



2025 ASSEMBLY BILL 105

March 10, 2025 - Introduced by Representatives GOEBEN, B. JACOBSON, PENTERMAN, KREIBICH, DITTRICH, ALLEN, KNODL, WICHGERS, MURPHY, BRILL, MURSAU, BEHNKE and PIWOWARCZYK, cosponsored by Senators WANGGAARD, JACQUE, FEYEN and NASS. Referred to Committee on State Affairs.

1 **AN ACT** *to create* 100.76 of the statutes; **relating to:** the distribution of
2 certain material on the Internet.

Analysis by the Legislative Reference Bureau

This bill prohibits business entities from knowingly and intentionally publishing or distributing material harmful to minors on the Internet on a website that contains a substantial portion of such material, unless the business entity performs a reasonable age verification method to verify the age of individuals attempting to access the website. “Material harmful to minors” is defined in the bill to include material 1) that is designed to appeal to prurient interests, 2) that principally consists of descriptions or depictions of actual or simulated sexual acts or body parts including pubic areas, genitals, buttocks, and female nipples, and 3) that lacks serious literary, artistic, political, or scientific value for minors. In the bill, a “reasonable age verification method” includes various methods whereby the business entity may verify that an individual seeking to access the material is not a minor. Under the bill, persons that perform reasonable age verification methods may not knowingly retain identifying information of the individual attempting to access the website after the individual’s access has been granted or denied. The bill also requires a business entity that knowingly and intentionally publishes or distributes material harmful to minors on the Internet from a website that contains a substantial portion of such material to prevent persons from accessing the

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website from an internet protocol address or internet protocol address range that is linked to or known to be a virtual private network system or provider.

In addition, this bill prohibits business entities from knowingly and intentionally publishing or distributing obscene material or an obscene depiction of a purported child on the Internet. "Obscene material" is defined to mean a writing, picture, film, or other recording that the average person, applying contemporary community standards, would find appeals to the prurient interest if taken as a whole, describes or shows sexual conduct in a patently offensive way, and lacks serious literary, artistic, political, educational, or scientific value if taken as a whole. "Obscene depiction of a purported child" is defined to mean a visual representation that appears to depict an actual child in the form of a photograph, film, motion picture, or digital or computer-generated image or picture, that the average person, applying contemporary community standards, would find appeals to prurient interests if taken as a whole, describes or shows sexually explicit conduct in a patently offensive way, and lacks serious literary, artistic, political, educational, or scientific value if taken as a whole.

A person that violates the provisions of the bill may be subject to civil liability for damages and the payment of court costs and reasonable attorney fees. Sovereign immunity may not be raised as an affirmative defense to a civil action brought alleging a violation of a provision of the bill.

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

1 **SECTION 1.** 100.76 of the statutes is created to read:

2 **100.76 Publishing and distributing certain materials to minors. (1)**

3 **DEFINITIONS.** In this section:

4 (a) "Business entity" means a proprietorship, partnership, firm, business
5 trust, joint venture, syndicate, corporation, limited liability company, or business
6 association, including all wholly owned subsidiaries, majority-owned subsidiaries,
7 parent companies, or affiliates of such an organization or entity.

8 (b) "Distribute" means to issue, sell, give, provide, deliver, transfer,
9 transmute, circulate, or disseminate by any means.

10 (c) "Material harmful to minors" means material that is all of the following:

11 1. Material that the average person, applying contemporary community

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1 standards and taking the material as a whole and with respect to minors, would
2 find to be designed to appeal or pander to prurient interests.

3 2. Material that exploits, is devoted to, or principally consists of descriptions
4 of actual, simulated, or animated display or depiction of any of the following, in a
5 manner patently offensive with respect to minors:

6 a. Pubic hair, anus, vulva, genitals, or nipple of the female breast.

7 b. Touching, caressing, or fondling of a nipple, breast, buttock, anus, or
8 genitals.

9 c. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation,
10 flagellation, excretory functions, exhibitions, or any other sexual act.

11 3. Material that, when taken as a whole, lacks serious literary, artistic,
12 political, or scientific value for minors.

13 (d) "Minor" means an individual under 18 years of age.

