

## Wisconsin

### Wis. Stat.

#### Wis. Stat. § 944.21. Obscene material or performance.

- (1) The legislature intends that the authority to prosecute violations of this section shall be used primarily to combat the **obscenity** industry and shall never be used for harassment or censorship purposes against materials or performances having serious artistic, literary, political, educational or scientific value. The legislature further intends that the enforcement of this section shall be consistent with the first amendment to the U.S. constitution, article I, section 3, of the Wisconsin constitution and the compelling state interest in protecting the free flow of ideas.
- (2) In this section:
  - (a) "Community" means this state.
  - (am) "Exhibit" has the meaning given in s. 948.01 (1d) (b) "Internal revenue code" has the meaning specified in s. 71.01 (6) (c) "**Obscene** material" means a writing, picture, film, or other recording that:
    1. The average person, applying contemporary community standards, would find appeals to the prurient interest if taken as a whole;
    2. Under contemporary community standards, describes or shows sexual conduct in a patently offensive way; and
    3. Lacks serious literary, artistic, political, educational or scientific value, if taken as a whole.
  - (d) "**Obscene** performance" means a live exhibition before an audience which:
    1. The average person, applying contemporary community standards, would find appeals to the prurient interest if taken as a whole;
    2. Under contemporary community standards, describes or shows sexual conduct in a patently offensive way; and
    3. Lacks serious literary, artistic, political, educational or scientific value, if taken as a whole.
  - (dm) "Recording" has the meaning given in s. 948.01 (3r) (e) "Sexual conduct" means the commission of any of the following: sexual intercourse, sodomy, bestiality, necrophilia, human excretion, masturbation, sadism, masochism, fellatio, cunnilingus or lewd exhibition of human genitals.
  - (f) "Wholesale transfer or distribution of **obscene** material" means any transfer for a valuable consideration of **obscene** material for purposes of resale or commercial distribution; or any distribution of **obscene** material for commercial exhibition. "Wholesale transfer or distribution of **obscene** material" does not require transfer of title to the **obscene** material to the purchaser, distributee or exhibitor.
- (3) Whoever does any of the following with knowledge of the character and content of the material or performance and for commercial purposes is subject to the penalties under sub. (5):
  - (a) Imports, prints, sells, has in his or her possession for sale, publishes, exhibits, plays, or distributes any **obscene** material.
  - (b) Produces or performs in any **obscene** performance.
  - (c) Requires, as a condition to the purchase of periodicals, that a retailer

- accept **obscene** material.
- (4) Whoever does any of the following with knowledge of the character and content of the material is subject to the penalties under sub. (5):
  - (a) Distributes, exhibits, or plays any **obscene** material to a person under the age of 18 years.
  - (b) Has in his or her possession with intent to distribute, exhibit, or play to a person under the age of 18 years any **obscene** material.
- (5)
  - (a) Except as provided under pars. (b) to (e), any person violating sub. (3) or (4) is subject to a Class A forfeiture.
  - (b) If the person violating sub. (3) or (4) has one prior conviction under this section, the person is guilty of a Class A misdemeanor.
  - (c) If the person violating sub. (3) or (4) has 2 or more prior convictions under this section, the person is guilty of a Class H felony.
  - (d) Prior convictions under pars. (b) and (c) apply only to offenses occurring on or after June 17, 1988.
  - (e) Regardless of the number of prior convictions, if the violation under sub. (3) or (4) is for a wholesale transfer or distribution of **obscene** material, the person is guilty of a Class H felony.
- (5m) A contract printer or employee or agent of a contract printer is not subject to prosecution for a violation of sub. (3) regarding the printing of material that is not subject to the contract printers editorial review or control.
- (6) Each day a violation under sub. (3) or (4) continues constitutes a separate violation under this section.
- (7) A district attorney may submit a case for review under s. 165.25 (3m). No civil or criminal proceeding under this section may be commenced against any person for a violation of sub. (3) or (4) unless the attorney general determines under s. 165.25 (3m) that the proceeding may be commenced.
- (8)
  - (a) The legislature finds that the libraries and educational institutions under par. (b) carry out the essential purpose of making available to all citizens a current, balanced collection of books, reference materials, periodicals, sound recordings and audiovisual materials that reflect the cultural diversity and pluralistic nature of American society. The legislature further finds that it is in the interest of the state to protect the financial resources of libraries and educational institutions from being expended in litigation and to permit these resources to be used to the greatest extent possible for fulfilling the essential purpose of libraries and educational institutions.
  - (b) No person who is an employee, a member of the board of directors or a trustee of any of the following is liable to prosecution for violation of this section for acts or omissions while in his or her capacity as an employee, a member of the board of directors or a trustee:
    1. A public elementary or secondary school.
    2. A private school, as defined in s. 115.001 (3r), or a tribal school, as defined in s. 115.001 (15m).
    3. Any school offering vocational, technical or adult education that:
      - a. Is a technical college, is a school approved by the educational approval board under s. 38.50, or is a school described in s. 38.50 (1) (e) 6., 7. or 8.; and
      - b. Is exempt from taxation under section 501 (c) (3) of the internal revenue code.
    4. Any institution of higher education that is accredited, as described in s. 39.30 (1) (d), and is exempt from taxation under section 501 (c) (3)

