



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2017 Assembly Bill 389

Assembly Amendment 1

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2017 ASSEMBLY BILL 389

2017 Assembly Bill 389 (“the bill”) makes it a crime to solicit from a person who the actor believes or has reason to believe has not attained the 18 years of age (“a child”), a representation (a photograph, exposed film, motion picture, videotape, recording, other visual or audio representation, or data that represents a visual image or audio recording) that is either of the following: (1) a sexually intimate representation¹; or (2) a private representation². The prohibition created by the bill does not apply to a person who solicits such representations and is less than 18 years of age.

The penalty for violating the prohibition created under the bill is a Class A misdemeanor, which is punishable by a fine not to exceed \$10,000, imprisonment not to exceed nine months, or both.

¹ A “sexually intimate representation” is a representation of any of the following: (a) a nude or partially nude person; (b) clothed, covered, or partially clothed or covered genitalia or buttock that is not otherwise visible to the public; (c) a person urinating, defecating, or using a feminine hygiene product; or (d) a person engaged in sexual intercourse or sexual contact, as defined under current law. [s. 942.09 (1) (ag), Stats.]

² A “private representation” is a representation depicting a nude or partially nude person or depicting a person engaging in sexually explicit conduct that is intended by the person depicted in the representation to be captured, viewed, or possessed only by the person who, with the consent of the person depicted, captured the representation or to whom the person depicted directly and intentionally gave possession of the representation. [s. 942.09 (1) (bn), Stats.]

ASSEMBLY AMENDMENT 1

Assembly Amendment 1 (“the amendment”) increases the general penalty for violating the prohibition created by the bill from a Class A misdemeanor to a Class I felony. The penalty decreases, however, a Class A misdemeanor if both of the following apply: (1) the person who is soliciting the intimate or private representation of a child is between the ages of 18 and 21 years; and (2) the child solicited is not more than three years younger than the person who solicits the intimate or private representation. The amendment also retains the current exception to the bill’s prohibition for a person who solicits an intimate or private representation of a child and is less than 18 years of age.

A Class I felony is punishable by a fine not to exceed \$10,000, imprisonment not to exceed three years and six months, or both.

BILL HISTORY

The amendment was introduced by Representative Jacque on August 25, 2017. On August 21, 2017, the Assembly Committee on Criminal Justice and Public Safety voted to recommend adoption of the amendment by a vote of Ayes, 8; Noes, 0; and subsequently voted to recommend passage of the bill, as amended, by a vote of Ayes, 8; Noes, 1.

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