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Details:

(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

### 2009-10

(session year)

### Assembly

(Assembly, Senate or Joint)

### Committee on ... Criminal Justice (AC-CJ)

#### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

#### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)  
(**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)  
(**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

## Assembly

### Record of Committee Proceedings

#### **Committee on Criminal Justice**

##### **Assembly Bill 503**

Relating to: exposure to a minor and providing a penalty.

By Representatives Staskunas, Kleefisch, Hraychuck, Suder, Kerkman, Petersen, LeMahieu, Gundrum, Strachota, Zigmunt, Brooks, Townsend, Bies, Nass, Ripp, Pridemore, Mursau, Molepske Jr. and Honadel; cosponsored by Senators Plale, Lassa, Darling and Kedzie.

October 15, 2009      Referred to Committee on Criminal Justice.

November 12, 2009    **PUBLIC HEARING HELD**

Present:    (9)      Representatives Turner, Kessler, Staskunas,  
Pasch, Kleefisch, Friske, Kramer, Brooks and  
Ripp.

Absent:    (2)      Representatives Hraychuck and Soletski.

##### Appearances For

- Tony Staskunas, Madison — State Representative
- Joel Kleefisch, Madison — State Representative

##### Appearances Against

- None.

##### Appearances for Information Only

- None.

##### Registrations For

- Jeff Plale, Madison — State Senator

##### Registrations Against

- None.

##### Registrations for Information Only

- None.

December 10, 2009    **EXECUTIVE SESSION HELD**

Present:    (9)      Representatives Turner, Staskunas, Hraychuck,  
Pasch, Kleefisch, Friske, Kramer, Brooks and  
Ripp.

Absent: (2) Representatives Kessler and Soletski.

Moved by Representative Kleefisch, seconded by Representative Friske that **Assembly Amendment 1** be recommended for adoption.

Ayes: (9) Representatives Turner, Staskunas, Hraychuck, Pasch, Kleefisch, Friske, Kramer, Brooks and Ripp.

Noes: (0) None.

Absent: (2) Representatives Kessler and Soletski.

ASSEMBLY AMENDMENT 1 ADOPTION RECOMMENDED,  
Ayes 9, Noes 0

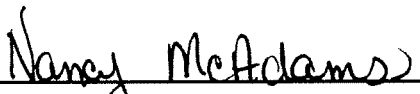
Moved by Representative Kleefisch, seconded by Representative Friske that **Assembly Bill 503** be recommended for passage as amended.

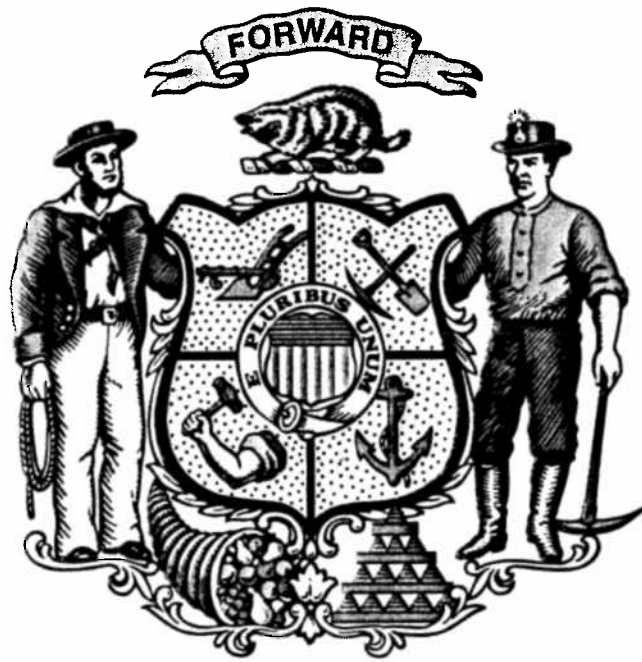
Ayes: (9) Representatives Turner, Staskunas, Hraychuck, Pasch, Kleefisch, Friske, Kramer, Brooks and Ripp.

Noes: (0) None.

Absent: (2) Representatives Kessler and Soletski.