of the internal revenue code.

5. A library that receives funding from any unit of government.

- (9) In determining whether material is **obscene** under sub. (2) (c) 1. and 3., a judge or jury shall examine individual pictures, recordings of images, or passages in the context of the work in which they appear.
- (10) The provisions of this section, including the provisions of sub. (8), are severable, as provided in s. 990.001 (11)

#### **944.25. Sending obscene or sexually explicit electronic messages.**

- (1) In this section:
  - (a) "Electronic mail solicitation" means an electronic mail message, including any attached program or document, that is sent for the purpose of encouraging a person to purchase property, goods, or services.
  - (b) "Obscene material" has the meaning given in s. 944.21 (2) (c) (c)
  - "Sexually explicit conduct" has the meaning given in s. 948.01 (7)
- (2) Whoever sends an unsolicited electronic mail solicitation to a person that contains obscene material or a depiction of sexually explicit conduct without including the words "ADULT ADVERTISEMENT" in the subject line of the electronic mail solicitation is guilty of a Class A misdemeanor.

#### **944.23. Making lewd, obscene or indecent drawings.**

Whoever makes any lewd, obscene or indecent drawing or writing in public or in a public place is guilty of a Class C misdemeanor.

#### **944.20. Lewd and lascivious behavior.**

- (1) Whoever does any of the following is guilty of a Class A misdemeanor:
  - (a) Commits an indecent act of sexual gratification with another with knowledge that they are in the presence of others; or
  - (b) Publicly and indecently exposes genitals or pubic area.
- (2) Subsection (1) does not apply to a mother's breast-feeding of her child.

#### **944.17. Sexual gratification.**

- (1) In this section, "in public" means in a place where or in a manner such that the person knows or has reason to know that his or her conduct is observable by or in the presence of persons other than the person with whom he or she is having sexual gratification.
- (2) Whoever does any of the following is guilty of a Class A misdemeanor:
  - (a) Commits an act of sexual gratification in public involving the sex organ of one person and the mouth or anus of another.
  - (c) Commits an act of sexual gratification involving his or her sex organ and the sex organ, mouth or anus of an animal.
  - (d) Commits an act of sexual gratification involving his or her sex organ, mouth or anus and the sex organ of an animal.
- (3) Subsection (2) does not apply to a mother's breast-feeding of her child.