14 (e) "News-gathering organization employee" means any of the following:

15 1. An employee of a print, online, or mobile platform newspaper, news
16 publication, or news source that provides current news and public interest
17 information, if the employee is acting in his or her capacity as an employee of the
18 newspaper, news publication, or news source.

19 2. An employee of a radio broadcast station, television broadcast station, cable
20 television operator, or wire service, if the employee is acting in his or her capacity as
21 an employee of the radio broadcast station, television broadcast station, cable
22 television operator, or wire service.

23 (f) "Obscene depiction of a purported child" means obscene material, as

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1 defined under s. 948.125 (1) (b), that contains a depiction of a purported child, as
2 defined under s. 948.125 (1) (a).

3 (g) “Obscene material” has the meaning given in s. 944.21 (2) (c).

4 (h) “Publish” means to communicate or make information available to another
5 person on a publicly available website.

6 (i) “Reasonable age verification method” means verification by a business
7 entity using any of the following methods to determine that an individual seeking
8 access to material harmful to minors is not a minor:

9 1. A commercial age verification system that verifies age using the
10 individual’s government-issued identification card or by using any commercially
11 reasonable method that uses public or private transactional data gathered about
12 the individual.

13 2. A government-issued digitized identification card.

14 (j) “Substantial portion” means more than one-third of the total material on a
15 website.

16 **(2) AGE VERIFICATION REQUIRED TO PUBLISH OR DISTRIBUTE MATERIAL**
17 **HARMFUL TO MINORS.** (a) No business entity may knowingly and intentionally
18 publish or distribute material harmful to minors on the Internet from a website
19 that contains a substantial portion of such material, unless the business entity
20 performs reasonable age verification methods to verify the age of individuals
21 attempting to access the website.

22 (b) A person that performs a reasonable age verification method in compliance
23 with par. (a) may not knowingly retain identifying information of the individual

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1 attempting to access the website after the individual's access has been granted or
2 denied.

3 (c) A business entity that knowingly and intentionally publishes or
4 distributes material harmful to minors on the Internet from a website that contains
5 a substantial portion of such material shall prevent persons from accessing the
6 website from an internet protocol address or internet protocol address range that is
7 linked to or known to be a virtual private network system or virtual private network
8 provider.

9 **(3) PROHIBITION ON THE PUBLISHING OR DISTRIBUTING CERTAIN OBSCENE**
10 **MATERIAL.** No business entity may knowingly and intentionally publish or
11 distribute an obscene depiction of a purported child or obscene material on the
12 Internet.

13 **(4) CIVIL LIABILITY.** (a) A person alleging a violation of sub. (2) or (3) may
14 bring an action seeking actual and punitive damages, court costs, and reasonable
15 attorney fees notwithstanding s. 814.04 (1). A person bringing an action under this
16 paragraph is not required to first exhaust any relevant administrative remedies.

17 (b) Sovereign immunity may not be raised as an affirmative defense in an
18 action brought under par. (a).

19 (c) The presence or absence of a criminal conviction related to the same
20 conduct underlying an alleged violation of sub. (2) or (3) has no bearing on the relief
21 available to a person under par. (a).

22 **(5) EXEMPTIONS.** (a) Subsection (2) does not apply to any bona fide news or
23 public interest broadcast, video, report, or event, and may not be construed to affect
24 the rights of any news-gathering organization employee.

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(b) No Internet service provider or its affiliates or subsidiaries, search engine, or cloud service provider shall be held to have violated sub. (2) on the basis of the entity having provided access or connection to or from a website, content on the Internet, or a facility, system, or network not under that entity's control, or the entity's provision of communicating, transmitting, downloading, intermediate storage of, providing access software for, or other services that communicate material harmful to minors, if that entity is not responsible for the creation of the content that constitutes material harmful to minors.

(c) No Internet service provider or its affiliates or subsidiaries, search engine, or cloud service provider shall be held to have violated sub. (3) on the basis of the entity having provided access or connection to or from a website, content on the Internet, or a facility, system, or network not under that entity's control, or the entity's provision of communicating, transmitting, downloading, intermediate storage of, providing access software for, or other services that communicate an obscene depiction of a purported child or obscene material, if that entity is not responsible for the creation of the content that constitutes an obscene depiction of a purported child or obscene material.

(END)