

CHAPTER 4

Obscenity

SEC. 11-4-1 EXPOSING MINORS TO HARMFUL MATERIALS.

- (a) **DEFINITIONS.** As used in this Section:
- (1) "Minor" means any person under the age of eighteen (18) years.
 - (2) "Nudity" means the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernible turgid state.
 - (3) "Sexual conduct" is defined to be acts of sexual intercourse between humans, normal or perverted, actual or simulated, acts of masturbation, fellatio, cunnilingus and acts of excretory function, lewd exhibition of the genitals, especially in a stimulated condition and sexual relations between human and animals.
 - (4) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.
 - (5) "Sadomasochistic abuse" means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.
 - (6) "Harmful to minors" means that quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement or sadomasochistic abuse, which taken as a whole appeals to the prurient interest in sex, which taken as a whole portrays sexual conduct in a patently offensive way, and which taken as a whole does not have serious literary, artistic, political or scientific value. Whether a work appeals to the prurient interest and whether it depicts or describes sexual conduct in a patently offensive way, and whether it has serious literary, artistic, political or scientific value are to be determined by applying contemporary community standards in the adult community as a whole with respect to what is suitable material for minors.
 - (7) "Knowingly" means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:
 - a. The character and content of any material described herein which is reasonably suspect under this Section; and
 - b. The age of the minor, provided, however, that an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt to ascertain the true age of such minor.
 - (8) "Knowledge of the minor's age" means:
 - a. Knowledge or information that the person is a minor; or
 - b. Reason to know, or a belief or grounds for belief, which warrants further inspection or inquiry of the age of the minor.
- (b) It shall be unlawful for any person knowingly to exhibit for a monetary consideration to a minor or knowingly to sell to a minor an admission ticket or pass or knowingly to admit a minor for a monetary consideration to premises whereon there is exhibited a motion picture, show or other presentation which in whole or in part depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors, unless such minor is accompanied by his parent or legal guardian.

- (c) It shall be unlawful for any person knowingly to sell or loan for monetary consideration to a minor:
 - (1) Any picture, photograph, drawing, sculpture, motion picture film or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors.
 - (2) Any book, pamphlet, magazine, printed matter however produced, or sound recording which contains any material enumerated in (c)(1) hereof, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse and which, taken as a whole, is harmful to minors.
- (d) It shall be unlawful for any person knowingly to admit a minor to any premises whereon there is exhibited nudity, sexual conduct or sadomasochistic abuse which is harmful to minors unless such minor is accompanied by his/her parent or legal guardian.

State Law Reference: Section 944.25, Wis. Stats.

SEC. 11-4-2 SEXTING PROHIBITED

- (a) Definitions. As used in this section, the following terms shall have the meanings indicated:
 - (1) “Minor” means any person under the age of 18 years.
 - (2) “Nudity” means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering; or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernibly turgid state. A mother’s breastfeeding of her baby does not under any circumstance constitute “nudity,” irrespective of whether or not the nipple is covered during or incidental to breastfeeding.
 - (3) “Harmful to minors” means any reproduction, imitation, characterization, description, exhibition, presentation, or representation of whatever kind or form, depicting nudity, sexual conduct, or sexual excitement when it:
 - a. Predominantly appeals to a prurient, shameful, or morbid interest;
 - b. Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for minors; and
 - c. Taken as a whole is without serious literary, artistic, political, or scientific value for minors.
- (b) It shall be unlawful for any person to:
 - (1) Transmission: use any device capable of electronic data transmission to transmit to a minor any image or recording of nudity that is harmful to minors.
 - (2) Possession. possess an image or recording that was transmitted or distributed by a person, regardless of age, that depicts nudity that is harmful to minors.
 - a. A person does not violate this paragraph if all of the following apply:
 - i. The person did not solicit the photograph or video; and
 - ii. The person took reasonable steps to report the photograph or video to a school or law enforcement official; and
 - iii. The person did not re-transmit the image or recording to a third party other than a law enforcement official.
 - (3) Solicitation: solicit the transmission or distribution of any image or recording that would itself be prohibited by this ordinance.
 - (c) Penalties. Any person who shall violate this section shall pay a forfeiture of \$200.00 plus

costs.