## 948.01. Definitions.

- In this chapter, the following words and phrases have the designated meanings unless the context of a specific section manifestly requires a different construction:
  - (1) "Child" means a person who has not attained the age of 18 years, except that for purposes of prosecuting a person who is alleged to have violated a state or federal criminal law, "child" does not include a person who has attained the age of 17 years.
  - (1d) "Exhibit," with respect to a recording of an image that is not viewable in its recorded form, means to convert the recording of the image into a form in which the image may be viewed.
  - (1g) "Joint legal custody" has the meaning given in s. 767.001 (1s)
  - (1r) "Legal custody" has the meaning given in s. 767.001 (2)
  - (2) "Mental harm" means substantial harm to a child's psychological or intellectual functioning which may be evidenced by a substantial degree of certain characteristics of the child including, but not limited to, anxiety, depression, withdrawal or outward aggressive behavior. "Mental harm" may be demonstrated by a substantial and observable change in behavior, emotional response or cognition that is not within the normal range for the child's age and stage of development.
  - (3) "Person responsible for the child's welfare" includes the child's parent; stepparent; guardian; foster parent; an employee of a public or private residential home, institution, or agency; other person legally responsible for the child's welfare in a residential setting; or a person employed by one legally responsible for the child's welfare to exercise temporary control or care for the child.
  - (3m) "Physical placement" has the meaning given in s. 767.001 (5)
  - (3r) "Recording" includes the creation of a reproduction of an image or a sound or the storage of data representing an image or a sound.
  - (4) "Sodomasochistic abuse" means the infliction of force, pain or violence upon a person for the purpose of sexual arousal or gratification.
  - (5) "Sexual contact" means any of the following:
    - (a) Any of the following types of intentional touching, whether direct or through clothing, if that intentional touching is either for the purpose of sexually degrading or sexually humiliating the complainant or sexually arousing or gratifying the defendant:
      - 1. Intentional touching by the defendant or, upon the defendant's instruction, by another person, by the use of any body part or object, of the complainant's intimate parts.
      - 2. Intentional touching by the complainant, by the use of any body part or object, of the defendant's intimate parts or, if done upon the defendant's instructions, the intimate parts of another person.
    - (b) Intentional penile ejaculation of ejaculate or intentional emission of urine or feces by the defendant or, upon the defendant's instruction, by another person upon any part of the body clothed or unclothed of the complainant if that ejaculation or emission is either for the purpose of sexually degrading or sexually humiliating the complainant or for the purpose of sexually arousing or gratifying the defendant.
    - (c) For the purpose of sexually degrading or humiliating the complainant or sexually arousing or gratifying the defendant, intentionally causing the complainant to ejaculate or emit urine or feces on any part of the defendant's body, whether clothed or unclothed.

(6) "Sexual intercourse" means vulvar penetration as well as cunnilingus, fellatio or anal intercourse between persons or any other intrusion, however slight, of any part of a persons body or of any object into the genital or anal opening either by the defendant or upon the defendants instruction. The emission of semen is not required.

(7) "Sexually explicit conduct" means actual or simulated:

(a) Sexual intercourse, meaning vulvar penetration as well as cunnilingus, fellatio or anal intercourse between persons or any other intrusion, however slight, of any part of a persons body or of any object into the genital or anal opening either by a person or upon the persons instruction. The emission of semen is not required;(b) Bestiality;(c) Masturbation;(d) Sexual sadism or sexual masochistic abuse including, but not limited to, flagellation, torture or bondage; or(e) Lewd exhibition of intimate parts.

#### **48.05. Sexual exploitation of a child.**

- (1) Whoever does any of the following with knowledge of the character and content of the sexually explicit conduct involving the child may be penalized under sub. (2p):
  - (a) Employs, uses, persuades, induces, entices, or coerces any child to engage in sexually explicit conduct for the purpose of recording or displaying in any way the conduct.
  - (b) Records or displays in any way a child engaged in sexually explicit conduct.
- (1m) Whoever produces, performs in, profits from, promotes, imports into the state, reproduces, advertises, sells, distributes, or possesses with intent to sell or distribute, any recording of a child engaging in sexually explicit conduct may be penalized under sub. (2p) if the person knows the character and content of the sexually explicit conduct involving the child and if the person knows or reasonably should know that the child engaging in the sexually explicit conduct has not attained the age of 18 years.
- (2) A person responsible for a childs welfare who knowingly permits, allows or encourages the child to engage in sexually explicit conduct for a purpose proscribed in sub. (1) (a) or (b) or (1m) may be penalized under sub. (2p)
- (2p)
  - (a) Except as provided in par. (b), a person who violates sub. (1), (1m), or (2) is guilty of a Class C felony.
  - (b) A person who violates sub. (1), (1m), or (2) is guilty of a Class F felony if the person is under 18 years of age when the offense occurs.
- (3) It is an affirmative defense to prosecution for violation of sub. (1) (a) or (b) or (2) if the defendant had reasonable cause to believe that the child had attained the age of 18 years. A defendant who raises this affirmative defense has the burden of proving this defense by a preponderance of the evidence.

