recording that contains explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexually explicit conduct, sadomasochistic abuse, physical torture or brutality. To be harmful to children, the material's descriptions or representations must: 1) predominantly appeal to the prurient, shameful or morbid interest of children; 2) be patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for children; and 3) lack serious literary, artistic, political, scientific or educational value for children, when taken as a whole. A person who violates the prohibition against exposing a child to harmful material may be fined not more than \$10,000 or imprisoned for not more than 2 years or both.

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This bill prohibits a person from verbally communicating to a child an explicit and detailed description or narrative account of sexual excitement, sexually explicit conduct, sadomasochistic abuse, physical torture or brutality that, taken as a whole, is harmful to children. The communication to the child may be done by any means. A description or narrative account is harmful to children under the bill if it meets the same criteria used under current law for determining whether material is harmful to children. A person who violates the prohibition created in the bill may be fined not more than \$10,000 or imprisoned for not more than 2 years or both.

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

1 **SECTION 1.** 948.11 (title) of the statutes is amended to read:

2 **948.11** (title) **Exposing a child to harmful material or harmful**
3 **descriptions or narrations.**

4 **SECTION 2.** 948.11 (1) (a) of the statutes is renumbered 948.11 (1) (ar).

5 **SECTION 3.** 948.11 (1) (ag) of the statutes is created to read:

6 **948.11 (1)** (ag) "Harmful description or narrative account" means any explicit
7 and detailed description or narrative account of sexual excitement, sexually explicit
8 conduct, sadomasochistic abuse, physical torture or brutality that, taken as a whole,
9 is harmful to children.

10 **SECTION 4.** 948.11 (1) (b) (intro.) of the statutes is amended to read:

11 **948.11 (1)** (b) (intro.) "Harmful to children" means that quality of any
12 description, narrative account or representation, in whatever form, of nudity,
13 sexually explicit conduct, sexual excitement, sadomasochistic abuse, physical
14 torture or brutality, when it:

15 **SECTION 5.** 948.11 (1) (b) 2. of the statutes is amended to read:

16 **948.11 (1)** (b) 2. Is patently offensive to prevailing standards in the adult
17 community as a whole with respect to what is suitable material for children; and

18 **SECTION 6.** 948.11 (1) (bm) of the statutes is created to read:

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1 948.11 (1) (bm) “Knowledge of the nature of the description or narrative
2 account” means knowledge of the character and content of a harmful description or
3 narrative account.

4 **SECTION 7.** 948.11 (2) (a) of the statutes is amended to read:

5 948.11 (2) (a) Whoever, with knowledge of the nature of the material, sells,
6 rents, exhibits, transfers or loans to a child any harmful material ~~which is harmful~~
7 ~~to children~~, with or without monetary consideration, is guilty of a Class E felony.

8 **SECTION 8.** 948.11 (2) (am) of the statutes is created to read:

9 948.11 (2) (am) Whoever, with knowledge of the nature of the description or
10 narrative account, verbally communicates, by any means, a harmful description or
11 narrative account to a child, with or without monetary consideration, is guilty of a
12 Class E felony.

13 **SECTION 9.** 948.11 (2) (b) of the statutes is amended to read:

14 948.11 (2) (b) Whoever, with knowledge of the nature of the material, possesses
15 harmful material ~~which is harmful to children~~ with the intent to sell, rent, exhibit,
16 transfer or loan the material to a child is guilty of a Class A misdemeanor.

17 **SECTION 10. Initial applicability.**

18 (1) This act first applies to offenses occurring on the effective date of this
19 subsection.

20

(END)