Bestiality as a Trigger for Sex Offender Registration

(Last updated August 2014)

This compilation starts each state with the law enumerating crimes that require registration as a sex offender. The crimes that follow are all listed or referenced in that first law. When the listed crimes rely on definitions found in a separate part of the code, that definitions statute is also included. Nearly half of the states require registration for commission of bestiality; nearly every jurisdiction includes bestiality in the definition of child pornography which in turn requires sex offender registration. The states which trigger sex offender registration for committing bestiality or forcing another person to do so are AL, AZ, CA, CT, DE, FL, ID, IL, IN, KS, LA, MD, MI, MS, MO, MT, NV, NH, NY, NC, OK, OR, SC, SD, VA, WA.

Please note there may have been changes to this area of law since our last update. Please feel free to contact us at 703-549-9222 for further discussion on updates to the information included in this document.

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NEBRASKA

MISSOURI

MISSISSIPPI

MINNESOTA

MONTANA

NEBRAKSA

NEVADA

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ALABAMA

For the purposes of this chapter, a sex offense includes any of the following offenses:

(1) Rape in the first degree, as provided by Section 13A-6-61.

(2) Rape in the second degree, as provided by Section 13A-6-62.

(3) Sodomy in the first degree, as provided by Section 13A-6-63.

(4) Sodomy in the second degree, as provided by Section 13A-6-64.

(5) Sexual misconduct, as provided by Section 13A-6-65, provided that on a first conviction or adjudication the sex offender is only subject to registration and verification pursuant to this chapter. On a second or subsequent conviction or adjudication, if the second or subsequent conviction or adjudication does not arise out of the same set of facts and circumstances as the first conviction or adjudication, the sex offender shall comply with all requirements of this chapter. The sentencing court may exempt from this chapter a juvenile sex offender adjudicated delinquent of sexual misconduct.

(6) Sexual torture, as provided by Section 13A-6-65.1.

(7) Sexual abuse in the first degree, as provided by Section 13A-6-66.

(8) Sexual abuse in the second degree, as provided by Section 13A-6-67.

(9) Indecent exposure, as provided by Section 13A-6-68, provided that on a first conviction or adjudication the sex offender is only subject to registration and verification pursuant to this chapter. On a second or subsequent conviction or adjudication, if the second or subsequent conviction or adjudication does not arise out of the same set of facts and circumstances as the first conviction or adjudication, the sex offender shall comply with all requirements of this chapter. The sentencing court may exempt from this act a juvenile sex offender adjudicated delinquent of indecent exposure.

(10) Enticing a child to enter a vehicle, room, house, office, or other place for immoral purposes, as provided by Section 13A-6-69.

(11) Sexual abuse of a child less than 12 years old, as provided by Section 13A-6-69.1.

(12) Promoting prostitution in the first degree, as provided by Section 13A-12-111.

(13) Promoting prostitution in the second degree, as provided by Section 13A-12-112.
(14) Violation of the Alabama Child Pornography Act, as provided by Section 13A-12-191, 13A-12-192, 13A-12-196, or 13A-12-197.

(15) Unlawful imprisonment in the first degree, as provided by Section 13A-6-41, if the victim of the offense is a minor.

(16) Unlawful imprisonment in the second degree, as provided by Section 13A-6-42 if the victim of the offense is a minor.

(17) Kidnapping in the first degree, as provided by subdivision (4) of subsection (a) of Section 13A-6-43, if the intent of the abduction is to violate or abuse the victim sexually.

(18) Kidnapping of a minor, except by a parent, guardian, or custodian, as provided by Section 13A-6-43 or 13A-6-44.

(19) Incest, as provided by Section 13A-13-3.

(20) Transmitting obscene material to a child by computer, as provided by Section 13A-6-111.

(21) School employee engaging in a sex act or deviant sexual intercourse with a student, as provided by Section 13A-6-81.

(22) School employee having sexual contact with a student, as provided by Section 13A-6-82.

(23) Facilitating solicitation of unlawful sexual conduct with a child, as provided by Section 13A-6-121.

(24) Electronic solicitation of a child, as provided by Section 13A-6-122.

(25) Facilitating the on-line solicitation of a child, as provided by Section 13A-6-123.

(26) Traveling to meet a child for an unlawful sex act, as provided by Section 13A-6-124.

(27) Facilitating the travel of a child for an unlawful sex act, as provided by Section 13A-6-125.

(28) Human trafficking in the first degree, as provided by Section 13A-6-152, provided that the offense involves sexual servitude.

(29) Human trafficking in the second degree, as provided by Section 13A-6-153, provided that the offense involves sexual servitude.
(30) Custodial sexual misconduct, as provided by Section 14-11-31.

(31) Any offense which is the same as or equivalent to any offense set forth above as the same existed and was defined under the laws of this state existing at the time of such conviction, specifically including, but not limited to, crime against nature, as provided by Section 13-1-110; rape, as provided by Sections 13-1-130 and 13-1-131; carnal knowledge of a woman or girl, as provided by Sections 13-1-132 through 13-1-135, or attempting to do so, as provided by Section 13-1-136; indecent molestation of children, as defined and provided by Section 13-1-113; indecent exposure, as provided by Section 13-1-111; incest, as provided by Section 13-8-3; offenses relative to obscene prints and literature, as provided by Sections 13-7-160 through 13-7-175, inclusive; employing, harboring, procuring or using a girl over 10 and under 18 years of age for the purpose of prostitution or sexual intercourse, as provided by Section 13-7-1; seduction, as defined and provided by Section 13-1-112; a male person peeping into a room occupied by a female, as provided by Section 13-6-6; assault with intent to ravish, as provided by Section 13-1-46; and soliciting a child by computer, as provided by Section 13A-6-110.

(32) Any solicitation, attempt, or conspiracy to commit any of the offenses listed in subdivisions (1) to (31), inclusive.

(33) Any crime committed in Alabama or any other state, the District of Columbia, any United States territory, or a federal, military, Indian, or foreign country jurisdiction which, if it had been committed in this state under the current provisions of law, would constitute an offense listed in subdivisions (1) to (32), inclusive.

(34) Any offense specified by Title I of the federal Adam Walsh Child Protection and Safety Act of 2006 (Pub. L. 109-248, the Sex Offender Registration and Notification Act (SORNA)).

(35) Any crime committed in another state, the District of Columbia, any United States territory, or a federal, military, Indian, or foreign country jurisdiction if that jurisdiction also requires that anyone convicted of that crime register as a sex offender in that jurisdiction.

(36) Any offender determined in any jurisdiction to be a sex offender shall be considered a sex offender in this state.

(37) The foregoing notwithstanding, any crime committed in any jurisdiction which, irrespective of the specific description or statutory elements thereof, is in any way characterized or known as rape, carnal knowledge, sodomy, sexual assault, sexual battery, criminal sexual conduct, criminal sexual contact, sexual abuse, continuous sexual abuse, sexual torture, solicitation of a child, enticing or luring a child, child pornography, lewd and lascivious conduct, taking indecent liberties with a child, molestation of a child, criminal sexual misconduct, or video voyeurism.
(38) Any crime not listed in this section wherein the underlying felony is an element of the offense and listed in subdivisions (1) to (37), inclusive.

(39) Any other offense not provided for in this section wherein there is a finding of sexual motivation as provided by Section 15-20A-6.

**Alabama Code § 13A-6-111 (2014). Transmitting obscene material to a child by computer.**

(a) A person is guilty of transmitting obscene material to a child if the person transmits, by means of any computer communication system allowing the input, output, examination, or transfer of computer programs from one computer to another, material which, in whole or in part, depicts actual or simulated nudity, sexual conduct, or sadomasochistic abuse, for the purpose of initiating or engaging in sexual acts with the child.

(b) For purposes of determining jurisdiction, the offense is committed in this state if the transmission that constitutes the offense either originates in this state or is received in this state.

(c) A person charged under this section shall be tried as an adult and the record of the proceeding shall not be sealed nor subject to expungement.

(d) Transmitting obscene material of engaging in sexual intercourse, sodomy, or to engage in a sexual performance, obscene sexual performance, or sexual conduct for his or her benefit to a child is a Class B felony.

**Alabama Code § 13A-6-220 (2014). Definitions.**

For purposes of this article, the following terms shall have the following meanings:

(1) **Sexual Conduct.** Any touching or fondling by a person, either directly or through clothing, of the sex organs or anus of an animal or any transfer or transmission of semen by the person upon any part of the animal for the purpose of sexual gratification or arousal of the person.

(2) **Sexual Contact.** Any contact, however slight, between the mouth, sex organ, or anus of a person and the sex organ or anus of an animal, any penetration, however slight, of any part of the body of the person into the sex organ or anus of an animal, or any penetration of the sex organ or anus of the person into the mouth of the animal for the purpose of sexual gratification or sexual arousal of the person.

**Alabama Code § 13A-6-221 (2014). Bestiality.**

15-20A-6 allows 13A-6-221 to come in

(a) A person commits the crime of bestiality if he or she:
(1) Knowingly engages in or submits to any sexual conduct or sexual contact with an animal.

(2) Knowingly causes, aids, or abets another in engaging in any sexual conduct or sexual contact with an animal.

(3) Knowingly permits any sexual conduct or sexual contact with an animal upon premises under his or her control.

(4) Knowingly organizes, promotes, conducts, advertises, aids, abets, observes, or performs any service furthering an act involving sexual conduct or sexual contact with an animal for a commercial or recreational purpose.

(b) Bestiality is a Class A misdemeanor.

(c) This article shall not apply to accepted animal husbandry practices, conformation judging practices, or accepted veterinary medicine practices.

**AL. CODE § 13A-12-190 (2014). Definitions.**
For the purposes of this division, the following terms shall have the meanings respectively ascribed to them by this section:

(1) Disseminate. To sell, lend or show for monetary consideration or to offer or agree to do the same.

(2) Display publicly. The exposing, placing, posting, exhibiting or in any fashion displaying in any location, whether public or private, an item in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a public thorough-fare, depot or vehicle.

(3) Public thoroughfare, Depot or Vehicle. Any street, highway, park, depot or transportation platform or other place, whether indoors or out, or any vehicle for public transportation, owned or operated by government, either directly or through a public corporation or authority, or owned or operated by any agency of public transportation that is designed for the use, enjoyment or transportation of the general public.

(4) Knowingly. A person knowingly disseminates or publicly displays obscene matter when the person knows the nature of the matter. A person knows the nature of the matter when either of the following circumstances exist:

a. The person is aware of the character and content of the matter; or

b. The person recklessly disregards circumstances suggesting the character and content of the matter.
(5) Sado-masochistic abuse. Such term means either of the following:

a. Flagellation or torture, for the purpose of sexual stimulation, by or upon a person who is nude or clad in undergarments or in a revealing or bizarre costume; or

b. The condition of a person who is nude or clad in undergarments or in a revealing or bizarre costume being fettered, bound or otherwise physically restrained for the purpose of sexual stimulation.

(6) Sexual excitement. The condition of human male or female genitals when in a state of sexual stimulation.

(7) Sexual intercourse. Intercourse, real or simulated, whether genital-genital, oral-genital, anal-genital or oral-anal, whether between persons of the same or opposite sex or between a human and an animal.

(8) Masturbation. Manipulation, by hand or instrument, of the human genitals, whether one's own or another's for the purpose of sexual stimulation.

(9) Other sexual conduct. Any touching of the genitals, pubic areas or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

(10) Breast nudity. The lewd showing of the post-pubertal human female breasts below a point immediately above the top of the areola.

(11) Genital nudity. The lewd showing of the genitals or pubic area.

(12) Matter. Any book, magazine, newspaper, or other printed material, or any picture, photograph, motion picture, video cassette, tape, record, digital video disc (DVD), video compilation, or electronic depiction in a comparable format, or an image, file, download, or other content stored, or reproduced by using a computer or electronic device or other digital storage, or any other thing, articles, or materials that either are or contain a photographic or other visual depiction of a live act, performance, or event.

(13) Obscene.

a. When used to describe any matter that contains a visual reproduction of breast nudity, such term means matter that:

1. Applying contemporary local community standards, on the whole, appeals to the prurient interest; and
2. Is patently offensive; and

3. On the whole, lacks serious literary, artistic, political or scientific value.

b. When used to describe matter that is a depiction of an act of sado-masochistic abuse, sexual intercourse, sexual excitement, masturbation, genital nudity, or other sexual conduct, such term means matter containing such a visual reproduction that itself lacks serious literary, artistic, political or scientific value.

(14) Local community. The judicial circuit in which the indictment is brought.

(15) Visual depiction. A portrayal, representation, illustration, image, likeness, or other thing that creates a sensory impression, whether an original, duplicate, or reproduction.

(16) Separate offense. The depiction of an individual less than 17 years of age that violates this division shall constitute a separate offense for each single visual depiction.

**ALa. Code § 13A-12-191 (2014). Dissemination or public display of obscene matter containing visual depiction of persons under 17 years of age involved in obscene acts.**

Any person who shall knowingly disseminate or display publicly any obscene matter containing a visual depiction of a person under the age of 17 years engaged in any act of sado-masochistic abuse, sexual intercourse, sexual excitement, masturbation, breast nudity, genital nudity, or other sexual conduct shall be guilty of a Class B felony.

**ALa. Code § 13A-12-192 (2014). Possession and possession with intent to disseminate obscene matter containing visual depiction of persons under 17 years of age involved in obscene acts.**

(a) Any person who knowingly possesses with intent to disseminate any obscene matter that contains a visual depiction of a person under the age of 17 years engaged in any act of sado-masochistic abuse, sexual intercourse, sexual excitement, masturbation, breast nudity, genital nudity, or other sexual conduct shall be guilty of a Class B felony. Possession of three or more copies of the same visual depiction contained in obscene matter is prima facie evidence of possession with intent to disseminate the same.