PASSAGE AS AMENDED RECOMMENDED, Ayes 9, Noes 0

  
\_\_\_\_\_  
Nancy McAdams  
Committee Clerk



## Vote Record Committee on Criminal Justice

Date: 12-10-09

Moved by: Kleefisch

Seconded by: Friske

AB 503

SB \_\_\_\_\_

Clearinghouse Rule \_\_\_\_\_

AJR \_\_\_\_\_

SJR \_\_\_\_\_

Appointment \_\_\_\_\_

AR \_\_\_\_\_

SR \_\_\_\_\_

Other \_\_\_\_\_

A/S Amdt 1

A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_

A/S Sub Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

Be recommended for:

- Passage       Adoption       Confirmation       Concurrence       Indefinite Postponement  
 Introduction       Rejection       Tabling       Nonconcurrence

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
<b>Representative Robert Turner, Chair</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Frederick Kessler</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Representative Anthony Staskunas</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Ann Hraychuck</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative James Soletski</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Representative Sandy Pasch</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Joel Kleefisch</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Donald Friske</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Bill Kramer</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Edward Brooks</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Keith Ripp</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Totals:</b>	<u>9</u>	_____	_____	<u>2</u>

Motion Carried

Motion Failed

## Vote Record Committee on Criminal Justice

Date: 12-10-09

Moved by: Kleefisch

Seconded by: Friske

AB 503

SB \_\_\_\_\_

Clearinghouse Rule \_\_\_\_\_

AJR \_\_\_\_\_

SJR \_\_\_\_\_

Appointment \_\_\_\_\_

AR \_\_\_\_\_

SR \_\_\_\_\_

Other \_\_\_\_\_

A/S Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_

A/S Sub Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

Be recommended for:

- Passage      Adoption      Confirmation      Concurrence      Indefinite Postponement  
 Introduction      Rejection      Tabling      Nonconcurrence

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
<b>Representative Robert Turner, Chair</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Frederick Kessler</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Representative Anthony Staskunas</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Ann Hraychuck</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative James Soletski</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Representative Sandy Pasch</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Joel Kleefisch</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Donald Friske</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Bill Kramer</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Edward Brooks</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Keith Ripp</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Totals:</b>	<u>9</u>	_____	_____	<u>2</u>

Motion Carried

Motion Failed





# ANTHONY J. STASKUNAS

STATE REPRESENTATIVE • 15th ASSEMBLY DISTRICT

SPEAKER PRO TEMPORE

## AB 503 TESTIMONY

November 12, 2009

Assembly Committee on Criminal Justice

Good morning, Chairman Turner and committee members. Thank you for holding this hearing and allowing me to appear before you today to testify in support of Assembly Bill 503.

Under current law [§948.10(1)], whoever, for purposes of sexual arousal or sexual gratification, causes a child to expose their genitals or pubic area, or exposes their genitals or pubic area to a child is guilty of a Class A misdemeanor. However, current law [§948.11] also states that anyone that exposes a child to harmful material or harmful descriptions or narrations (i.e. pornographic material) is guilty of a Class I felony. This discrepancy means that individuals that expose children to pornographic material are subject to lesser penalties than individuals that expose their genitals to a child.

There is no question that both of these crimes involve disturbing actions that endanger children, unfortunately they are not treated the same when it comes to the punishment of these crimes. In an effort to address this sentencing loophole, AB503 would make it a Class I felony for anyone at least 17 years of age to expose their genitalia or pubic region for the purposes of sexual arousal or gratification to a minor.

This discrepancy in the statutes was first brought to the attention of the Legislature last session when fellow committee member Representative Kleefisch introduced 2007 Assembly Bill 913. In his testimony on AB913, Rep. Kleefisch informed committee members that he had introduced the bill in response to a conversation that he had with a detective with the Oconomowoc Police Department. This detective shared a story about an individual who, on numerous occasions, had exposed himself to children on elementary school grounds, as well as other locations throughout the city. While this individual was arrested, he could only be charged with misdemeanors, with the majority of his sentence to be served with work release privileges and or probation.

