

**SENATE SUBSTITUTE AMENDMENT 1,
TO 2001 ASSEMBLY BILL 60**

September 26, 2001 – Offered by Senator PLACHE.

1 **AN ACT** *to repeal* 944.205 (1) (a), 944.205 (1) (c) and 944.205 (2) (b); *to renumber*
2 944.205 (1) (intro.), 944.205 (1) (b) and 944.205 (2) (intro.); *to renumber and*
3 **amend** 944.205 (title), 944.205 (2) (a) and 944.205 (3) and (4); and *to create*
4 895.50 (2) (d), 942.09 (1) (a), 942.09 (1) (c) and 942.09 (2) (b) and (c) of the
5 statutes; **relating to:** the prohibition against making, possessing, distributing,
6 or exhibiting a representation that depicts nudity; the civil cause of action for
7 unreasonable invasion of privacy; and providing a penalty.

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

8 **SECTION 1.** 895.50 (2) (d) of the statutes is created to read:
9 895.50 **(2)** (d) Conduct that is prohibited under s. 942.09, regardless of whether
10 there has been a criminal action related to the conduct, and regardless of the outcome
11 of the criminal action, if there has been a criminal action related to the conduct.

12 **SECTION 2.** 942.09 (1) (a) of the statutes is created to read:

1 942.09 (1) (a) “Captures a representation” means takes a photograph, makes
2 a motion picture, videotape, or other visual representation, or records or stores in any
3 medium data that represents a visual image.

4 **SECTION 3.** 942.09 (1) (c) of the statutes is created to read:

5 942.09 (1) (c) “Representation” means a photograph, exposed film, motion
6 picture, videotape, other visual representation, or data that represents a visual
7 image.

8 **SECTION 4.** 942.09 (2) (b) and (c) of the statutes are created to read:

9 942.09 (2) (b) Makes a reproduction of a representation that the person knows
10 or has reason to know was captured in violation of par. (a) and that depicts the nudity
11 depicted in the representation captured in violation of par. (a), if the person depicted
12 nude in the reproduction did not consent to the making of the reproduction.

13 (c) Possesses, distributes, or exhibits a representation that was captured in
14 violation of par. (a) or a reproduction made in violation of par. (b), if the person knows
15 or has reason to know that the representation was captured in violation of par. (a)
16 or the reproduction was made in violation of par. (b), and if the person who is depicted
17 nude in the representation or reproduction did not consent to the possession,
18 distribution, or exhibition.

19 **SECTION 5.** 944.205 (title) of the statutes, as affected by 2001 Wisconsin Act 16,
20 is renumbered 942.09 (title) and amended to read:

21 **942.09 (title) Recordings showing Representations depicting nudity.**

22 **SECTION 6.** 944.205 (1) (intro.) of the statutes, as affected by 2001 Wisconsin
23 Act 16, is renumbered 942.09 (1) (intro.).

24 **SECTION 7.** 944.205 (1) (a) of the statutes, as created by 2001 Wisconsin Act 16,
25 is repealed.

1 **SECTION 8.** 944.205 (1) (b) of the statutes is renumbered 942.09 (1) (b).

2 **SECTION 9.** 944.205 (1) (c) of the statutes, as created by 2001 Wisconsin Act 16,
3 is repealed.

4 **SECTION 10.** 944.205 (2) (intro.) of the statutes is renumbered 942.09 (2)
5 (intro.).

6 **SECTION 11.** 944.205 (2) (a) of the statutes, as affected by 2001 Wisconsin Act
7 16, is renumbered 942.09 (2) (a) and amended to read:

8 942.09 (2) (a) ~~Records an image of~~ Captures a representation that depicts
9 nudity without the knowledge and consent of the person who is depicted nude while
10 that person is nude in a place and circumstance in which he or she has a reasonable
11 expectation of privacy, if the person ~~recording the image~~ knows or has reason to know
12 that the person who is depicted nude does not know of and consent to the ~~recording~~
13 capture of the representation.

14 **SECTION 12.** 944.205 (2) (b) of the statutes, as affected by 2001 Wisconsin Act
15 16, is repealed.

16 **SECTION 13.** 944.205 (3) and (4) of the statutes, as affected by 2001 Wisconsin
17 Act 16, are renumbered 942.09 (3) and (4) and amended to read:

18 942.09 (3) Notwithstanding sub. (2) (a) and, (b), and (c), if the person depicted
19 in a ~~recording of an image~~ representation or reproduction is a child and the ~~recording,~~
20 ~~copying~~ capture, possession, exhibition, storage, or distribution of the ~~recording~~
21 representation, or making, possession, exhibition, or distribution of the
22 reproduction, does not violate s. 948.05 or 948.12, a parent, guardian, or legal
23 custodian of the child may do any of the following:

24 (a) ~~Record, copy, Capture and~~ possess, ~~exhibit, or store~~ the ~~recording~~
25 representation or make and possess the reproduction depicting the child.