(b) Any person who knowingly possesses any obscene matter that contains a visual depiction of a person under the age of 17 years engaged in any act of sado-masochistic abuse, sexual intercourse, sexual excitement, masturbation, genital nudity, or other sexual conduct shall be guilty of a Class C felony.


Any parent or guardian who knowingly permits or allows their child, ward, or dependent under the age of 17 years to engage in the production of any obscene matter containing a visual depiction of such child, ward, or dependent under the age of 17 years engaged in
any act of sado-masochistic abuse, sexual excitement, masturbation, breast nudity, genital nudity, or other sexual conduct shall be guilty of a Class A felony.

**AL.A. CODE § 13A-12-197 (2014). Production of obscene matter containing visual depiction of person under 17 years of age involved in obscene acts.**

(a) Any person who knowingly films, prints, records, photographs or otherwise produces any obscene matter that contains a visual depiction of a person under the age of 17 years engaged in any act of sado-masochistic abuse, sexual intercourse, sexual excitement, masturbation, breast nudity, genital nudity, or other sexual conduct shall be guilty of a Class A felony.

(b) For any person who violates this section, each depiction of each individual less than 17 years of age constitutes a separate offense.

**AL.A. CODE § 15-20A-6 (2014). Allegation of sexual motivation**

(a) The prosecuting attorney may file an allegation of sexual motivation in any criminal case classified as a felony or Class A misdemeanor if sufficient admissible evidence exists that would justify a finding of sexual motivation by a reasonable and objective finder of fact.

(b) If the prosecuting attorney files an allegation of sexual motivation, the state shall prove beyond a reasonable doubt that the defendant committed the offense with a sexual motivation.

(c) The court shall make a written finding of fact, to be made part of the record upon conviction or adjudication as a youthful offender, of whether or not a sexual motivation was present at the time of the commission of the offense unless the defendant has a trial by jury.

(d) If a defendant has a trial by jury, the jury, if it finds the defendant guilty, shall also find a special verdict as to whether or not the defendant committed the crime with a sexual motivation.

(e) If there is a finding of sexual motivation, the finding shall be made part of the record of conviction or adjudication.

(f) For purposes of this section, sexual motivation means that one of the purposes for which the defendant committed the crime was for the purpose of the sexual gratification of the defendant.

(g) This section shall not apply to sex offenses as defined in subdivisions (1) to (38), inclusive, of Section 15-20A-5.
ALASKA

ALASKA STAT. § 12.63.100 (2014). Definitions

In this chapter,

(1) “aggravated sex offense” means

(A) a crime under AS 11.41.100(a)(3), or a similar law of another jurisdiction, in which the person committed or attempted to commit a sexual offense, or a similar offense under the laws of the other jurisdiction; in this subparagraph, “sexual offense” has the meaning given in AS 11.41.100(a)(3);

(B) a crime under AS 11.41.110(a)(3), or a similar law of another jurisdiction, in which the person committed or attempted to commit one of the following crimes, or a similar law of another jurisdiction:

(i) sexual assault in the first degree;

(ii) sexual assault in the second degree;

(iii) sexual abuse of a minor in the first degree; or

(iv) sexual abuse of a minor in the second degree; or

(C) a crime, or an attempt, solicitation, or conspiracy to commit a crime, under AS 11.41.410, 11.41.434, or a similar law of another jurisdiction or a similar provision under a former law of this state;

(2) “child kidnapping” means

(A) a crime under AS 11.41.100(a)(3), or a similar law of another jurisdiction, in which the person committed or attempted to commit kidnapping;

(B) a crime under AS 11.41.110(a)(3), or a similar law of another jurisdiction, in which the person committed or attempted to commit kidnapping if the victim was under 18 years of age at the time of the offense; or

(C) a crime, or an attempt, solicitation, or conspiracy to commit a crime, under AS 11.41.300, or a similar law of another jurisdiction or a similar provision under a former law of this state, if the victim was under 18 years of age at the time of the offense;

(3) “conviction” means that an adult, or a juvenile charged as an adult under AS 47.12 or a similar procedure in another jurisdiction, has entered a plea of guilty, guilty but mentally ill, or nolo contendere, or has been found guilty or guilty but mentally ill by a court or jury, of a sex offense or child kidnapping regardless of whether the judgment
was set aside under AS 12.55.085 or a similar procedure in another jurisdiction or was
the subject of a pardon or other executive clemency; “conviction” does not include a
judgment that has been reversed or vacated by a court;

(4) “department” means the Department of Public Safety;

(5) “sex offender or child kidnapper” means a person convicted of a sex offense or child
kidnapping in this state or another jurisdiction regardless of whether the conviction
occurred before, after, or on January 1, 1999;

(6) “sex offense” means

(A) a crime under AS 11.41.100(a)(3), or a similar law of another jurisdiction, in which
the person committed or attempted to commit a sexual offense, or a similar offense under
the laws of the other jurisdiction; in this subparagraph, “sexual offense” has the meaning
given in AS 11.41.100(a)(3);

(B) a crime under AS 11.41.110(a)(3), or a similar law of another jurisdiction, in which
the person committed or attempted to commit one of the following crimes, or a similar
law of another jurisdiction:

(i) sexual assault in the first degree;

(ii) sexual assault in the second degree;

(iii) sexual abuse of a minor in the first degree; or

(iv) sexual abuse of a minor in the second degree; or

(C) a crime, or an attempt, solicitation, or conspiracy to commit a crime, under the
following statutes or a similar law of another jurisdiction:

(i) AS 11.41.410--11.41.438;

(ii) AS 11.41.440(a)(2);

(iii) AS 11.41.450--11.41.458;

(iv) AS 11.41.460 if the indecent exposure is before a person under 16 years of age and
the offender has a previous conviction for that offense;

(v) AS 11.61.125--11.61.128;

(vi) AS 11.66.110 or 11.66.130(a)(2) if the person who was induced or caused to engage
in prostitution was under 20 years of age at the time of the offense;
(vii) former AS 11.15.120, former 11.15.134, or assault with the intent to commit rape under former AS 11.15.160, former AS 11.40.110, or former 11.40.200;

(viii) AS 11.61.118(a)(2) if the offender has a previous conviction for that offense; or

(ix) AS 11.66.100(a)(2) if the offender is subject to punishment under AS 11.66.100(c);

(7) “unconditional discharge” has the meaning given in AS 12.55.185.

**Alaska Stat § 11.41.455 (2014). Unlawful exploitation of a minor**

(a) A person commits the crime of unlawful exploitation of a minor if, in the state and with the intent of producing a live performance, film, audio, video, electronic, or electromagnetic recording, photograph, negative, slide, book, newspaper, magazine, or other material that visually or aurally depicts the conduct listed in (1)–(7) of this subsection, the person knowingly induces or employs a child under 18 years of age to engage in, or photographs, films, records, or televises a child under 18 years of age engaged in, the following actual or simulated conduct:

(1) sexual penetration;

(2) the lewd touching of another person's genitals, anus, or breast;

(3) the lewd touching by another person of the child's genitals, anus, or breast;

(4) masturbation;

(5) bestiality;

(6) the lewd exhibition of the child's genitals; or

(7) sexual masochism or sadism.

(b) A parent, legal guardian, or person having custody or control of a child under 18 years of age commits the crime of unlawful exploitation of a minor if, in the state, the person permits the child to engage in conduct described in (a) of this section knowing that the conduct is intended to be used in producing a live performance, film, audio, video, electronic, or electromagnetic recording, photograph, negative, slide, book, newspaper, magazine, or other material that visually or aurally depicts the conduct.

(c) Unlawful exploitation of a minor is a

(1) class B felony; or
(2) class A felony if the person has been previously convicted of unlawful exploitation of a minor in this jurisdiction or a similar crime in this or another jurisdiction.

(d) In this section, “audio recording” means a nonbook prerecorded item without a visual component, and includes a record, tape, cassette, and compact disc.

**Alaska Stat. § 11.61.125 (2014). Distribution of child pornography**

(a) A person commits the crime of distribution of child pornography if the person distributes in this state or advertises, promotes, solicits, or offers to distribute in this state any material that is proscribed under AS 11.61.127.

(b) This section does not apply to acts that are an integral part of the exhibition or performance of a motion picture if the acts are performed within the scope of employment by a motion picture operator or projectionist employed by the owner or manager of a theater or other place for the showing of motion pictures, unless the motion picture operator or projectionist

(1) has a financial interest in the theater or place in which employed; or

(2) causes the performance or motion picture to be performed or exhibited without the consent of the manager or owner of the theater or other place of showing.

(c) The possession of 100 or more films, audio, video, electronic, or electromagnetic recordings, photographs, negatives, slides, books, newspapers, magazines, or other materials, including a combination of these items totaling 100 or more, is prima facie evidence of distribution and intent to distribute under (a) of this section.

(d) In this section, “distribution” includes the following, whether or not for monetary or other consideration: delivering, selling, renting, leasing, lending, giving, circulating, exhibiting, presenting, providing, exchanging, placing on a computer network or computer system, and providing billing collection, or other ancillary services for or otherwise supporting these activities.

(e) Distribution of child pornography is a

(1) class B felony; or

(2) class A felony if the person has been previously convicted of distribution of child pornography in this jurisdiction or a similar crime in this or another jurisdiction.


(a) A person commits the crime of possession of child pornography if the person knowingly possesses or knowingly accesses on a computer with intent to view any material that visually depicts conduct described in AS 11.41.455(a) knowing that the production of the material involved the use of a child under 18 years of age who engaged
in the conduct or a depiction of a part of an actual child under 18 years of age who, by
manipulation, creation, or modification, appears to be engaged in the conduct.

(b) This section does not apply to persons providing plethysmograph assessments in the
course of a sex offender treatment program that meets the minimum standards under AS
33.30.011(5).

(c) Each film, audio, video, electronic, or electromagnetic recording, photograph,
negative, slide, book, newspaper, magazine, or other material that visually or aurally
depicts conduct described in AS 11.41.455(a) that is possessed or accessed in violation of
(a) of this section is a separate violation of this section.

(d) In a prosecution under (a) of this section, it is an affirmative defense that the person

(1) possessed or accessed fewer than three depictions described in (a) of this section; and

(2) without allowing any person other than a law enforcement agency to view the
depictions, either took reasonable steps to destroy the depictions, or reported the matter to
a law enforcement agency and allowed the agency access to the depictions.

(e) In a prosecution under (a) of this section, the prosecution is not required to prove the
identity of a minor depicted or that the defendant knew the identity of a minor depicted.

(f) In this section, “computer” has the meaning given in AS 11.46.990.

(g) Possession of child pornography is a class C felony.

**ARIZONA**

**ARIZ. REV. STAT. ANN. § 13-3821 (2014). Persons required to register; procedure;**
**identification card; assessment; definitions**

**A.** A person who has been convicted of or adjudicated guilty except insane for a violation
or attempted violation of any of the following offenses or who has been convicted of or
adjudicated guilty except insane or not guilty by reason of insanity for an offense
committed in another jurisdiction that if committed in this state would be a violation or
attempted violation of any of the following offenses or an offense that was in effect
before September 1, 1978 and that, if committed on or after September 1, 1978, has the
same elements of an offense listed in this section or who is required to register by the
convicting or adjudicating jurisdiction, within ten days after the conviction or
adjudication or within ten days after entering and remaining in any county of this state,
shall register with the sheriff of that county:

1. Unlawful imprisonment pursuant to § 13-1303 if the victim is under eighteen years of
age and the unlawful imprisonment was not committed by the child's parent.
2. Kidnapping pursuant to § 13-1304 if the victim is under eighteen years of age and the kidnapping was not committed by the child's parent.

3. Sexual abuse pursuant to § 13-1404 if the victim is under eighteen years of age.

4. Sexual conduct with a minor pursuant to § 13-1405.

5. Sexual assault pursuant to § 13-1406.

6. Sexual assault of a spouse if the offense was committed before August 12, 2005.

7. Molestation of a child pursuant to § 13-1410.

8. Continuous sexual abuse of a child pursuant to § 13-1417.

9. Taking a child for the purpose of prostitution pursuant to § 13-3206.

10. Child prostitution pursuant to § 13-3212, subsection A or subsection B, paragraph 1 or 2.

11. Commercial sexual exploitation of a minor pursuant to § 13-3552.

12. Sexual exploitation of a minor pursuant to § 13-3553.

13. Luring a minor for sexual exploitation pursuant to § 13-3554.


15. A second or subsequent violation of indecent exposure to a person under fifteen years of age pursuant to § 13-1402.

16. A second or subsequent violation of public sexual indecency to a minor under the age of fifteen years pursuant to § 13-1403, subsection B.

17. A third or subsequent violation of indecent exposure pursuant to § 13-1402.

18. A third or subsequent violation of public sexual indecency pursuant to § 13-1403.

19. A violation of § 13-3822 or 13-3824.

20. Unlawful age misrepresentation.

B. Before the person is released from confinement the state department of corrections in conjunction with the department of public safety and each county sheriff shall complete the registration of any person who was convicted of or adjudicated guilty except insane for a violation of any offense listed under subsection A of this section. Within three days after the person's release from confinement, the state department of corrections shall forward the registered person's records to the department of public safety and to the sheriff of the county in which the registered person intends to reside. Registration pursuant to this subsection shall be consistent with subsection E of this section.

C. Notwithstanding subsection A of this section, the judge who sentences a defendant for any violation of chapter 14 or 35.1 of this title or for an offense for which there was a finding of sexual motivation pursuant to § 13-118 may require the person who committed the offense to register pursuant to this section.

D. The court may require a person who has been adjudicated delinquent for an act that would constitute an offense specified in subsection A or C of this section to register pursuant to this section. Any duty to register under this subsection shall terminate when the person reaches twenty-five years of age.