While last session AB913 passed unanimously out of this committee and passed the State Assembly on a voice vote, this bill did not receive a public hearing in the Senate. I am hopeful that with the strong bipartisan support that AB503 has in both the Assembly and the Senate that this important piece of legislation will pass both houses and make its way onto Governor Doyle's desk.

In conclusion, I would like to thank Chairman Turner and the committee members for their time and consideration of this proposal. I hope that you will bring AB503 forward for a vote and recommend its passage by the full Assembly.

I am happy to answer any questions that you may have.

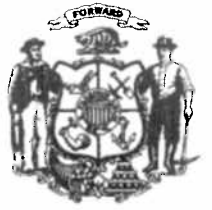






# JOEL KLEEFISCH

STATE REPRESENTATIVE



November 24, 2009

NOV 24 2009

The Honorable Robert Turner  
Chairman, Assembly committee on Criminal Justice  
State Capitol, Room 223-North  
Madison, WI

*- Hand Delivered -*

Dear Chairman Turner:

I am writing to respectfully ask that you schedule Assembly Bill (AB) 503 for executive action before the Assembly committee on Criminal Justice

After being brought to my attention through diligent police work by a detective within the Oconomowoc Police Department, under current law if an adult shows a minor person a picture or photocopy of genitalia for the purposes of sexual gratification, that adult could be found guilty of a Class I felony. However, if an adult exposes his or her genitalia to a minor person for the purposes of sexual gratification, the adult could be found guilty of only a misdemeanor.

As you are aware, AB 503 received a public hearing on November 12, 2009. AB 503 would close this startling loophole and change statutes so that regardless if an adult shows a picture of genitalia or exposes their genitalia to a minor person, both crimes could be considered a felony when prosecuted. While AB 503 is similar to legislation I introduced last session relating to this topic, which the Committee voted unanimously in favor, I have worked to amend the current bill to address concerns raised by committee members at that time.

Thank you for your attention to this request. I look forward to your response and to working with you to move this bipartisan, child-safety legislation forward to strengthen state law to protect our children.

Sincerely,



Joel Kleefisch  
State Representative  
38<sup>th</sup> Assembly District

JMK/dkl

Enclosure(s)

# History of Assembly Bill 503

## ASSEMBLY BILL 503


An Act to renumber and amend 948.10 (1); to amend 973.047 (1f); and to create 948.10 (1) (a) of the statutes; relating to: exposure to a minor and providing a penalty. (FE)

2009

- 10-15. A. Introduced by Representatives Staskunas, Kleefisch, Hrachuck, Suder, Kerkman, Petersen, LeMahieu, Gundrum, Strachota, Zigmunt, Brooks, Townsend, Bies, Nass, Ripp, Fridomora, Mursau, Molepske Jr. and Honadel; cosponsored by Senators Plale, Lassa, Darling and Kedzie.
- 10-15. A. Read first time and referred to committee on Criminal Justice ..... 432
- 10-28. A. Fiscal estimate received.
- 10-29. A. Fiscal estimate received.
- 10-30. A. Fiscal estimate received.
- 11-12. A. Fiscal estimate received.
- 11-12. A. Public hearing held.

Search for another history

 Back to Legislation Page

 Back to Legislature Home Page

<http://www.legis.state.wi.us/2009/data/AB503hst.html>

11/24/2009



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-2550/1  
CMH/bjk/nd

## 2009 ASSEMBLY BILL 503

October 15, 2009 - Introduced by Representatives STASKUNAS, KLEEFISCH, HRACHUCK, SUDER, KERKMAN, PETERSEN, LEMAHIEU, GUNDRUM, STRACHOTA, ZIGMUNT, BROOKS, TOWNSEND, BIES, NASS, RIPP, PRIDEMORE, MURSAU, MOLEPSKE JR. and HONADFL, cosponsored by Senators PLALE, LASSA, DARLING and KEDZIE. Referred to Committee on Criminal Justice.

1 AN ACT to renumber and amend 948.10 (1); to amend 973.047 (1f); and to  
2 create 948.10 (1) (a) of the statutes; relating to: exposure to a minor and  
3 providing a penalty.