#### **948.055. Causing a child to view or listen to sexual activity.**

- (1) Whoever intentionally causes a child who has not attained 18 years of age to view or listen to sexually explicit conduct may be penalized as provided in sub. (2) if the viewing or listening is for the purpose of sexually arousing or gratifying the actor or humiliating or degrading the child.
- (2) Whoever violates sub. (1) is guilty of:
  - (a) A Class F felony if the child has not attained the age of 13 years.

(b) A Class H felony if the child has attained the age of 13 years but has not attained the age of 18 years.

**948.07. Child enticement.**

- Whoever, with intent to commit any of the following acts, causes or attempts to cause any child who has not attained the age of 18 years to go into any vehicle, building, room or secluded place is guilty of a Class D felony:
  - (1) Having sexual contact or sexual intercourse with the child in violation of s. 948.02, 948.085, or 948.095
  - (2) Causing the child to engage in prostitution.
  - (3) Exposing a sex organ to the child or causing the child to expose a sex organ in violation of s. 948.10
  - (4) Recording the child engaging in sexually explicit conduct.
  - (5) Causing bodily or mental harm to the child.
  - (6) Giving or selling to the child a controlled substance or controlled substance analog in violation of ch. 961

**948.075. Use of a computer to facilitate a child sex crime.**

- (1r) Whoever uses a computerized communication system to communicate with an individual who the actor believes or has reason to believe has not attained the age of 16 years with intent to have sexual contact or sexual intercourse with the individual in violation of s. 948.02 (1) or (2) is guilty of a Class C felony.
- (2) This section does not apply if, at the time of the communication, the actor reasonably believed that the age of the person to whom the communication was sent was no more than 24 months less than the age of the actor.
- (3) Proof that the actor did an act, other than use a computerized communication system to communicate with the individual, to effect the actors intent under sub. (1r) shall be necessary to prove that intent.

**948.08. Soliciting a child for prostitution.**

Whoever intentionally solicits or causes any child to engage in an act of prostitution or establishes any child in a place of prostitution is guilty of a Class D felony.

**948.10. Exposing genitals or pubic area.**

- (1) Whoever, for purposes of sexual arousal or sexual gratification, causes a child to expose genitals or pubic area or exposes genitals or pubic area to a child is guilty of the following:
  - (a) Except as provided in par. (b), a Class I felony.
  - (b) A Class A misdemeanor if any of the following applies:

1. The actor is a child when the violation occurs.
  2. At the time of the violation, the actor had not attained the age of 19 years and was not more than 4 years older than the child.
- (2) Subsection (1) does not apply under any of the following circumstances:
    - (a) The child is the defendant's spouse.
    - (b) A mother's breast-feeding of her child.

**948.11. Exposing a child to harmful material or harmful descriptions or narrations.**

- (1) DEFINITIONS. In this section:
  - (ag) "Harmful description or narrative account" means any explicit and detailed description or narrative account of sexual excitement, sexually explicit conduct, sadomasochistic abuse, physical torture or brutality that, taken as a whole, is harmful to children.
  - (ar) "Harmful material" means:
    1. Any picture, photograph, drawing, sculpture, motion picture film or similar visual representation or image of a person or portion of the human body that depicts nudity, sexually explicit conduct, sadomasochistic abuse, physical torture or brutality and that is harmful to children; or
    2. Any book, pamphlet, magazine, printed matter however reproduced or recording that contains any matter enumerated in subd. 1., or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexually explicit conduct, sadomasochistic abuse, physical torture or brutality and that, taken as a whole, is harmful to children.
  - (b) "Harmful to children" means that quality of any description, narrative account or representation, in whatever form, of nudity, sexually explicit conduct, sexual excitement, sadomasochistic abuse, physical torture or brutality, when it:
    1. Predominantly appeals to the prurient, shameful or morbid interest of children;
    2. Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for children; and
    3. Lacks serious literary, artistic, political, scientific or educational value for children, when taken as a whole.
  - (d) "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 discernibly turgid state.
  - (e) "Person" means any individual, partnership, firm, association, corporation or other legal entity.
  - (f) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.
- (2) CRIMINAL PENALTIES.
  - (a) Whoever, with knowledge of the character and content of the material, sells, rents, exhibits, plays, distributes, or loans to a child any harmful material, with or without monetary consideration, is guilty of a Class I felony if any of the following applies:
    1. The person knows or reasonably should know that the child has not attained the age of 18 years.
    2. The person has face-to-face contact with the child before or during

the sale, rental, exhibit, playing, distribution, or loan.

