



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2011 Wisconsin Act 284
[2011 Assembly Bill 100]

Computer Sex Crimes Against Children and Evidentiary Recordings

2011 Wisconsin Act 284 makes changes to computer-related child sex crimes and to the permitted custody and possession of evidentiary recordings of children engaged in sexually explicit conduct.

Computer-Related Child Sex Crimes

Act 284 makes the attempt to commit certain computer-related child sex crimes subject to the same penalties as the completed crimes. Specifically, the Act subjects an offender who attempts to cause a child to view or listen to sexual activity, contrary to s. 984.055 (1), Stats., or who attempts to use a computer to facilitate a child sex crime, contrary to s. 948.075 (1r), Stats., to the same penalties as an offender who commits an actual violation of these statutes. Under prior law, an attempt to commit one of these crimes was subject to half the maximum sentence for the completed crime.

Act 284 also expands the elements of the prohibition against causing a child to view or listen to sexual activity to include certain circumstances in which the offender did not cause a *child* to view or listen to sexual activity. Under prior law, a person was in violation of the statute only if he or she caused a child under 18 years of age to view or listen to sexually explicit conduct for the purpose of sexually arousing or gratifying the person, or for the purpose of humiliating or degrading the child. The Act expands the statute to cover an individual the offender believes is a child, such as an undercover officer. The language provides that a person also violates the statute if he or she causes an individual whom the person *believes or has reason to believe is under 18* to view or listen to the sexually explicit conduct for the specified purposes.

Evidentiary Recordings of Children Engaged in Sexually Explicit Conduct

Act 284 restricts the custody and possession of images and recordings of children engaged in sexually explicit conduct. Under prior law, a district attorney was required to disclose to the defense

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

any physical evidence the attorney intended to use as evidence against the defendant. The defense was then permitted to inspect, copy, or photograph the evidence.

The Act provides that certain evidence must remain in the custody of a law enforcement agency or the court and only permits the defense to receive a copy for limited purposes. The Act requires any film, photographic negative, photograph, motion picture, videotape, or recording of a child under the age of 18 who is engaged in sexually explicit conduct to remain in the possession, custody, and control of a law enforcement agency or court. These materials must be made reasonably available to the defense, which means that a defense attorney, defendant, or expert witness for the defense must have the opportunity to inspect the materials at a law enforcement or government facility. The defense may only obtain a copy if the defense establishes that the material has not been made reasonably available to it. If this occurs, the court must enter a protective order providing that the copy may not be copied, printed, or disseminated by the defense and shall be returned to the court or law enforcement agency at the completion of trial.

Effective date: Act 284 takes effect on April 27, 2012.

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April 24, 2012

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