E. A person who has been convicted, adjudicated guilty except insane or adjudicated delinquent and who is required to register in the convicting or adjudicating state for an act that would constitute an offense specified in subsection A or C of this section and who is not a resident of this state shall be required to register pursuant to this section if the person is either:

1. Employed full-time or part-time in this state, with or without compensation, for more than fourteen consecutive days or for an aggregate period of more than thirty days in a calendar year.

2. Enrolled as a full-time or part-time student in any school in this state for more than fourteen consecutive days or for an aggregate period of more than thirty days in a calendar year. For the purposes of this paragraph, “school” means an educational institution of any description, public or private, wherever located in this state.

F. Any duty to register under subsection D or E of this section for a juvenile adjudication terminates when the person reaches twenty-five years of age.

G. The court may order the termination of any duty to register under this section on successful completion of probation if the person was under eighteen years of age when the offense for which the person was convicted or adjudicated guilty except insane was committed.

H. The court may order the suspension or termination of any duty to register under this section after a hearing held pursuant to § 13-923.
I. At the time of registering, the person shall sign or affix an electronic fingerprint to a statement giving such information as required by the director of the department of public safety, including all names by which the person is known, any required online identifier and the name of any website or internet communication service where the identifier is being used. The sheriff shall fingerprint and photograph the person and within three days thereafter shall send copies of the statement, fingerprints and photographs to the department of public safety and the chief of police, if any, of the place where the person resides. The information that is required by this subsection shall include the physical location of the person's residence and the person's address. If the person has a place of residence that is different from the person's address, the person shall provide the person's address, the physical location of the person's residence and the name of the owner of the residence if the residence is privately owned and not offered for rent or lease. If the person receives mail at a post office box, the person shall provide the location and number of the post office box. If the person has more than one residence or does not have an address or a permanent place of residence, the person shall provide a description and physical location of any temporary residence and shall register as a transient not less than every ninety days with the sheriff in whose jurisdiction the transient is physically present.

J. On the person's initial registration and every year after the person's initial registration, the person shall confirm any required online identifier and the name of any website or internet communication service where the identifier is being used and the person shall obtain a new nonoperating identification license or a driver license from the motor vehicle division in the department of transportation and shall carry a valid nonoperating identification license or a driver license. Notwithstanding §§ 28-3165 and 28-3171, the license is valid for one year from the date of issuance, and the person shall submit to the department of transportation proof of the person's address and place of residence. The motor vehicle division shall annually update the person's address and photograph and shall make a copy of the photograph available to the department of public safety or to any law enforcement agency. The motor vehicle division shall provide to the department of public safety daily address updates for persons required to register pursuant to this section.

K. Except as provided in subsection E or L of this section, the clerk of the superior court in the county in which a person has been convicted of or adjudicated guilty except insane for a violation of any offense listed under subsection A of this section or has been ordered to register pursuant to subsection C or D of this section shall notify the sheriff in that county of the conviction or adjudication within ten days after entry of the judgment.

L. Within ten days after entry of judgment, a court not of record shall notify the arresting law enforcement agency of an offender's conviction of or adjudication of guilty except insane for a violation of § 13-1402. Within ten days after receiving this information, the law enforcement agency shall determine if the offender is required to register pursuant to this section. If the law enforcement agency determines that the offender is required to register, the law enforcement agency shall provide the information required by § 13-3825.
to the department of public safety and shall make community notification as required by law.

M. A person who is required to register pursuant to this section because of a conviction or adjudication of guilty except insane for the unlawful imprisonment of a minor or the kidnapping of a minor is required to register, absent additional or subsequent convictions or adjudications, for a period of ten years from the date that the person is released from prison, jail, probation, community supervision or parole and the person has fulfilled all restitution obligations. Notwithstanding this subsection, a person who has a prior conviction or adjudication of guilty except insane for an offense for which registration is required pursuant to this section is required to register for life.

N. A person who is required to register pursuant to this section and who is a student at a public or private institution of postsecondary education or who is employed, with or without compensation, at a public or private institution of postsecondary education or who carries on a vocation at a public or private institution of postsecondary education shall notify the county sheriff having jurisdiction of the institution of postsecondary education. The person who is required to register pursuant to this section shall also notify the sheriff of each change in enrollment or employment status at the institution.

O. At the time of registering, the sheriff shall secure a sufficient sample of blood or other bodily substances for deoxyribonucleic acid testing and extraction from a person who has been convicted of or adjudicated guilty except insane for an offense committed in another jurisdiction that if committed in this state would be a violation or attempted violation of any of the offenses listed in subsection A of this section or an offense that was in effect before September 1, 1978 and that, if committed on or after September 1, 1978, has the same elements of an offense listed in subsection A of this section or who is required to register by the convicting or adjudicating jurisdiction. The sheriff shall transmit the sample to the department of public safety.

P. Any person who is required to register under subsection A of this section shall register the person's required online identifier and the name of any website or internet communication service where the identifier is being used or is intended to be used with the sheriff from and after December 31, 2007, regardless of whether the person was required to register an identifier at the time of the person's initial registration under this section.

Q. On conviction of or adjudication of guilty except insane for any offense for which a person is required to register pursuant to this section, in addition to any other penalty prescribed by law, the court shall order the person to pay an additional assessment of two hundred fifty dollars. This assessment is not subject to any surcharge. The court shall transmit the monies received pursuant to this section to the county treasurer. The county treasurer shall transmit the monies received to the state treasurer. The state treasurer shall deposit the monies received in the state general fund. Notwithstanding any other law, the court shall not waive the assessment imposed pursuant to this section.
R. For the purposes of this section:

1. “Address” means the location at which the person receives mail.

2. “Required online identifier” means any electronic e-mail address information or instant message, chat, social networking or other similar internet communication name, but does not include a social security number, date of birth or pin number.

3. “Residence” means the person's dwelling place, whether permanent or temporary.

**ARIZ. REV. STAT. ANN. § 13-1403 (2014). Public Sexual Indecency; Public Sexual Indecency to a Minor; Classification**

A. A person commits public sexual indecency by intentionally or knowingly engaging in any of the following acts, if another person is present, and the defendant is reckless about whether such other person, as a reasonable person, would be offended or alarmed by the act:

1. An act of sexual contact.

2. An act of oral sexual contact.

3. An act of sexual intercourse.


B. A person commits public sexual indecency to a minor if the person intentionally or knowingly engages in any of the acts listed in subsection A of this section and such person is reckless about whether a minor who is under fifteen years of age is present.

C. Public sexual indecency is a class 1 misdemeanor. Public sexual indecency to a minor is a class 5 felony.

D. A person who is convicted of a felony violation of this section and who has two or more historical prior felony convictions for a violation of this section or § 13-1402 involving indecent exposure or public sexual indecency to a minor who is under fifteen years of age shall be sentenced to a term of imprisonment as follows:

<table>
<thead>
<tr>
<th>Mitigated</th>
<th>Minimum</th>
<th>Presumptive</th>
<th>Maximum</th>
<th>Aggravated</th>
</tr>
</thead>
<tbody>
<tr>
<td>6 years</td>
<td>8 years</td>
<td>10 years</td>
<td>12 years</td>
<td>15 years</td>
</tr>
</tbody>
</table>

E. The presumptive term imposed pursuant to subsection D of this section may be mitigated or aggravated pursuant to § 13-701, subsections D and E.
ARIZ. REV. STAT. ANN. § 13-3551 (2014). Definitions
In this chapter, unless the context otherwise requires:

1. “Advertising” or “advertisement” means any message in any medium that offers or solicits any person to engage in sexual conduct in this state.

2. “Communication service provider” has the same meaning prescribed in § 13-3001.

3. “Computer” has the same meaning prescribed in § 13-2301, subsection E.

4. “Computer system” has the same meaning prescribed in § 13-2301, subsection E.

5. “Exploitive exhibition” means the actual or simulated exhibition of the genitals or pubic or rectal areas of any person for the purpose of sexual stimulation of the viewer.

6. “Minor” means a person or persons who were under eighteen years of age at the time a visual depiction was created, adapted or modified.

7. “Network” has the same meaning prescribed in § 13-2301, subsection E.

8. “Producing” means financing, directing, manufacturing, issuing, publishing or advertising for pecuniary gain.

9. “Remote computing service” has the same meaning prescribed in § 13-3001.

10. “Sexual conduct” means actual or simulated:

(a) Sexual intercourse, including genital-genital, oral-genital, anal-genital or oral-anal, whether between persons of the same or opposite sex.

(b) Penetration of the vagina or rectum by any object except when done as part of a recognized medical procedure.

(c) Sexual bestiality.

(d) Masturbation, for the purpose of sexual stimulation of the viewer.

(e) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.

(f) Defecation or urination for the purpose of sexual stimulation of the viewer.

11. “Simulated” means any depicting of the genitals or rectal areas that gives the appearance of sexual conduct or incipient sexual conduct.
12. “Visual depiction” includes each visual image that is contained in an undeveloped film, videotape or photograph or data stored in any form and that is capable of conversion into a visual image.

**ARIZ. REV. STAT. ANN. § 13-3552 (2014). Commercial sexual exploitation of a minor; classification**

A. A person commits commercial sexual exploitation of a minor by knowingly:

1. Using, employing, persuading, enticing, inducing or coercing a minor to engage in or assist others to engage in exploitive exhibition or other sexual conduct for the purpose of producing any visual depiction or live act depicting such conduct.

2. Using, employing, persuading, enticing, inducing or coercing a minor to expose the genitals or anus or the areola or nipple of the female breast for financial or commercial gain.

3. Permitting a minor under the person's custody or control to engage in or assist others to engage in exploitive exhibition or other sexual conduct for the purpose of producing any visual depiction or live act depicting such conduct.

4. Transporting or financing the transportation of any minor through or across this state with the intent that the minor engage in prostitution, exploitive exhibition or other sexual conduct for the purpose of producing a visual depiction or live act depicting such conduct.

5. Using an advertisement for prostitution as defined in § 13-3211 that contains a visual depiction of a minor.

B. Subsection A, paragraph 5 of this section does not apply to an act that is prohibited by § 13-3555 or to websites or internet service providers that host advertisements created and published by third parties and do not participate in creating or publishing the advertisements.

C. Commercial sexual exploitation of a minor is a class 2 felony and if the minor is under fifteen years of age it is punishable pursuant to § 13-705.

**ARIZ. REV. STAT. ANN. § 13-3553 (2014). Sexual exploitation of a minor; evidence; classification**

A. A person commits sexual exploitation of a minor by knowingly:

1. Recording, filming, photographing, developing or duplicating any visual depiction in which a minor is engaged in exploitive exhibition or other sexual conduct.
2. Distributing, transporting, exhibiting, receiving, selling, purchasing, electronically transmitting, possessing or exchanging any visual depiction in which a minor is engaged in exploitive exhibition or other sexual conduct.

**B.** If any visual depiction of sexual exploitation of a minor is admitted into evidence, the court shall seal that evidence at the conclusion of any grand jury proceeding, hearing or trial.

**C.** Sexual exploitation of a minor is a class 2 felony and if the minor is under fifteen years of age it is punishable pursuant to § 13-705.

**ARIZ. REV. STAT. ANN. § 13-3554 (2014). Luring a minor for sexual exploitation; classification**

**A.** A person commits luring a minor for sexual exploitation by offering or soliciting sexual conduct with another person knowing or having reason to know that the other person is a minor.

**B.** It is not a defense to a prosecution for a violation of this section that the other person is not a minor.

**C.** Luring a minor for sexual exploitation is a class 3 felony, and if the minor is under fifteen years of age it is punishable pursuant to § 13-705.

**ARKANSAS**

**ARK. CODE ANN. § 12-12-903 (2014). Definitions**

As used in this subchapter:

(1) “Adjudication of guilt” or other words of similar import mean a:

(A) Plea of guilty;

(B) Plea of nolo contendere;

(C) Negotiated plea;

(D) Finding of guilt by a judge; or

(E) Finding of guilt by a jury;

(2)(A) “Administration of criminal justice” means performing functions of investigation, apprehension, detention, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders.
(B) “Administration of criminal justice” also includes criminal identification activities and the collection, maintenance, and dissemination of criminal justice information;

(3) “Aggravated sex offense” means an offense in the Arkansas Code substantially equivalent to “aggravated sexual abuse” as defined in 18 U.S.C. § 2241 as it existed on March 1, 2003, which principally encompasses:

(A) Causing another person to engage in a sexual act:

(i) By using force against that other person; or

(ii) By threatening or placing or attempting to threaten or place that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping;

(B) Knowingly:

(i) Rendering another person unconscious and then engaging in a sexual act with that other person; or

(ii) Administering to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or similar substance and thereby:

(a) Substantially impairing the ability of that other person to appraise or control conduct; and

(b) Engaging or attempting to engage in a sexual act with that other person; or

(C) Crossing a state line with intent to:

(i) Engage or attempt to engage in a sexual act with a person who has not attained twelve (12) years of age;

(ii) Knowingly engage or attempt to engage in a sexual act with another person who has not attained twelve (12) years of age; or

(iii) Knowingly engage or attempt to engage in a sexual act under the circumstances described in subdivisions (3)(A) and (B) of this section with another person who has attained twelve (12) years of age but has not attained sixteen (16) years of age and is at least four (4) years younger than the alleged offender;

(4) “Change of address” or other words of similar import mean a change of residence or a change for more than thirty (30) days of temporary domicile, change of location of employment, education or training, or any other change that alters where a sex offender regularly spends a substantial amount of time;
(5) “Criminal justice agency” means a government agency or any subunit thereof which is authorized by law to perform the administration of criminal justice and which allocates more than one-half (1/2) of its annual budget to the administration of criminal justice;

(6) “Local law enforcement agency having jurisdiction” means the:

(A) Chief law enforcement officer of the municipality in which a sex offender:

(i) Resides or expects to reside;

(ii) Is employed; or

(iii) Is attending an institution of training or education; or

(B) County sheriff, if:

(i) The municipality does not have a chief law enforcement officer; or

(ii) A sex offender resides or expects to reside, is employed, or is attending an institution of training or education in an unincorporated area of a county;

(7) “Mental abnormality” means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminally sexual acts to a degree that makes the person a menace to the health and safety of other persons;

(8) “Personality disorder” means an enduring pattern of inner experience and behavior that:

(A) Deviates markedly from the expectation of the person's culture;

(B) Is pervasive and inflexible across a broad range of personal and social situations;

(C) Leads to clinically significant distress or impairment in social, occupational, or other important areas of functioning;

(D) Is stable over time;

(E) Has its onset in adolescence or early adulthood;

(F) Is not better accounted for as a manifestation or consequence of another mental disorder; and

(G) Is not due to the direct physiological effects of a substance or a general medical condition;
(9) “Predatory” describes an act directed at a stranger or a person with whom a relationship has been established or promoted for the primary purpose of victimization of that person or individuals over whom that person has control;

(10)(A) “Residency” means the place where a person lives notwithstanding that there may be an intent to move or return at some future date to another place.