(am) Any person who has attained the age of 17 and who, with knowledge of the character and content of the description or narrative account, verbally communicates, by any means, a harmful description or narrative account to a child, with or without monetary consideration, is guilty of a Class I felony if any of the following applies:

1. The person knows or reasonably should know that the child has not attained the age of 18 years.
2. The person has face-to-face contact with the child before or during the communication.

(b) Whoever, with knowledge of the character and content of the material, possesses harmful material with the intent to sell, rent, exhibit, play, distribute, or loan the material to a child is guilty of a Class A misdemeanor if any of the following applies:

1. The person knows or reasonably should know that the child has not attained the age of 18 years.
2. The person has face-to-face contact with the child.

(c) It is an affirmative defense to a prosecution for a violation of pars. (a) 2., (am) 2., and (b) 2. if the defendant had reasonable cause to believe that the child had attained the age of 18 years, and the child exhibited to the defendant a draft card, drivers license, birth certificate or other official or apparently official document purporting to establish that the child had attained the age of 18 years. A defendant who raises this affirmative defense has the burden of proving this defense by a preponderance of the evidence.

- (3) EXTRADITION. If any person is convicted under sub. (2) and cannot be found in this state, the governor or any person performing the functions of governor by authority of the law shall, unless the convicted person has appealed from the judgment of contempt or conviction and the appeal has not been finally determined, demand his or her extradition from the executive authority of the state in which the person is found.
- (4) LIBRARIES AND EDUCATIONAL INSTITUTIONS.
  - (a) The legislature finds that the libraries and educational institutions under par. (b) carry out the essential purpose of making available to all citizens a current, balanced collection of books, reference materials, periodicals, sound recordings and audiovisual materials that reflect the cultural diversity and pluralistic nature of American society. The legislature further finds that it is in the interest of the state to protect the financial resources of libraries and educational institutions from being expended in litigation and to permit these resources to be used to the greatest extent possible for fulfilling the essential purpose of libraries and educational institutions.
  - (b) No person who is an employee, a member of the board of directors or a trustee of any of the following is liable to prosecution for violation of this section for acts or omissions while in his or her capacity as an employee, a member of the board of directors or a trustee:
    1. A public elementary or secondary school.
    2. A private school, as defined in s. 115.001 (3r), or a tribal school, as defined in s. 115.001 (15m).
    3. Any school offering vocational, technical or adult education that:
      - a. Is a technical college, is a school approved by the educational approval board under s. 38.50, or is a school described in s. 38.50 (1) (e) 6., 7. or 8.; and
      - b. Is exempt from taxation under section 501 (c) (3) of the internal revenue code, as defined in s. 71.01 (6).

- 4. Any institution of higher education that is accredited, as described in s. 39.30 (1) (d), and is exempt from taxation under section 501 (c) (3) of the internal revenue code, as defined in s. 71.01 (6).
- 5. A library that receives funding from any unit of government.
- (5) SEVERABILITY. The provisions of this section, including the provisions of sub. (4), are severable, as provided in s. 990.001 (11)

**948.12. Possession of child pornography.**

- (1m) Whoever possesses any undeveloped film, photographic negative, photograph, motion picture, videotape, or other recording of a child engaged in sexually explicit conduct under all of the following circumstances may be penalized under sub. (3):
  - (a) The person knows that he or she possesses the material.
  - (b) The person knows the character and content of the sexually explicit conduct in the material.
  - (c) The person knows or reasonably should know that the child engaged in sexually explicit conduct has not attained the age of 18 years.
- (2m) Whoever exhibits or plays a recording of a child engaged in sexually explicit conduct, if all of the following apply, may be penalized under sub. (3):
  - (a) The person knows that he or she has exhibited or played the recording.
  - (b) Before the person exhibited or played the recording, he or she knew the character and content of the sexually explicit conduct.
  - (c) Before the person exhibited or played the recording, he or she knew or reasonably should have known that the child engaged in sexually explicit conduct had not attained the age of 18 years.
- (3)
  - (a) Except as provided in par. (b), a person who violates sub. (1m) or (2m) is guilty of a Class D felony.
  - (b) A person who violates sub. (1m) or (2m) is guilty of a Class I felony if the person is under 18 years of age when the offense occurs.

