

**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 1999 ASSEMBLY BILL 207**

March 17, 1999 – Offered by COMMITTEE ON JUDICIARY AND PERSONAL PRIVACY.

1 **AN ACT** *to renumber and amend* 948.05 (1) (c); and *to amend* 939.615 (1) (b)  
2 1., 948.05 (2), 948.05 (3), 948.13 (1) (a) and 973.034 of the statutes; **relating to:**  
3 materials involving the sexual exploitation of a child.

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

4 **SECTION 1.** 939.615 (1) (b) 1. of the statutes is amended to read:  
5 939.615 (1) (b) 1. A violation, or the solicitation, conspiracy or attempt to  
6 commit a violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 948.02 (1) or (2), 948.025  
7 (1), 948.05 (1) or (1m), 948.055 (1), 948.06, 948.07, 948.08, 948.11 (2) (a), 948.12 or  
8 948.13.

9 **SECTION 2.** 948.05 (1) (c) of the statutes is renumbered 948.05 (1m) and  
10 amended to read:

11 948.05 (1m) ~~Produces~~ Whoever produces, performs in, profits from, promotes,  
12 imports into the state, reproduces, advertises, sells, distributes or possesses with

1 intent to sell or distribute, any undeveloped film, photographic negative,  
2 photograph, motion picture, videotape, sound recording or other reproduction of a  
3 child engaging in sexually explicit conduct is guilty of a Class C felony if the person  
4 knows the character and content of the sexually explicit conduct involving the child  
5 and if the person knows or reasonably should know that the child engaged in the  
6 sexually explicit conduct has not attained the age of 18 years.

7 **SECTION 3.** 948.05 (2) of the statutes is amended to read:

8 948.05 (2) A person responsible for a child's welfare who knowingly permits,  
9 allows or encourages the child to engage in sexually explicit conduct for a purpose  
10 proscribed in sub. (1) (a), or (b) or (e) (1m) is guilty of a Class C felony.

11 **SECTION 4.** 948.05 (3) of the statutes is amended to read:

12 948.05 (3) It is an affirmative defense to prosecution for violation of ~~this section~~  
13 sub. (1) (a) or (b) or (2) if the defendant had reasonable cause to believe that the child  
14 had attained the age of 18 years, ~~and the child exhibited to the defendant, or the~~  
15 ~~defendant's agent or client, a draft card, driver's license, birth certificate or other~~  
16 ~~official or apparently official document purporting to establish that the child had~~  
17 ~~attained the age of 18 years.~~ A defendant who raises this affirmative defense has the  
18 burden of proving this defense by a preponderance of the evidence.

19 **SECTION 5.** 948.13 (1) (a) of the statutes is amended to read:

20 948.13 (1) (a) A crime under s. 940.22 (2) or 940.225 (2) (c) or (cm), if the victim  
21 is under 18 years of age at the time of the offense, or a crime under s. 948.02 (1),  
22 948.025 (1), 948.05 (1) or (1m), 948.06 or 948.07 (1), (2), (3) or (4).

23 **SECTION 6.** 973.034 of the statutes is amended to read:

24 **973.034 Sentencing; restriction on child sex offender working with**  
25 **children.** Whenever a court imposes a sentence or places a defendant on probation

1 regarding a conviction under s. 940.22 (2) or 940.225 (2) (c) or (cm), if the victim is  
2 under 18 years of age at the time of the offense, or a conviction under s. 948.02 (1),  
3 948.025 (1), 948.05 (1) or (1m), 948.06 or 948.07 (1), (2), (3) or (4), the court shall  
4 inform the defendant of the requirements and penalties under s. 948.13.

5

**(END)**