(B) “Residency” also includes:

(i) A place of employment;

(ii) A place of training;

(iii) A place of education; or

(iv) A temporary residence or domicile in which a person resides for an aggregate of five (5) or more consecutive days during a calendar year;

(11) “Sentencing court” means the judge of the court that sentenced the sex offender for the sex offense;

(12)(A) “Sex offense” includes, but is not limited to:

(i) The following offenses:

(a) Rape, § 5-14-103;

(b) Sexual indecency with a child, § 5-14-110;

(c) Sexual assault in the first degree, § 5-14-124;

(d) Sexual assault in the second degree, § 5-14-125;

(e) Sexual assault in the third degree, § 5-14-126;

(f) Sexual assault in the fourth degree, § 5-14-127;

(g) Incest, § 5-26-202;

(h) Engaging children in sexually explicit conduct for use in visual or print medium, § 5-27-303;

(i) Transportation of minors for prohibited sexual conduct, § 5-27-305;
(j) Employing or consenting to the use of a child in a sexual performance, § 5-27-402;

(k) Pandering or possessing visual or print medium depicting sexually explicit conduct involving a child, § 5-27-304;

(l) Producing, directing, or promoting a sexual performance by a child, § 5-27-403;

(m) Promoting prostitution in the first degree, § 5-70-104;

(n) Stalking, § 5-71-229, when ordered by the sentencing court to register as a sex offender;

(o) Indecent exposure, § 5-14-112, if a felony level offense;

(p) Exposing another person to human immunodeficiency virus, § 5-14-123, when ordered by the sentencing court to register as a sex offender;

(q) Kidnapping pursuant to § 5-11-102(a), when the victim is a minor and the offender is not the parent of the victim;

(r) False imprisonment in the first degree and false imprisonment in the second degree, §§ 5-11-103 and 5-11-104, when the victim is a minor and the offender is not the parent of the victim;

(s) Permitting abuse of a minor, § 5-27-221;

(t) Computer child pornography, § 5-27-603;

(u) Computer exploitation of a child, § 5-27-605;

(v) Permanent detention or restraint, § 5-11-106, when the offender is not the parent of the victim;

(w) Distributing, possessing, or viewing of matter depicting sexually explicit conduct involving a child, § 5-27-602;

(x) Internet stalking of a child, § 5-27-306;

(y) Crime of video voyeurism, § 5-16-101, if a felony level offense;

(z) Voyeurism, § 5-16-102, if a felony level offense;

(aa) Any felony-homicide offense under § 5-10-101, § 5-10-102, or § 5-10-104 if the underlying felony is an offense listed in this subdivision (12)(A)(i); and
(bb) Sexually grooming a child, § 5-27-307;

(ii) An attempt, solicitation, or conspiracy to commit any of the offenses enumerated in subdivision (12)(A)(i) of this section;

(iii) An adjudication of guilt for an offense of the law of another state:

(a) Which is similar to any of the offenses enumerated in subdivision (12)(A)(i) of this section; or

(b) When that adjudication of guilt requires registration under another state's sex offender registration laws;

(iv) A violation of any former law of this state that is substantially equivalent to any of the offenses enumerated in this subdivision (12)(A);

(v) An adjudication of guilt for an offense in any federal court, the District of Columbia, a United States territory, a federally recognized Indian tribe, or for a military offense:

(1) Which is similar to any of the offenses enumerated in subdivision (12)(A)(i) of this section; or

(2) When the adjudication of guilt requires registration under sex offender registration laws of another state or jurisdiction.

(b) If the conviction was for a violation of:

(1) 18 U.S.C. § 2252C;

(2) 18 U.S.C. § 2424; or

(3) 18 U.S.C. § 2425; or

(vi) An adjudication of guilt for an offense requiring registration under the laws of Canada, the United Kingdom, Australia, New Zealand, or any other foreign country where an independent judiciary enforces a right to a fair trial during the year in which the conviction occurred.

(B)(i) The sentencing court has the authority to order the registration of any offender shown in court to have attempted to commit or to have committed a sex offense even though the offense is not enumerated in subdivision (12)(A)(i) of this section.
(ii) This authority applies to sex offenses enacted, renamed, or amended at a later date by the General Assembly unless the General Assembly expresses its intent not to consider the offense to be a true sex offense for the purposes of this subchapter;

(13)(A) “Sex offender” means a person who is adjudicated guilty of a sex offense or acquitted on the grounds of mental disease or defect of a sex offense.

(B) Unless otherwise specified, “sex offender” includes those individuals classified by the court as a sexually dangerous person;

(14) “Sexually violent offense” means any state, federal, tribal, or military offense which includes a sexual act as defined in 18 U.S.C. §§ 2241 and 2242 as they existed on March 1, 2003, with another person if the offense is nonconsensual regardless of the age of the victim; and

(15)(A) “Sexually dangerous person” means a person who has been adjudicated guilty or acquitted on the grounds of mental disease or defect of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offenses.

(B) A person previously classified as a sexually violent predator is now considered a sexually dangerous person.

**ARK. CODE ANN. § 5-27-302 (2014). Definitions**

As used in this subchapter:

(1) “Child” means any person under eighteen (18) years of age;

(2) “Commercial exploitation” means having monetary or other material gain as a direct or indirect goal;

(3) “Producing” means producing, directing, manufacturing, issuing, publishing, or advertising;

(4) “Sexually explicit conduct” means actual or simulated:

(A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(B) Bestiality;

(C) Masturbation;

(D) Sadomasochistic abuse for the purpose of sexual stimulation; or
(E) Lewd exhibition of:

(i) The genitals or pubic area of any person; or

(ii) The breast of a female; and

(5) “Visual or print medium” means any film, photograph, negative, slide, book, magazine, magnetic image, electronic image, or other visual or print medium other than material specifically used by a licensed medical professional or mental health professional, or both, for the purpose of assessment, evaluation, and treatment of a sex offender.

**ARK. CODE ANN. § 5-27-303 (2014). Engaging children in sexually explicit conduct for use in visual or print medium**

(a) Any person who employs, uses, persuades, induces, entices, or coerces any child to engage in or who has a child assist any other person to engage in any sexually explicit conduct for the purpose of producing any visual or print medium depicting the sexually explicit conduct is guilty of a:

(1) Class B felony for the first offense; and

(2) Class A felony for a subsequent offense.

(b) Any parent, legal guardian, or person having custody or control of a child who knowingly permits the child to engage in or to assist any other person to engage in sexually explicit conduct for the purpose of producing any visual or print medium depicting the sexually explicit conduct is guilty of a:

(1) Class B felony for the first offense; and

(2) Class A felony for a subsequent offense.


(a) With knowledge of the character of the visual or print medium involved, no person shall do any of the following:

(1) Knowingly advertise for sale or distribution, sell, distribute, transport, ship, exhibit, display, or receive for the purpose of sale or distribution any visual or print medium depicting a child participating or engaging in sexually explicit conduct; or

(2) Knowingly solicit, receive, purchase, exchange, possess, view, distribute, or control any visual or print medium depicting a child participating or engaging in sexually explicit conduct.
(b) Any person who violates subdivisions (a)(1) or (2) of this section is guilty of:

(1) Class C felony for the first offense; and

(2) Class B felony for a subsequent offense.

ARK. CODE ANN. § 5-27-305 (2014). Transportation of minors for prohibited sexual conduct
(a) A person commits the offense of transportation of a minor for prohibited sexual conduct if the person transports, finances in whole or part the transportation of, or otherwise causes or facilitates the movement of any minor, and the actor:

(1) Knows or has reason to know that prostitution or sexually explicit conduct involving the minor will be commercially exploited by any person; and

(2) Acts with the purpose that the minor will engage in:

(A) Prostitution; or

(B) Sexually explicit conduct.

(b) Transportation of a minor for prohibited sexual conduct is a Class A felony.

ARK. CODE ANN. § 5-27-306 (2014). Internet stalking of a child
(a) A person commits the offense of internet stalking of a child if the person being twenty-one (21) years of age or older knowingly uses a computer online service, internet service, or local internet bulletin board service to:

(1) Seduce, solicit, lure, or entice a child fifteen (15) years of age or younger in an effort to arrange a meeting with the child for the purpose of engaging in:

(A) Sexual intercourse;

(B) Sexually explicit conduct; or

(C) Deviate sexual activity;

(2) Seduce, solicit, lure, or entice an individual that the person believes to be fifteen (15) years of age or younger in an effort to arrange a meeting with the individual for the purpose of engaging in:

(A) Sexual intercourse;

(B) Sexually explicit conduct; or
(C) Deviate sexual activity;

(3) Compile, transmit, publish, reproduce, buy, sell, receive, exchange, or disseminate the name, telephone number, electronic mail address, residence address, picture, physical description, characteristics, or any other identifying information on a child fifteen (15) years of age or younger in furtherance of an effort to arrange a meeting with the child for the purpose of engaging in:

(A) Sexual intercourse;

(B) Sexually explicit conduct; or

(C) Deviate sexual activity;

(4) Compile, transmit, publish, reproduce, buy, sell, receive, exchange, or disseminate the name, telephone number, electronic mail address, residence address, picture, physical description, characteristics, or any other identifying information on an individual that the person believes to be fifteen (15) years of age or younger in furtherance of an effort to arrange a meeting with the individual for the purpose of engaging in:

(A) Sexual intercourse;

(B) Sexually explicit conduct; or

(C) Deviate sexual activity.

(b) Internet stalking of a child is a:

(1) Class B felony if the person attempts to arrange a meeting with a child fifteen (15) years of age or younger, even if a meeting with the child never takes place;

(2) Class B felony if the person attempts to arrange a meeting with an individual that the person believes to be fifteen (15) years of age or younger, even if a meeting with the individual never takes place; or

(3) Class A felony if the person arranges a meeting with a child fifteen (15) years of age or younger and an actual meeting with the child takes place, even if the person fails to engage the child in:

(A) Sexual intercourse;

(B) Sexually explicit conduct; or

(C) Deviate sexual activity.
(c) This section does not apply to a person or entity providing an electronic communications service to the public that is used by another person to violate this section, unless the person or entity providing an electronic communications service to the public:

(1) Conspires with another person to violate this section; or

(2) Knowingly aids and abets a violation of this section.

**ARK. CODE ANN. § 5-27-401 (2014). Definitions**

As used in this subchapter:

(1) “Performance” means any play, dance, act, drama, piece, interlude, pantomime, show, scene, or other three-dimensional presentation or a part of a play, dance, act, drama, piece, interlude, pantomime, show, scene, or other three-dimensional presentation, whether:

(A) Performed live or photographed;

(B) Filmed;

(C) Videotaped; or

(D) Visually depicted by any other photographic, cinematic, magnetic, or electronic means;

(2) “Promote” means to:

(A) Sell, give, provide, distribute, circulate, disseminate, present, exhibit, or advertise; or

(B) Offer or agree to sell, give, provide, distribute, circulate, disseminate, present, exhibit, or advertise;

(3) “Sadomasochistic abuse” means flagellation, mutilation, or torture by or upon a person who is nude or clad in an undergarment or in revealing or bizarre costume or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed, in a sexual context;

(4) “Sexual conduct” means:

(A) Actual or simulated sexual intercourse;

(B) Deviate sexual activity;
(C) Sexual bestiality;

(D) Masturbation;

(E) Sadomasochistic abuse; or

(F) Lewd exhibition of the genitals or pubic area of any person or a breast of a female;

and

(5) “Sexual performance” means any performance or part of a performance that includes sexual conduct by a child under eighteen (18) years of age.

**ARK. CODE ANN. § 5-27-402 (2014). Employing or consenting to the use of a child in a sexual performance**

(a) It is unlawful for a person, knowing the character and content of the performance, to employ, authorize, or induce a child under eighteen (18) years of age to engage in a sexual performance.

(b) It is also unlawful for a parent or legal guardian or custodian of a child under eighteen (18) years of age to consent to the participation by the child in a sexual performance.

(c) A person who violates this section upon conviction is guilty of a:

(1) Class C felony for the first offense; and

(2) Class B felony for a subsequent offense.

**ARK. CODE ANN. § 5-27-403 (2014). Producing, directing, or promoting a sexual performance by a child**

(a) It is unlawful for a person, knowing the character and content of the material, to produce, direct, or promote a performance that includes sexual conduct by a child under eighteen (18) years of age.

(b) A person who violates this section upon conviction is guilty of a Class B felony.