### Analysis by the Legislative Reference Bureau

Under current law, a person who exposes, or causes a child to expose, his or her genitals or public area for sexual arousal or gratification is guilty of a misdemeanor and is subject to a fine of not more than \$10,000 or imprisonment for not more than nine months, or both. This bill changes the classification of the crime from a misdemeanor to a felony if the person is at least 17 years old when the violation occurs and subjects such person to a fine of not more than \$10,000 or imprisonment for not more than three years and six months, or both.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

2009 - 2010 Legislature

- 2 -

LRB-2550/1  
CMH/bjk/nd  
SECTION 1

### ASSEMBLY BILL 503

1 SECTION 1. 948.10 (1) of the statutes is renumbered 948.10 (1) (intro.) and  
2 amended to read:

3 948.10 (1) (intro.) Whoever, for purposes of sexual arousal or sexual  
4 gratification, causes a child to expose genitals or public area or exposes genitals or  
5 public area to a child is guilty of a the following:

6 (b) A Class A misdemeanor if ~~the actor is a child when the violation occurs.~~

7 SECTION 2. 948.10 (1) (a) of the statutes is created to read:

8 948.10 (1) (a) Except as provided in par. (b), a Class I felony.

9 SECTION 3. 973.047 (1f) of the statutes is amended to read:

10 973.047 (1f) If a court imposes a sentence or places a person on probation for  
11 a felony conviction or for a conviction for a violation of s. 940.225 (3m), 944.20, or  
12 948.10 (1) (b), the court shall require the person to provide a biological specimen to  
13 the state crime laboratories for deoxyribonucleic acid analysis.

14 SECTION 4. Initial applicability.

15 (1) This act first applies to violations of section 948.10 (1) of the statutes  
16 committed on the effective date of this subsection.

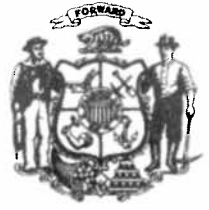
17 (END)





# JOEL KLEEFISCH

STATE REPRESENTATIVE



## 2009 Assembly Bill 503

*- Testimony of Representative Joel Kleefisch -*

Date?

In late 2007, Detective Andrew Rich, of the Oconomowoc Police Department, contacted me to make me aware of a startling loophole in current law. Detective Rich told me that the case involved an individual who was exposing himself to young children on elementary school grounds, as well as in other places. According to Detective Rich, the man said he was exposing himself in order to shock the children. Though arrested, the suspect could only be charged with misdemeanors, with the majority of his sentence to be served with work release privileges and or probation.

The startling loophole that was discovered is the fact that under current law if an adult shows a minor person a picture or photocopy of genitalia for the purposes of sexual gratification, that adult could be found guilty of a Class I felony. However, if an adult exposes his or her genitalia to a minor person for the purposes of sexual gratification, the adult could be found guilty of only a misdemeanor.

AB 503 would change statutes so that regardless if an adult shows a picture of genitalia or exposes their genitalia to a minor person, both crimes could be considered a felony when prosecuted.

AB 503 has bipartisan support in both houses of the legislature and last session, an almost identical version of this legislation passed the Assembly committee on Criminal Justice unanimously. At that time, some committee members raised concerns whether the legislation would have unintended consequences of charging children with a felony for this crime. The bill before you today incorporates those concerns by maintaining current law, a misdemeanor penalty, if the person charged with exposure is a child when the violation occurs.

While AB 503 would require that if a suspect is found guilty of this crime and a felony conviction is sentenced, the guilty party would be required to submit a DNA sample to the state crime laboratory, after speaking with Legislative Council as well as checking with the Department of Corrections, the guilty party would not automatically be placed on the state's sex offender registry.

I believe that current law of a misdemeanor penalty for the crime of exposure is not adequate because if an individual is willing to expose himself or herself to a minor for sexual gratification, it is very likely that this person is going to take the next step when the act of exposure no longer satisfies them. AB 503 is intended to prevent that next step which could potentially involve physically touching a victim, child enticement, kidnapping or sexual assault.

In closing, AB 503 simply seeks to protect our children by closing a loophole in state law. Strengthening our laws in common sense ways to better prosecute people who would harm children while helping those in law enforcement is a win for Wisconsin families.