**948.40. Contributing to the delinquency of a child.**

- (1) No person may intentionally encourage or contribute to the delinquency of a child. This subsection includes intentionally encouraging or contributing to an act by a child under the age of 10 which would be a delinquent act if committed by a child 10 years of age or older.
- (2) No person responsible for the child's welfare may, by disregard of the welfare of the child, contribute to the delinquency of the child. This subsection includes disregard that contributes to an act by a child under the age of 10 that would be a delinquent act if committed by a child 10 years of age or older.
- (3) Under this section, a person encourages or contributes to the delinquency of a child although the child does not actually become delinquent if the natural and probable consequences of the person's actions or failure to take action would be to cause the child to become delinquent.
- (4) A person who violates this section is guilty of a Class A misdemeanor, except:
  - (a) If death is a consequence, the person is guilty of a Class D felony; or
  - (b) If the child's act which is encouraged or contributed to is a violation of a state or federal criminal law which is punishable as a felony, the person is guilty of a Class H felony.

### **806.05. Declaratory judgments against obscene matter.**

- (1) GROUNDS FOR AND COMMENCEMENT OF ACTION. Whenever there is reasonable cause to believe that any book, magazine, or other written matter, or picture, sound recording or film, which is being sold, loaned, or distributed in any county, or is in the possession of any person who intends to sell, loan or distribute the same in any county, is **obscene**, the district attorney of such county, in the name of the state, as plaintiff, may file a complaint in the circuit court for such county directed against such matter by name. Upon the filing of such complaint, the court shall make a summary examination of such matter. If it is of the opinion that there is reasonable cause to believe that such matter is **obscene**, it shall issue an order, directed against said matter by name, to show cause why said matter should not be judicially determined to be **obscene**. This order shall be addressed to all persons interested in the publication, production, sale, loan, exhibition and distribution thereof, and shall be returnable within 30 days. The order shall be published as a class 2 notice, under ch. 985 A copy of such order shall be sent by certified mail to the publisher, producer, and one or more distributors of said matter, to the persons holding the copyrights, and to the author, in case the names of any such persons appear on such matter or can with reasonable diligence be ascertained by said district attorney. Such publication shall commence and such notices shall be so mailed within 72 hours of the issuance of the order to show cause by the court.
- (1m) INTERLOCUTORY ADJUDICATION. After the issuance of the order to show cause under sub. (1), the court shall, on motion of the district attorney, make an interlocutory finding and adjudication that said book, magazine or other written matter or picture, sound recording or film is **obscene**, which finding and adjudication shall be of the same effect as the final judgment provided in sub. (3) or (5), but only until such final judgment is made or until further order of the court.
- (2) RIGHT TO DEFEND; JURY TRIAL. Any person interested in the publication, production, sale, loan, exhibition or distribution of such matter may appear and file an answer on or before the return day named in said notice. If in such answer the right to trial by jury is claimed on the issue of the **obscenity** of said matter, such issue shall be tried to a jury. If no right to such trial is thus claimed, it shall be deemed waived, unless the court shall, for cause shown, on motion of an answering party, otherwise order.
- (3) DEFAULT. If no person appears and answers within the time allowed, the court may then, without notice, upon motion of the plaintiff, if the court finds that the matter is **obscene**, make an adjudication against the matter that the same is **obscene**.
- (4) SPEEDY HEARING; RULES OF EVIDENCE. If an answer is filed, the case shall be set down for a speedy hearing, but an adjudication of default and order shall first be entered against all persons who have not appeared and answered in the manner provided in sub. (3) If any person answering so demands, the trial shall not be adjourned for a period of longer than 72 hours beyond the opening of court on the day following the filing of the answer. At such hearing, subject to chs. 901 to 911, the court shall receive the testimony of experts and evidence as to the literary, cultural or educational character of said matter and as to the manner and form of its production, publication, advertisement, distribution and exhibition. The dominant effect of the whole of such matter shall be determinative of whether said matter is **obscene**.
- (5) FINDINGS AND JUDGMENT. If, after the hearing, the court or jury, unless its finding is contrary to law or to the great weight and clear preponderance of the evidence, determines that the matter is **obscene**, the court shall enter judgment