**ARK. CODE ANN. § 5-27-601 (2014). Definitions**

As used in this subchapter:

(1) “Child” means any person under seventeen (17) years of age;

(2)(A) “Computer” means an electronic, magnetic, electrochemical, or other high-speed data processing device performing a logical, arithmetic, or storage function and includes any data storage facility or communications facility directly related to or operating in conjunction with the device.
(B) “Computer” also includes any online service, Internet service, or local bulletin board, any electronic storage device, including a floppy disk or other magnetic storage device, or any compact disk that has read-only memory and the capacity to store audio, video, or written material;

(3) “Computer network” means an interconnection of a communications line with a computer through a remote terminal or a complex consisting of two (2) or more interconnected computers;

(4) “Computer program” means a set of instructions, statements, or related data that, in actual or modified form, is capable of causing a computer or a computer system to perform a specified function;

(5) “Computer software” means one (1) or more computer programs, existing in any form, or any associated operational procedure, manual, or other documentation;

(6) “Computer system” means a set of related, connected, or unconnected computers, other devices, and software;

(7) “Deviate sexual activity” means any act involving the penetration, however slight, of the:

(A) Anus or mouth of a person by the penis of another person; or

(B) Labia majora or anus of a person by any body member or foreign instrument manipulated by another person;

(8) “Electronic mail” means an electronic message, file, data, or other information that is transmitted:

(A) Between two (2) or more computers, computer networks, or electronic terminals; or

(B) Within or between computer networks;

(9) “Electronic mail service provider” means a person that:

(A) Is an intermediary in the transmission of electronic mail from the sender to the recipient; or

(B) Provides to an end user of electronic mail service the ability to send and receive electronic mail;

(10) “Interactive computer service” means an information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the
Internet and also a system operated or service offered by a library or educational institution;

(11) “Internet” means the international computer network of both federal and nonfederal interoperable packet switched data networks;

(12) “Performance” means any play, dance, act, drama, piece, interlude, pantomime, show, scene, or other three-dimensional presentation or a part, whether:

(A) Performed live or photographed;
(B) Filmed;
(C) Videotaped; or
(D) Visually depicted by any other photographic, cinematic, magnetic, or electronic means;

(13) “Reproduction” includes, but is not limited to, a computer-generated image;

(14) “Sexual intercourse” means penetration, however slight, of the labia majora by a penis; and

(15) “Sexually explicit conduct” means actual or simulated:

(A) Sexual intercourse;
(B) Deviate sexual activity;
(C) Bestiality;
(D) Masturbation;
(E) Sadomasochistic abuse for the purpose of sexual stimulation; or
(F) Lewd exhibition of the:

(i) Genitals or pubic area of any person; or
(ii) Breast of a female.

(a) A person commits distributing, possessing, or viewing of matter depicting sexually explicit conduct involving a child if the person knowingly:
(1) Receives for the purpose of selling or knowingly sells, procures, manufactures, gives, provides, lends, trades, mails, delivers, transfers, publishes, distributes, circulates, disseminates, presents, exhibits, advertises, offers, or agrees to offer through any means, including the Internet, any photograph, film, videotape, computer program or file, video game, or any other reproduction or reconstruction that depicts a child or incorporates the image of a child engaging in sexually explicit conduct; or

(2) Possesses or views through any means, including on the Internet, any photograph, film, videotape, computer program or file, computer-generated image, video game, or any other reproduction that depicts a child or incorporates the image of a child engaging in sexually explicit conduct.

(b) Distributing, possessing, or viewing of matter depicting sexually explicit conduct involving a child is a:

(1) Class C felony for the first offense; and

(2) Class B felony for any subsequent offense.

(c) It is an affirmative defense to a prosecution under this section that the defendant in good faith reasonably believed that the person depicted in the matter was seventeen (17) years of age or older.

(a) A person commits computer child pornography if the person knowingly:

(1) Compiles, enters into, or transmits by means of computer, makes, prints, publishes, or reproduces by other computerized means, knowingly causes or allows to be entered into or transmitted by means of computer or buys, sells, receives, exchanges, or disseminates any notice, statement, or advertisement or any child's name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information for purposes of facilitating, encouraging, offering, or soliciting sexually explicit conduct of or with any child or another individual believed by the person to be a child, or the visual depiction of the conduct; or

(2) Utilizes a computer online service, Internet service, or local bulletin board service to seduce, solicit, lure, or entice or attempt to seduce, solicit, lure, or entice a child or another individual believed by the person to be a child, to engage in sexually explicit conduct.

(b) Computer child pornography is a Class B felony.

(a)(1) A person commits computer exploitation of a child in the first degree if the person:
(A) Causes or permits a child to engage in sexually explicit conduct; and

(B) Knows, has reason to know, or intends that the prohibited conduct may be:

(i) Photographed;

(ii) Filmed;

(iii) Reproduced;

(iv) Reconstructed in any manner, including on the Internet; or

(v) Part of an exhibition or performance.

(2) Computer exploitation of a child in the first degree is a:

(A) Class B felony for the first offense; and

(B) Class A felony for a subsequent offense.

(b)(1) A person commits computer exploitation of a child in the second degree if the person:

(A) Photographs or films a child engaged in sexually explicit conduct; or

(B) Uses any device, including a computer, to reproduce or reconstruct the image of a child engaged in sexually explicit conduct.

(2) Computer exploitation of a child in the second degree is a Class C felony.

CALIFORNIA

CAL. PENAL CODE § 290 (2014). Sex Offender Registration Act; lifetime duty to register within specified number of days following entrance into or moving within a jurisdiction; offenses requiring mandatory registration

(a) Sections 290 to 290.024, inclusive, shall be known and may be cited as the Sex Offender Registration Act. All references to “the Act” in those sections are to the Sex Offender Registration Act.

(b) Every person described in subdivision (c), for the rest of his or her life while residing in California, or while attending school or working in California, as described in Sections 290.002 and 290.01, shall be required to register with the chief of police of the city in which he or she is residing, or the sheriff of the county if he or she is residing in an
unincorporated area or city that has no police department, and, additionally, with the
chief of police of a campus of the University of California, the California State
University, or community college if he or she is residing upon the campus or in any of its
facilities, within five working days of coming into, or changing his or her residence
within, any city, county, or city and county, or campus in which he or she temporarily
resides, and shall be required to register thereafter in accordance with the Act.

(c) The following persons shall be required to register:

Any person who, since July 1, 1944, has been or is hereafter convicted in any court in this
state or in any federal or military court of a violation of Section 187 committed in the
perpetration, or an attempt to perpetrate, rape or any act punishable under Section 286,
288, 288a, or 289, Section 207 or 209 committed with intent to violate Section 261, 286,
288, 288a, or 289, Section 220, except assault to commit mayhem, subdivision (b) and (c)
of Section 236.1, Section 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of
Section 261, paragraph (1) of subdivision (a) of Section 262 involving the use of force or
violence for which the person is sentenced to the state prison, Section 264.1, 266, or
266c, subdivision (b) of Section 266h, subdivision (b) of Section 266i, Section 266j, 267,
269, 285, 286, 288, 288a, 288.3, 288.4, 288.5, 288.7, 289, or 311.1, subdivision (b), (c),
or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6, former Section
647a, subdivision (c) of Section 653f, subdivision 1 or 2 of Section 314, any offense
involving lewd or lascivious conduct under Section 272, or any felony violation of
Section 288.2; any statutory predecessor that includes all elements of one of the above-
mentioned offenses; or any person who since that date has been or is hereafter convicted
of the attempt or conspiracy to commit any of the above-mentioned offenses.

CAL. PENAL CODE § 290.006 (2014). Court Order of Registration for Offenses
Committed Out of Sexual Compulsion or for Sexual Gratification
Any person ordered by any court to register pursuant to the Act for any offense not
included specifically in subdivision (c) of Section 290, shall so register, if the court finds
at the time of conviction or sentencing that the person committed the offense as a result
of sexual compulsion or for purposes of sexual gratification. The court shall state on the
record the reasons for its findings and the reasons for requiring registration.

290.006 allows 286.5 to come in
Any person who sexually assaults any animal protected by Section 597f for the purpose
of arousing or gratifying the sexual desire of the person is guilty of a misdemeanor.

CAL. PENAL CODE § 311.1 (2014). Sent or brought into state for sale or distribution;
possessing, preparing, publishing, producing, developing, duplicating, or printing
within state; matter depicting sexual conduct by minor; penalty; application;
telephone services
(a) Every person who knowingly sends or causes to be sent, or brings or causes to be
brought, into this state for sale or distribution, or in this state possesses, prepares,
publishes, produces, develops, duplicates, or prints any representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film or filmstrip, with intent to distribute or to exhibit to, or to exchange with, others, or who offers to distribute, distributes, or exhibits to, or exchanges with, others, any obscene matter, knowing that the matter depicts a person under the age of 18 years personally engaging in or personally simulating sexual conduct, as defined in Section 311.4, shall be punished either by imprisonment in the county jail for up to one year, by a fine not to exceed one thousand dollars ($1,000), or by both the fine and imprisonment, or by imprisonment in the state prison, by a fine not to exceed ten thousand dollars ($10,000), or by the fine and imprisonment.

(b) This section does not apply to the activities of law enforcement and prosecuting agencies in the investigation and prosecution of criminal offenses or to legitimate medical, scientific, or educational activities, or to lawful conduct between spouses.

(c) This section does not apply to matter which depicts a child under the age of 18, which child is legally emancipated, including lawful conduct between spouses when one or both are under the age of 18.

(d) It does not constitute a violation of this section for a telephone corporation, as defined by Section 234 of the Public Utilities Code, to carry or transmit messages described in this chapter or perform related activities in providing telephone services.

CAL. PENAL CODE § 311.2 (2014). Sending or bringing into state for sale or distribution; printing, exhibiting, distributing, exchanging or possessing within state; matter depicting sexual conduct by minor; transaction with minor; exemptions

(a) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, produces, or prints, with intent to distribute or to exhibit to others, or who offers to distribute, distributes, or exhibits to others, any obscene matter is for a first offense, guilty of a misdemeanor. If the person has previously been convicted of any violation of this section, the court may, in addition to the punishment authorized in Section 311.9, impose a fine not exceeding fifty thousand dollars ($50,000).

(b) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, produces, develops, duplicates, or prints any representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any
film or filmstrip, with intent to distribute or to exhibit to, or to exchange with, others for commercial consideration, or who offers to distribute, distributes, or exhibits to, or exchanges with, others for commercial consideration, any obscene matter, knowing that the matter depicts a person under the age of 18 years personally engaging in or personally simulating sexual conduct, as defined in Section 311.4, is guilty of a felony and shall be punished by imprisonment in the state prison for two, three, or six years, or by a fine not exceeding one hundred thousand dollars ($100,000), in the absence of a finding that the defendant would be incapable of paying that fine, or by both that fine and imprisonment.

(c) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, produces, develops, duplicates, or prints any representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film or filmstrip, with intent to distribute or exhibit to, or to exchange with, a person 18 years of age or older, or who offers to distribute, distributes, or exhibits to, or exchanges with, a person 18 years of age or older any matter, knowing that the matter depicts a person under the age of 18 years personally engaging in or personally simulating sexual conduct, as defined in Section 311.4, shall be punished by imprisonment in the county jail for up to one year, or by a fine not exceeding two thousand dollars ($2,000), or by both that fine and imprisonment, or by imprisonment in the state prison. It is not necessary to prove commercial consideration or that the matter is obscene in order to establish a violation of this subdivision. If a person has been previously convicted of a violation of this subdivision, he or she is guilty of a felony.

(d) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, produces, develops, duplicates, or prints any representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film or filmstrip, with intent to distribute or exhibit to, or to exchange with, a person under 18 years of age, or who offers to distribute, distributes, or exhibits to, or exchanges with, a person under 18 years of age any matter, knowing that the matter depicts a person under the age of 18 years personally engaging in or personally simulating sexual conduct, as defined in Section 311.4, is guilty of a felony. It is not necessary to prove commercial consideration or that the matter is obscene in order to establish a violation of this subdivision.

(e) Subdivisions (a) to (d), inclusive, do not apply to the activities of law enforcement and prosecuting agencies in the investigation and prosecution of criminal offenses, to
legitimate medical, scientific, or educational activities, or to lawful conduct between spouses.

(f) This section does not apply to matter that depicts a legally emancipated child under the age of 18 years or to lawful conduct between spouses when one or both are under the age of 18 years.

(g) It does not constitute a violation of this section for a telephone corporation, as defined by Section 234 of the Public Utilities Code, to carry or transmit messages described in this chapter or to perform related activities in providing telephone services.

**CAL. PENAL CODE § 311.3 (2014). Sexual exploitation of child**

(a) A person is guilty of sexual exploitation of a child if he or she knowingly develops, duplicates, prints, or exchanges any representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film or filmstrip that depicts a person under the age of 18 years engaged in an act of sexual conduct.

(b) As used in this section, “sexual conduct” means any of the following:

1. Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals.

2. Penetration of the vagina or rectum by any object.

3. Masturbation for the purpose of sexual stimulation of the viewer.

4. Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.

5. Exhibition of the genitals or the pubic or rectal area of any person for the purpose of sexual stimulation of the viewer.

6. Defecation or urination for the purpose of sexual stimulation of the viewer.

(c) Subdivision (a) does not apply to the activities of law enforcement and prosecution agencies in the investigation and prosecution of criminal offenses or to legitimate medical, scientific, or educational activities, or to lawful conduct between spouses.

(d) Every person who violates subdivision (a) shall be punished by a fine of not more than two thousand dollars ($2,000) or by imprisonment in a county jail for not more than one year, or by both that fine and imprisonment. If the person has been previously
convicted of a violation of subdivision (a) or any section of this chapter, he or she shall be punished by imprisonment in the state prison.

(e) The provisions of this section do not apply to an employee of a commercial film developer who is acting within the scope of his or her employment and in accordance with the instructions of his or her employer, provided that the employee has no financial interest in the commercial developer by which he or she is employed.

(f) Subdivision (a) does not apply to matter that is unsolicited and is received without knowledge or consent through a facility, system, or network over which the person or entity has no control.

