



**SENATE SUBSTITUTE AMENDMENT 1,  
TO SENATE BILL 367**

1     **AN ACT** *to create* 942.09 (1) (bg), 942.09 (1) (bn), 942.09 (1) (d) and 942.09 (3m)  
2             of the statutes; **relating to:** posting or publishing a sexually explicit image  
3             without consent and providing a penalty.

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

4             **SECTION 1.** 942.09 (1) (bg) of the statutes is created to read:  
5             942.09 (1) (bg) "Post or publish" includes posting or publishing on a Web site  
6             on the Internet, if the Web site may be viewed by the general public.

7             **SECTION 2.** 942.09 (1) (bn) of the statutes is created to read:  
8             942.09 (1) (bn) "Private representation" means a representation depicting a  
9             nude or partially nude person or depicting a person engaging in sexually explicit  
10            conduct that is intended by the person depicted in the representation to be captured,  
11            viewed, or possessed only by the person who, with the consent of the person depicted,

1 captured the representation or to whom the person depicted directly and  
2 intentionally gave possession of the representation.

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

4 942.09 (1) (d) “Sexually explicit conduct” has the meaning given in s. 948.01  
5 (7).

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

7 942.09 (3m) (a) Whoever does any of the following is guilty of a Class A  
8 misdemeanor:

9 1. Posts, publishes, or causes to be posted or published, a private representation  
10 if the actor knows that the person depicted does not consent to the posting or  
11 publication of the private representation.

12 2. Posts, publishes, or causes to be posted or published, a depiction of a person  
13 that he or she knows is a private representation, without the consent of the person  
14 depicted.

15 (b) This subsection does not apply to any of the following:

16 1. The parent, guardian, or legal custodian of the person depicted if the private  
17 representation does not violate s. 948.05 or 948.12 and the posting or publication is  
18 not for commercial purposes.

19 2. A law enforcement officer or agent acting in his or her official capacity in  
20 connection with the investigation or prosecution of a crime.

21 3. A person who posts or publishes a private representation that is newsworthy  
22 or of public importance.

23 4. A provider of electronic communication services that provides Internet  
24 access service to customers.

25

(END)