that the matter is **obscene**. If it is determined that the matter is not **obscene**, the court shall enter judgment dismissing the complaint, and a total of not more than 100 in costs, in addition to taxable disbursements, may be awarded to the persons defending the matter, which shall be paid from the county treasury. Any judgment under this subsection may be appealed to the court of appeals under chs. 808 and 809 by any person adversely affected, and who is either interested in the publication, production, sale, loan, exhibition or distribution of the matter, or is the plaintiff district attorney.

- (6) **ADMISSIBILITY IN CRIMINAL PROSECUTIONS.** In any trial for a violation of s. 944.21, the proceeding under this section and the final judgment of the circuit court under sub. (3) or (5) or the interlocutory adjudication under sub. (1m), shall be admissible in evidence on the issue of the **obscenity** of said matter and on the issue of the defendants knowledge that said matter is **obscene**, provided, that if the judgment of the court sought to be introduced in evidence is one holding the matter to be **obscene**, it shall not be admitted unless the defendant in said criminal action was served with notice of the judgment of the court hereunder, and the criminal prosecution is based upon conduct by said defendant occurring more than 18 hours after such service or such appearance, whichever is earlier.

#### **947.0125. Unlawful use of computerized communication systems.**

- (1) In this section, "message" means any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature, or any transfer of a computer program, as defined in s. 943.70 (1) (c)
- (2) Whoever does any of the following is guilty of a Class B misdemeanor:
  - (a) With intent to frighten, intimidate, threaten, abuse or harass another person, sends a message to the person on an electronic mail or other computerized communication system and in that message threatens to inflict injury or physical harm to any person or the property of any person.
  - (b) With intent to frighten, intimidate, threaten, abuse or harass another person, sends a message on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the message and in that message threatens to inflict injury or physical harm to any person or the property of any person.
  - (c) With intent to frighten, intimidate, threaten or abuse another person, sends a message to the person on an electronic mail or other computerized communication system and in that message uses any **obscene**, lewd or profane language or suggests any lewd or lascivious act.
  - (d) With intent to frighten, intimidate, threaten or abuse another person, sends a message on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the message and in that message uses any **obscene**, lewd or profane language or suggests any lewd or lascivious act.
  - (e) With intent to frighten, intimidate, threaten or abuse another person, sends a message to the person on an electronic mail or other computerized communication system while intentionally preventing or attempting to prevent the disclosure of his or her own identity.
  - (f) While intentionally preventing or attempting to prevent the disclosure of his or her identity and with intent to frighten, intimidate, threaten or abuse another person, sends a message on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the message.

- (3) Whoever does any of the following is subject to a Class B forfeiture:
  - (a) With intent to harass, annoy or offend another person, sends a message to the person on an electronic mail or other computerized communication system and in that message uses any **obscene**, lewd or profane language or suggests any lewd or lascivious act.
  - (b) With intent to harass, annoy or offend another person, sends a message on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the message and in that message uses any **obscene**, lewd or profane language or suggests any lewd or lascivious act.
  - (c) With intent solely to harass another person, sends repeated messages to the person on an electronic mail or other computerized communication system.
  - (d) With intent solely to harass another person, sends repeated messages on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the messages.
  - (e) With intent to harass or annoy another person, sends a message to the person on an electronic mail or other computerized communication system while intentionally preventing or attempting to prevent the disclosure of his or her own identity.
  - (f) While intentionally preventing or attempting to prevent the disclosure of his or her identity and with intent to harass or annoy another person, sends a message on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the message.
  - (g) Knowingly permits or directs another person to send a message prohibited by this section from any computer terminal or other device that is used to send messages on an electronic mail or other computerized communication system and that is under his or her control.