CAL. PENAL CODE § 311.4 (2014). Employment or use of minor to perform prohibited acts; previous conviction; exception
(a) Every person who, with knowledge that a person is a minor, or who, while in possession of any facts on the basis of which he or she should reasonably know that the person is a minor, hires, employs, or uses the minor to do or assist in doing any of the acts described in Section 311.2, shall be punished by imprisonment in the county jail for up to one year, or by a fine not exceeding two thousand dollars ($2,000), or by both that fine and imprisonment, or by imprisonment in the state prison. If the person has previously been convicted of any violation of this section, the court may, in addition to the punishment authorized in Section 311.9, impose a fine not exceeding fifty thousand dollars ($50,000).

(b) Every person who, with knowledge that a person is a minor under the age of 18 years, or who, while in possession of any facts on the basis of which he or she should reasonably know that the person is a minor under the age of 18 years, knowingly promotes, employs, uses, persuades, induces, or coerces a minor under the age of 18 years, or any parent or guardian of a minor under the age of 18 years under his or her control who knowingly permits the minor, to engage in or assist others to engage in either posing or modeling alone or with others for purposes of preparing any representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film, filmstrip, or a live performance involving, sexual conduct by a minor under the age of 18 years alone or with other persons or animals, for commercial purposes, is guilty of a felony and shall be punished by imprisonment in the state prison for three, six, or eight years.

(c) Every person who, with knowledge that a person is a minor under the age of 18 years, or who, while in possession of any facts on the basis of which he or she should reasonably know that the person is a minor under the age of 18 years, knowingly promotes, employs, uses, persuades, induces, or coerces a minor under the age of 18 years, or any parent or guardian of a minor under the age of 18 years under his or her
control who knowingly permits the minor, to engage in or assist others to engage in either posing or modeling alone or with others for purposes of preparing any representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film, filmstrip, or a live performance involving, sexual conduct by a minor under the age of 18 years alone or with other persons or animals, is guilty of a felony. It is not necessary to prove commercial purposes in order to establish a violation of this subdivision.

(d)(1) As used in subdivisions (b) and (c), “sexual conduct” means any of the following, whether actual or simulated: sexual intercourse, oral copulation, anal intercourse, anal oral copulation, masturbation, bestiality, sexual sadism, sexual masochism, penetration of the vagina or rectum by any object in a lewd or lascivious manner, exhibition of the genitals or pubic or rectal area for the purpose of sexual stimulation of the viewer, any lewd or lascivious sexual act as defined in Section 288, or excretory functions performed in a lewd or lascivious manner, whether or not any of the above conduct is performed alone or between members of the same or opposite sex or between humans and animals. An act is simulated when it gives the appearance of being sexual conduct.

(2) As used in subdivisions (b) and (c), “matter” means any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, or any other computer-related equipment or computer-generated image that contains or incorporates in any manner, any film, filmstrip, photograph, negative, slide, photocopy, videotape, or video laser disc.

(e) This section does not apply to a legally emancipated minor or to lawful conduct between spouses if one or both are under the age of 18.

(f) In every prosecution under this section involving a minor under the age of 14 years at the time of the offense, the age of the victim shall be pled and proven for the purpose of the enhanced penalty provided in Section 647.6. Failure to plead and prove that the victim was under the age of 14 years at the time of the offense is not a bar to prosecution under this section if it is proven that the victim was under the age of 18 years at the time of the offense.

**CAL. PENAL CODE § 311.10 (2014). Advertising for sale or distribution obscene matter depicting a person under the age of 18 years engaging in or simulating sexual conduct; felony; punishment**

(a) Any person who advertises for sale or distribution any obscene matter knowing that it depicts a person under the age of 18 years personally engaging in or personally simulating sexual conduct, as defined in Section 311.4, is guilty of a felony and is punishable by imprisonment in the state prison for two, three, or four years, or in a county jail not exceeding one year, or by a fine not exceeding fifty thousand dollars.
($50,000), or by both such fine and imprisonment.

(b) Subdivision (a) shall not apply to the activities of law enforcement and prosecution agencies in the investigation and prosecution of criminal offenses.

**CAL. PENAL CODE § 311.11 (2014). Possession or control of matter depicting minor engaging or simulating sexual conduct; punishment; previous conviction**

(a) Every person who knowingly possesses or controls any matter, representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film or filmstrip, the production of which involves the use of a person under 18 years of age personally engaging in or simulating sexual conduct, as defined in subdivision (d) of Section 311.4, is guilty of a felony and shall be punished by imprisonment in the state prison, or a county jail for up to one year, or by a fine not exceeding two thousand five hundred dollars ($2,500), or by both the fine and imprisonment.

(b) Every person who commits a violation of subdivision (a), and who has been previously convicted of a violation of this section, an offense requiring registration under the Sex Offender Registration Act, or an attempt to commit any of the above-mentioned offenses, is guilty of a felony and shall be punished by imprisonment in the state prison for two, four, or six years.

(c) Each person who commits a violation of subdivision (a) shall be punished by imprisonment in the state prison for 16 months, or two or five years, or shall be punished by imprisonment in a county jail for up to one year, or by a fine not exceeding two thousand five hundred dollars ($2,500), or by both the fine and imprisonment, if one of the following factors exists:

(1) The matter contains more than 600 images that violate subdivision (a), and the matter contains 10 or more images involving a prepubescent minor or a minor who has not attained 12 years of age.

(2) The matter portrays sexual sadism or sexual masochism involving a person under 18 years of age. For purposes of this section, “sexual sadism” means the intentional infliction of pain for purposes of sexual gratification or stimulation. For purposes of this section, “sexual masochism” means intentionally experiencing pain for purposes of sexual gratification or stimulation.

(d) It is not necessary to prove that the matter is obscene in order to establish a violation of this section.
(e) This section does not apply to drawings, figurines, statues, or any film rated by the Motion Picture Association of America, nor does it apply to live or recorded telephone messages when transmitted, disseminated, or distributed as part of a commercial transaction.

(f) For purposes of determining the number of images under paragraph (1) of subdivision (c), the following shall apply:

1. Each photograph, picture, computer, or computer-generated image, or any similar visual depiction shall be considered to be one image.

2. Each video, video-clip, movie, or similar visual depiction shall be considered to have 50 images.

COLORADO

COLO. REV. STAT. § 16-22-102 (2014). Definitions
As used in this article, unless the context otherwise requires:

1. “Birthday” means a person's birthday as reflected on the notice provided to the person pursuant to section 16-22-106 or 16-22-107 or the person's actual date of birth if the notice does not reflect the person's birthday.

2. “CBI” means the Colorado bureau of investigation established pursuant to part 4 of article 33.5 of title 24, C.R.S.

3. “Convicted” or “conviction” means having received a verdict of guilty by a judge or jury, having pleaded guilty or nolo contendere, having received a disposition as a juvenile, having been adjudicated a juvenile delinquent, or having received a deferred judgment and sentence or a deferred adjudication.

3.5 “Employed at an institution of postsecondary education” means a person:

(a) Is employed by or is an independent contractor with an institution of postsecondary education or is employed by or is an independent contractor with an entity that contracts with an institution of postsecondary education; and

(b) Spends any period of time in furtherance of the employment or independent contractor relationship on the campus of the postsecondary institution or at a site that is owned or leased by the postsecondary institution.

4. “Immediate family” means a person's spouse, parent, grandparent, sibling, or child.
(4.3)(a) “Lacks a fixed residence” means that a person does not have a living situation that meets the definition of “residence” pursuant to subsection (5.7) of this section. “Lacks a fixed residence” may include, but need not be limited to, outdoor sleeping locations or any public or private locations not designed as traditional living accommodations. “Lacks a fixed residence” may also include temporary public or private housing or temporary shelter facilities, residential treatment facilities, or any other residential program or facility if the person remains at the location for less than fourteen days.

(b) “Lacks a fixed residence” also includes a person who is registered in any jurisdiction if the person:

(I) Ceases to reside at an address in that jurisdiction; and

(II) Fails to register:

(A) A change of address in the same jurisdiction; or

(B) In a new jurisdiction pursuant to section 16-22-108(4); or

(C) Pursuant to section 16-22-108(3).

(4.5) “Local law enforcement agency” means the law enforcement agency, including but not limited to a campus police agency, that has jurisdiction over a certain geographic area.

(5) “Register” and “registration” include initial registration pursuant to section 16-22-104, and registration, confirmation of registration, and reregistration, as required in section 16-22-108.

(5.5) “Registrant” means a person who is required to register in accordance with this article.

(5.7) “Residence” means a place or dwelling that is used, intended to be used, or usually used for habitation by a person who is required to register pursuant to section 16-22-103. “Residence” may include, but need not be limited to, a temporary shelter or institution, if the person resides at the temporary shelter or institution for fourteen consecutive days or longer, if the owner of the shelter or institution consents to the person utilizing the shelter or institution as his or her registered address as required by section 16-22-106(4) or 16-22-107(4)(a), and if the residence of the person at the shelter or institution can be verified as required by section 16-22-109(3.5). A person may establish multiple residences by residing in more than one place or dwelling.

(5.8) “Resides” includes residence and lacks a fixed residence.
(6) “Sex offender registry” means the Colorado sex offender registry created and maintained by the CBI pursuant to section 16-22-110.

(7) “Sexually violent predator” means a person who is found to be a sexually violent predator pursuant to section 18-3-414.5, C.R.S.

(8) “Temporary resident” means a person who is a resident of another state but in Colorado temporarily because the person is:

(a) Employed in this state on a full-time or part-time basis, with or without compensation, for more than fourteen consecutive business days or for an aggregate period of more than thirty days in any calendar year; or

(b) Enrolled in any type of educational institution in this state on a full-time or part-time basis; or

(c) Present in Colorado for more than fourteen consecutive business days or for an aggregate period of more than thirty days in a calendar year for any purpose, including but not limited to vacation, travel, or retirement.

(9) “Unlawful sexual behavior” means any of the following offenses or criminal attempt, conspiracy, or solicitation to commit any of the following offenses:

(a)(I) Sexual assault, in violation of section 18-3-402, C.R.S.; or

(II) Sexual assault in the first degree, in violation of section 18-3-402, C.R.S., as it existed prior to July 1, 2000;

(b) Sexual assault in the second degree, in violation of section 18-3-403, C.R.S., as it existed prior to July 1, 2000;

(c)(I) Unlawful sexual contact, in violation of section 18-3-404, C.R.S.; or

(II) Sexual assault in the third degree, in violation of section 18-3-404, C.R.S., as it existed prior to July 1, 2000;

(d) Sexual assault on a child, in violation of section 18-3-405, C.R.S.;

(e) Sexual assault on a child by one in a position of trust, in violation of section 18-3-405.3, C.R.S.;

(f) Sexual assault on a client by a psychotherapist, in violation of section 18-3-405.5, C.R.S.;

(g) Enticement of a child, in violation of section 18-3-305, C.R.S.;
(h) Incest, in violation of section 18-6-301, C.R.S.;

(i) Aggravated incest, in violation of section 18-6-302, C.R.S.;

(j) Human trafficking of a minor for sexual servitude, as described in section 18-3-504(2), C.R.S.;

(k) Sexual exploitation of children, in violation of section 18-6-403, C.R.S.;

(l) Procurement of a child for sexual exploitation, in violation of section 18-6-404, C.R.S.;

(m) Indecent exposure, in violation of section 18-7-302, C.R.S.;

(n) Soliciting for child prostitution, in violation of section 18-7-402, C.R.S.;

(o) Pandering of a child, in violation of section 18-7-403, C.R.S.;

(p) Procurement of a child, in violation of section 18-7-403.5, C.R.S.;

(q) Keeping a place of child prostitution, in violation of section 18-7-404, C.R.S.;

(r) Pimping of a child, in violation of section 18-7-405, C.R.S.;

(s) Inducement of child prostitution, in violation of section 18-7-405.5, C.R.S.;

(t) Patronizing a prostituted child, in violation of section 18-7-406, C.R.S.;

(u) Engaging in sexual conduct in a correctional institution, in violation of section 18-7-701, C.R.S.;

(v) Wholesale promotion of obscenity to a minor, in violation of section 18-7-102(1.5), C.R.S.;

(w) Promotion of obscenity to a minor, in violation of section 18-7-102(2.5), C.R.S.;

(x) Class 4 felony internet luring of a child, in violation of section 18-3-306(3), C.R.S.;

(y) Internet sexual exploitation of a child, in violation of section 18-3-405.4, C.R.S.;

(z) Public indecency, committed in violation of section 18-7-301(2)(b), C.R.S., if a second offense is committed within five years of the previous offense or a third or subsequent offense is committed;
(aa) Invasion of privacy for sexual gratification, in violation of section 18-3-405.6, C.R.S.; or

(bb) Second degree kidnapping, if committed in violation of section 18-3-302(3)(a), C.R.S.

**COLO. REV. STAT. § 18-6-403 (2014). Sexual exploitation of a child**

(1) The general assembly hereby finds and declares: That the sexual exploitation of children constitutes a wrongful invasion of the child's right of privacy and results in social, developmental, and emotional injury to the child; that a child below the age of eighteen years is incapable of giving informed consent to the use of his or her body for a sexual purpose; and that to protect children from sexual exploitation it is necessary to prohibit the production of material which involves or is derived from such exploitation and to exclude all such material from the channels of trade and commerce.

(1.5) The general assembly further finds and declares that the mere possession or control of any sexually exploitative material results in continuing victimization of our children by the fact that such material is a permanent record of an act or acts of sexual abuse of a child; that each time such material is shown or viewed, the child is harmed; that such material is used to break down the will and resistance of other children to encourage them to participate in similar acts of sexual abuse; that laws banning the production and distribution of such material are insufficient to halt this abuse; that in order to stop the sexual exploitation and abuse of our children, it is necessary for the state to ban the possession of any sexually exploitative materials; and that the state has a compelling interest in outlawing the possession of any sexually exploitative materials in order to protect society as a whole, and particularly the privacy, health, and emotional welfare of its children.

(2) As used in this section, unless the context otherwise requires:

(a) “Child” means a person who is less than eighteen years of age.

(b) Deleted by Laws 2003, Ch. 291, § 1, eff. July 1, 2003.

(c) “Erotic fondling” means touching a person's clothed or unclothed genitals or pubic area, developing or undeveloped genitals or pubic area (if the person is a child), buttocks, breasts, or developing or undeveloped breast area (if the person is a child), for the purpose of real or simulated overt sexual gratification or stimulation of one or more of the persons involved. “Erotic fondling” shall not be construed to include physical contact, even if affectionate, which is not for the purpose of real or simulated overt sexual gratification or stimulation of one or more of the persons involved.

(d) “Erotic nudity” means the display of the human male or female genitals or pubic area, the undeveloped or developing genitals or pubic area of the human male or female child, the human breasts, or the undeveloped or developing breast area of the human child, for
the purpose of real or simulated overt sexual gratification or stimulation of one or more of the persons involved.

(e) “Explicit sexual conduct” means sexual intercourse, erotic fondling, erotic nudity, masturbation, sadomasochism, or sexual excitement.

(f) “Masturbation” means the real or simulated touching, rubbing, or otherwise stimulating of a person's own clothed or unclothed genitals or pubic area, developing or undeveloped genitals or pubic area (if the person is a child), buttocks, breasts, or developing or undeveloped breast area (if the person is a child), by manual manipulation or self-induced or with an artificial instrument, for the purpose of real or simulated overt sexual gratification or arousal of the person.

(g) “Sadomasochism” means:
(I) Real or simulated flagellation or torture for the purpose of real or simulated sexual stimulation or gratification; or

(II) The real or simulated condition of being fettered, bound, or otherwise physically restrained for sexual stimulation or gratification of a person.

(h) “Sexual excitement” means the real or simulated condition of human male or female genitals when in a state of real or simulated overt sexual stimulation or arousal.

(i) “Sexual intercourse” means real or simulated intercourse, whether genital-genital, oral-genital, anal-genital, or oral-anal, between persons of the same or opposite sex, or between a human and an animal, or with an artificial genital.

(j) “Sexually exploitative material” means any photograph, motion picture, video, video tape, print, negative, slide, or other mechanically, electronically, chemically, or digitally reproduced visual material that depicts a child engaged in, participating in, observing, or being used for explicit sexual conduct.

(k) “Video”, “video tape”, or “motion picture” means any material that depicts a moving image of a child engaged in, participating in, observing, or being used for explicit sexual conduct.

(3) A person commits sexual exploitation of a child if, for any purpose, he or she knowingly:

(a) Causes, induces, entices, or permits a child to engage in, or be used for, any explicit sexual conduct for the making of any sexually exploitative material; or

(b) Prepares, arranges for, publishes, including but not limited to publishing through digital or electronic means, produces, promotes, makes, sells, finances, offers, exhibits,
advises, deals in, or distributes, including but not limited to distributing through digital or electronic means, any sexually exploitative material; or

(b.5) Possesses or controls any sexually exploitative material for any purpose; except that this paragraph (b.5) does not apply to peace officers or court personnel in the performance of their official duties, nor does it apply to physicians, psychologists, therapists, or social workers, so long as such persons are licensed in the state of Colorado and the persons possess such materials in the course of a bona fide treatment or evaluation program at the treatment or evaluation site; or

(c) Possesses with the intent to deal in, sell, or distribute, including but not limited to distributing through digital or electronic means, any sexually exploitative material; or

(d) Causes, induces, entices, or permits a child to engage in, or be used for, any explicit sexual conduct for the purpose of producing a performance.

(4) Deleted by Laws 2003, Ch. 291, § 1, eff. July 1, 2003.

(5)(a) Except as provided in paragraph (b) of this subsection (5), sexual exploitation of a child is a class 3 felony.

(b) Sexual exploitation of a child by possession of sexually exploitative material pursuant to paragraph (b.5) of subsection (3) of this section is a class 6 felony; except that said offense is a class 4 felony if:

(I) It is a second or subsequent offense; or

(II) The possession is of a video, video tape, or motion picture or more than twenty different items qualifying as sexually exploitative material.

(6) If any provision of this section or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable.

**COLO. REV. STAT. § 18-6-404 (2014). PROCUREMENT OF A CHILD FOR SEXUAL EXPLOITATION**

Any person who intentionally gives, transports, provides, or makes available, or who offers to give, transport, provide, or make available, to another person a child for the purpose of sexual exploitation of a child commits procurement of a child for sexual exploitation, which is a class 3 felony.

**COLO. REV. STAT. § 18-7-101 (2014). Definitions**

As used in this part 1, unless the context otherwise requires:
(1) “Material” means anything tangible that is capable of being used or adapted to arouse interest, whether through the medium of reading, observation, sound, or in any other manner, but does not include an actual three-dimensional obscene device.

(1.5) “Minor” means a person under eighteen years of age.

(2) “Obscene” means material or a performance that:

(a) The average person, applying contemporary community standards, would find that taken as a whole appeals to the prurient interest in sex;

(b) Depicts or describes:

(I) Patently offensive representations or descriptions of ultimate sex acts, normal or perverted, actual or simulated, including sexual intercourse, sodomy, and sexual bestiality; or

(II) Patently offensive representations or descriptions of masturbation, excretory functions, sadism, masochism, lewd exhibition of the genitals, the male or female genitals in a state of sexual stimulation or arousal, or covered male genitals in a discernibly turgid state; and

(c) Taken as a whole, lacks serious literary, artistic, political, or scientific value.

(3) “Obscene device” means a device including a dildo or artificial vagina, designed or marketed as useful primarily for the stimulation of human genital organs.

(4) “Patently offensive” means so offensive on its face as to affront current community standards of tolerance.

(5) “Performance” means a play, motion picture, dance, or other exhibition performed before an audience.

(6) “Promote” means to manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise, or to offer or agree to do the same.

(6.5) “Prurient interest” means a shameful or morbid interest.

(7) “Simulated” means the explicit depiction or description of any of the types of conduct set forth in paragraph (b) of subsection (2) of this section, which creates the appearance of such conduct.
(8) “Wholesale promote” means to manufacture, issue, sell, provide, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, or to offer or agree to do the same for purpose of resale.

(9) If any of the depictions or descriptions of sexual conduct described in this section are declared by a court of competent jurisdiction to be unlawfully included herein, this declaration shall not invalidate this section as to other patently offensive sexual conduct included herein.

COLO. REV. STAT. § 18-7-102 (2014). Obscenity

(1)(a) Except as otherwise provided in subsection (1.5) of this section, a person commits wholesale promotion of obscenity if, knowing its content and character, such person wholesale promotes or possesses with intent to wholesale promote any obscene material.

(b) Wholesale promotion of obscenity is a class 1 misdemeanor.

(1.5)(a) A person commits wholesale promotion of obscenity to a minor if, knowing its content and character, such person wholesale promotes to a minor or possesses with intent to wholesale promote to a minor any obscene material.

(b) Wholesale promotion of obscenity to a minor is a class 6 felony.

(2)(a) Except as otherwise provided in subsection (2.5) of this section, a person commits promotion of obscenity if, knowing its content and character, such person:

(I) Promotes or possesses with intent to promote any obscene material; or

(II) Produces, presents, or directs an obscene performance or participates in a portion thereof that is obscene or that contributes to its obscenity.

(b) Promotion of obscenity is a class 2 misdemeanor.

(2.5)(a) A person commits promotion of obscenity to a minor if, knowing its content and character, such person:

(I) Promotes to a minor or possesses with intent to promote to a minor any obscene material; or

(II) Produces, presents, or directs an obscene performance involving a minor or participates in a portion thereof that is obscene or that contributes to its obscenity.

(b) Promotion of obscenity to a minor is a class 6 felony.

(4) A person who possesses six or more identical obscene materials is presumed to possess them with intent to promote the same.

(5) This section does not apply to a person who possesses or distributes obscene material or participates in conduct otherwise proscribed by this section when the possession, participation, or conduct occurs in the course of law enforcement activities.

(6) This section does not apply to a person's conduct otherwise proscribed by this section which occurs in that person's residence as long as that person does not engage in the wholesale promotion or promotion of obscene material in his residence.

**CONNECTICUT**

**CONN. GEN. STAT. § 54-250 (2014). Definitions**

For the purposes of sections 54-102g and 54-250 to 54-258a, inclusive:

(1) “Conviction” means a judgment entered by a court upon a plea of guilty, a plea of nolo contendere or a finding of guilty by a jury or the court notwithstanding any pending appeal or habeas corpus proceeding arising from such judgment.

(2) “Criminal offense against a victim who is a minor” means (A) a violation of subdivision (2) of section 53-21 of the general statutes in effect prior to October 1, 2000, subdivision (2) of subsection (a) of section 53-21, subdivision (2) of subsection (a) of section 53a-70, subdivision (1), (4), (8) or (10) or subparagraph (B) of subdivision (9) of subdivision (a) of section 53a-71, subdivision (2) of subsection (a) of section 53a-72a, subdivision (2) of subsection (a) of section 53a-86, subdivision (2) of subsection (a) of section 53a-87, section 53a-90a, 53a-196a, 53a-196b, 53a-196c, 53a-196d, 53a-196e or 53a-196f, (B) a violation of subparagraph (A) of subdivision (9) of subsection (a) of section 53a-71 or section 53a-92, 53a-92a, 53a-94, 53a-94a, 53a-95, 53a-96 or 53a-186, provided the court makes a finding that, at the time of the offense, the victim was under eighteen years of age, (C) a violation of any of the offenses specified in subparagraph (A) or (B) of this subdivision for which a person is criminally liable under section 53a-8, 53a-48 or 53a-49, or (D) a violation of any predecessor statute to any offense specified in subparagraph (A), (B) or (C) of this subdivision the essential elements of which are substantially the same as said offense.

(3) “Identifying factors” means fingerprints, a photographic image, and a description of any other identifying characteristics as may be required by the Commissioner of Emergency Services and Public Protection. The commissioner shall also require a sample of the registrant's blood or other biological sample be taken for DNA (deoxyribonucleic acid) analysis, unless such sample has been previously obtained in accordance with section 54-102g.
(4) “Mental abnormality” means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of other persons.

(5) “Nonviolent sexual offense” means (A) a violation of section 53a-73a or subdivision (2) of subsection (a) of section 53a-189a, or (B) a violation of any of the offenses specified in subparagraph (A) of this subdivision for which a person is criminally liable under section 53a-8, 53a-48 or 53a-49.

(6) “Not guilty by reason of mental disease or defect” means a finding by a court or jury of not guilty by reason of mental disease or defect pursuant to section 53a-13 notwithstanding any pending appeal or habeas corpus proceeding arising from such finding.

(7) “Personality disorder” means a condition as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association.

(8) “Registrant” means a person required to register under section 54-251, 54-252, 54-253 or 54-254.

(9) “Registry” means a central record system in this state, any other state or the federal government that receives, maintains and disseminates information on persons convicted or found not guilty by reason of mental disease or defect of criminal offenses against victims who are minors, nonviolent sexual offenses, sexually violent offenses and felonies found by the sentencing court to have been committed for a sexual purpose.

(10) “Release into the community” means, with respect to a conviction or a finding of not guilty by reason of mental disease or defect of a criminal offense against a victim who is a minor, a nonviolent sexual offense, a sexually violent offense or a felony found by the sentencing court to have been committed for a sexual purpose, (A) any release by a court after such conviction or finding of not guilty by reason of mental disease or defect, a sentence of probation or any other sentence under section 53a-28 that does not result in the offender's immediate placement in the custody of the Commissioner of Correction; (B) release from a correctional facility at the discretion of the Board of Pardons and Paroles, by the Department of Correction to a program authorized by section 18-100c or upon completion of the maximum term or terms of the offender's sentence or sentences, or to the supervision of the Court Support Services Division in accordance with the terms of the offender's sentence; or (C) temporary leave to an approved residence by the Psychiatric Security Review Board pursuant to section 17a-587, conditional release from a hospital for mental illness or a facility for persons with intellectual disability by the Psychiatric Security Review Board pursuant to section 17a-588, or release upon termination of commitment to the Psychiatric Security Review Board.
(11) “Sexually violent offense” means (A) a violation of section 53a-70, except subdivision (2) of subsection (a) of said section, 53a-70a, 53a-70b, 53a-71, except subdivision (1), (4), (8) or (10) or subparagraph (B) of subdivision (9) of subsection (a) of said section or subparagraph (A) of subdivision (9) of subsection (a) of said section if the court makes a finding that, at the time of the offense, the victim was under eighteen years of age, 53a-72a, except subdivision (2) of subsection (a) of said section, or 53a-72b, or of section 53a-92 or 53a-92a, provided the court makes a finding that the offense was committed with intent to sexually violate or abuse the victim, (B) a violation of any of the offenses specified in subparagraph (A) of this subdivision for which a person is criminally liable under section 53a-8, 53a-48 or 53a-49, or (C) a violation of any predecessor statute to any of the offenses specified in subparagraph (A) or (B) of this subdivision the essential elements of which are substantially the same as said offense.

(12) “Sexual purpose” means that a purpose of the defendant in committing the felony was to engage in sexual contact or sexual intercourse with another person without that person's consent. A sexual purpose need not be the sole purpose of the commission of the felony. The sexual purpose may arise at any time in the course of the commission of the felony.

(13) “Employed” or “carries on a vocation” means employment that is full-time or part-time for more than fourteen days, or for a total period of time of more than thirty days during any calendar year, whether financially compensated, volunteered or for the purpose of government or educational benefit.

(14) “Student” means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution or institution of higher learning.

CONN. GEN. STAT. § 54-251 (2014). Registration of person who has committed a criminal offense against a victim who is a minor or a nonviolent sexual offender
(a) Any person who has been convicted or found not guilty by reason of mental disease or defect of a criminal offense against a victim who is a minor or a nonviolent sexual offense, and is released into the community on or after October 1, 1998, shall, within three days following such release or, if such person is in the custody of the Commissioner of Correction, at such time prior to release as the commissioner shall direct, and whether or not such person's place of residence is in this state, register such person's name, identifying factors, criminal history record, residence address and electronic mail address, instant message address or other similar Internet communication identifier, if any, with the Commissioner of Emergency Services and Public Protection, on such forms and in such locations as the commissioner shall direct, and shall maintain such registration for ten years except that any person who has one or more prior convictions of any such offense or who is convicted of a violation of subdivision (2) of subsection (a) of section 53a-70 shall maintain such registration for life. Prior to accepting a plea of guilty or nolo contendere from a person with respect to a criminal offense against a victim who is a minor or a nonviolent sexual offense, the court shall (1) inform the person that the entry
of a finding of guilty after acceptance of the plea will subject the person to the registration requirements of this section, and (2) determine that the person fully understands the consequences of the plea. If any person who is subject to registration under this section changes such person's name, such person shall, without undue delay, notify the Commissioner of Emergency Services and Public Protection in writing of the new name. If any person who is subject to registration under this section changes such person's address, such person shall, without undue delay, notify the Commissioner of Emergency Services and Public Protection in writing of the new address and, if the new address is in another state, such person shall also register with an appropriate agency in that state, provided that state has a registration requirement for such offenders. If any person who is subject to registration under this section establishes or changes an electronic mail address, instant message address or other similar Internet communication identifier, such person shall, without undue delay, notify the Commissioner of Emergency Services and Public Protection in writing of such identifier. If any person who is subject to registration under this section is employed at, carries on a vocation at or is a student at a trade or professional institution or institution of higher learning in this state, such person shall, without undue delay, notify the Commissioner of Emergency Services and Public Protection of such status and of any change in such status. If any person who is subject to registration under this section is employed in another state, carries on a vocation in another state or is a student in another state, such person shall, without undue delay, notify the Commissioner of Emergency Services and Public Protection and shall also register with an appropriate agency in that state provided that state has a registration requirement for such offenders. During such period of registration, each registrant shall complete and return forms mailed to such registrant to verify such registrant's residence address and shall submit to the retaking of a photographic image upon request of the Commissioner of Emergency Services and Public Protection.

(b) Notwithstanding the provisions of subsection (a) of this section, the court may exempt any person who has been convicted or found not guilty by reason of mental disease or defect of a violation of subdivision (1) of subsection (a) of section 53a-71 from the registration requirements of this section if the court finds that such person was under nineteen years of age at the time of the offense and that registration is not required for public safety.

(c) Notwithstanding the provisions of subsection (a) of this section, the court may exempt any person who has been convicted or found not guilty by reason of mental disease or defect of a violation of subdivision (2) of subsection (a) of section 53a-73a or subdivision (2) of subsection (a) of section 53a-189a, from the registration requirements of this section if the court finds that registration is not required for public safety.

(d) Any person who files an application with the court to be exempted from the registration requirements of this section pursuant to subsection (b) or (c) of this section shall, pursuant to subsection (b) of section 54-227, notify the Office of Victim Services and the Victim Services Unit within the Department of Correction of the filing of such application. The Office of Victim Services or the Victim Services Unit within the
Department of Correction, or both, shall, pursuant to section 54-230 or 54-230a, notify any victim who has requested notification of the filing of such application. Prior to granting or denying such application, the court shall consider any information or statement provided by the victim.

(e) Any person who violates the provisions of subsection (a) of this section shall be guilty of a class D felony, except that, if such person violates the provisions of this section by failing to notify the Commissioner of Emergency Services and Public Protection without undue delay of a change of name, address or status or another reportable event, such person shall be subject to such penalty if such failure continues for five business days.

**CONN. GEN. STAT. § 53a-73a (2014). Sexual assault in the fourth degree: Class A misdemeanor or class D felony**

(a) A person is guilty of sexual assault in the fourth degree when: (1) Such person subjects another person to sexual contact who is (A) under thirteen years of age and the actor is more than two years older than such other person, or (B) thirteen years of age or older but under fifteen years of age and the actor is more than three years older than such other person, or (C) mentally incapacitated or impaired because of mental disability or disease to the extent that such other person is unable to consent to such sexual contact, or (D) physically helpless, or (E) less than eighteen years old and the actor is such other person's guardian or otherwise responsible for the general supervision of such other person's welfare, or (F) in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over such other person; or (2) such person subjects another person to sexual contact without such other person's consent; or (3) such person engages in sexual contact with an animal or dead body; or (4) such person is a psychotherapist and subjects another person to sexual contact who is (A) a patient of the actor and the sexual contact occurs during the psychotherapy session, or (B) a patient or former patient of the actor and such patient or former patient is emotionally dependent upon the actor, or (C) a patient or former patient of the actor and the sexual contact occurs by means of therapeutic deception; or (5) such person subjects another person to sexual contact and accomplishes the sexual contact by means of false representation that the sexual contact is for a bona fide medical purpose by a health care professional; or (6) such person is a school employee and subjects another person to sexual contact who is a student enrolled in a school in which the actor works or a school under the jurisdiction of the local or regional board of education which employs the actor; or (7) such person is a coach in an athletic activity or a person who provides intensive, ongoing instruction and subjects another person to sexual contact who is a recipient of coaching or instruction from the actor and (A) is a secondary school student and receives such coaching or instruction in a secondary school setting, or (B) is under eighteen years of age; or (8) such person subjects another person to sexual contact and (A) the actor is twenty years of age or older and stands in a position of power, authority or supervision over such other person by virtue of the actor's professional, legal, occupational or volunteer status and such other person's participation in a program or activity, and (B) such other person is under eighteen years of age; or (9) such person subjects another person to sexual contact who is placed or receiving services under the direction of the
Commissioner of Developmental Services in any public or private facility or program and the actor has supervisory or disciplinary authority over such other person.

(b) Sexual assault in the fourth degree is a class A misdemeanor or, if the victim of the offense is under sixteen years of age, a class D felony.

DELAWARE

DEL. CODE ANN. tit. 11, § 4121 (2014). Community notification of sex offenders on probation, parole, conditional release or release from confinement

(a) When used in this subchapter:

(1) “Community notification” means notice which is provided by any method devised specifically to notify members of the public who are likely to encounter a sex offender. Methods of notification may include, but not be limited to, door-to-door appearances, mail, electronic mail, telephone, fax, newspapers or notices, or any combination thereof, to schools, licensed day care facilities, public libraries, any other organization, company or individual upon request, and other accessible public facilities within the community. “Community notification” also includes notice provided through an alert system added to the Delaware State Police Sex Offender Registry Internet Web Site that allows governmental agencies, public officials (such as county or municipal Executives, Mayors, Commissioners, or Council Members), and members of the general public to register to receive updates by geographical region whenever a sex offender is added to, deleted from, or has any change in status on the registry created pursuant to § 4120 of this title. Community notification shall include where possible all information required to be included in the searchable records pursuant to paragraph (3) of this subsection.

(2) “Conviction” and “convicted” shall include, in addition to their ordinary meanings, adjudications of delinquency and persons who enter a plea of guilty, or are found guilty but mentally ill or not guilty by reason of insanity, as provided in § 401 of this title.

(3) “Searchable records available to the public” means records regarding every sex offender who has been convicted and who is thereafter designated to Risk Assessment Tier II or III pursuant to this section. Such records shall also include the last verified addresses for the offender, and shall identify the specific sex offense or offenses for which the offender was convicted, the date or dates of the convictions and all information required for registration pursuant to § 4120(d)(2) of this title as is practicable given the method of community notification, except that relationship to the victim shall not be a searchable record and age of victim shall be searchable only by age ranges birth to 11 years, 12 to 15 years, 16 to 17 years, and 18 and above. The records may also include other information designated for public access by the Superintendent of the Delaware State Police. Exempt from the records are the identity of the victims, the Social Security number of the offender, and arrests that did not result in conviction. The public access records shall include a warning that information should not be used to unlawfully injure,
harass, or commit a crime against any individual named in the registry or residing or working at any reported address. The warning shall note that any such action could result in civil or criminal penalties. These records shall be searchable by the name of the sex offender, by suitable geographic criteria, and by as many other required data elements as is technically feasible. These records shall be made available upon request through police agencies, public libraries, public schools and the Internet. The records shall be maintained by the Superintendent of the Delaware State Police, as set forth in § 4120 of this title, and elsewhere in this section. They shall be updated as often as practicable, but not less than every 3 months.

(4) “Sex offender” means any person who is, or has been:

a. Convicted of any of the offenses specified in § 765 through 780, § 787(b)(3), § 787(b)(4), § 1100A, §§ 1108 through 1112A, § 1335(a)(6), § 1335(a)(7), § 1352(2), § 1353(2) or § 1361(b) of this title, or of any attempt or conspiracy to commit any of the aforementioned offenses; or

b. Any juvenile who is adjudicated delinquent of any offense which would constitute any of the offenses set forth in paragraph (a)(4)a. of this section if that juvenile delinquent had been charged as an adult; or

c. Convicted of any offense specified in the laws of another state, commonwealth, territory, or other jurisdiction of the United States requiring registration in that jurisdiction, or a conviction in any foreign government, which is the same as, or equivalent to, any of the offenses set forth in paragraph (a)(4)a., (a)(4)b. or (a)(4)d. of this section; or convicted of any federal or military offense enumerated in 42 U.S.C. § 16911(5)(A)(iii) and (iv); or

d. Convicted of a violation of § 783(4) or § 783(6) or § 783A(4) or § 783A(6) of this title; or

e. Charged by complaint, petition, information or indictment with any of the offenses set forth in paragraph (a)(4)a., (a)(4)b., (a)(4)c. or (a)(4)d. of this section, and who thereafter pleads guilty to any offense included in the originally charged offense, as provided in § 206 of this title, if the person is thereafter designated as a sex offender by the sentencing judge pursuant to subsection (e) of this section; or

f. Convicted of any of the offenses set forth in paragraph (a)(4)a., (a)(4)b., (a)(4)c. or (a)(4)d. of this section, or of any offense which is the same as or equivalent to such offenses as the same existed and were defined under the laws of this State existing at the time of such conviction; or

g. Any person convicted after June 27, 1994, of a violation of § 764 of this title if the person had previously been convicted of the same offense or any other offense set forth
in this paragraph, and the previous conviction occurred within 5 years of the date of the conviction for the current offense.

(b) Upon a person's conviction or adjudication of delinquency or at the time of sentencing for any offense set forth in paragraph (a)(4)a., (a)(4)b., (a)(4)d., (a)(4)e., (a)(4)f., or (a)(4)g. of this section, the court shall inform the person that the person shall be designated as a sex offender and that a Risk Assessment Tier will be assigned to that person by the court, unless pursuant to § 4123 of this title, the Family Court has not required a juvenile adjudicated delinquent of a sex offense to register.

(c) Following the sentencing of a person convicted or adjudicated delinquent for any offense described in paragraph (a)(4)e. of this section, or following a finding by the sentencing court that the person has violated the terms of that person's own probation or parole as set forth in paragraph (a)(4)f. of this section, the sentencing court shall assign the defendant to the Risk Assessment Tier applicable for the originally charged offense, unless pursuant to § 4123 of this title, the Family Court has not required a juvenile adjudicated delinquent of a sex offense to register.

(d) Sex offenders shall be assigned to a Risk Assessment Tier as follows, unless pursuant to § 4123 of this title, the Family Court has not required a juvenile adjudicated delinquent of a sex offense to register:

(1) Risk Assessment Tier III. Any sex offender convicted or adjudicated delinquent of any of the following offenses shall be designated by the court to Risk Assessment Tier III:

a. Rape in the first degree, rape in the second degree, rape in the third degree if the offense involved a child under the age of 13 or the offense involved force or threat of physical violence, or was without consent, unlawful sexual contact in the first degree, unlawful sexual intercourse in the first or second degree, unlawful sexual penetration in the first or second degree, unlawful sexual contact in the first degree, sexual abuse of a child by a person in a position of trust, authority or supervision in the first degree, sexual abuse of a child by a person in a position of trust, authority or supervision in the second degree if the offense involved a child under the age of 13, continuous sexual abuse of a child, sexual exploitation of a child, trafficking in persons where the victim is under the age of 13 or the offense involved sexual servitude of a minor through force or threat of force, sexual extortion if the offense involved force or threat of force, dangerous crime against a child if the offense involved force or the threat of force; or

b. Kidnapping in the first or second degree, if the purpose of the crime was to facilitate the commission of any offense set forth in paragraph (a)(4) or (a)(6) [sic] of this section, where the defendant is not a parent, step parent or guardian of the victim; or
c. Federal offenses found at 18 U.S.C. § 2241, § 2242, § 2244, or any comparable military offense specified by the Secretary of Defense under § 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. § 951 note); or

d. Any attempt or conspiracy to commit any of the offenses set forth in paragraph (d)(1)a. or (d)(1)b. of this section; or

e. Any offense specified in the laws of another state, any territory of the United States or any foreign government, which is the same as, or equivalent to, any offense set forth in paragraphs (d)(1)a. through (d)(1)e. of this section; or

f. Upon motion of the State, any person convicted of any felony set forth in §§ 761 through 777 or §§ 1108 through 1112A of this title which is not otherwise set forth in paragraphs (d)(1)a. through (d)(1)c. of this section, if the victim of the offense had not yet reached that victim’s sixteenth birthday at the time of the crime, and if the sentencing court determines by a preponderance of the evidence, after it weighs all relevant evidence which bears upon the particular facts and circumstances of the offense and the character and propensities of the offender, that public safety will be enhanced by assigning the offender to Risk Assessment Tier III.

(2) Risk Assessment Tier II. Any sex offender convicted or adjudicated delinquent of any of the following offenses shall be designated by the court to Risk Assessment Tier II:

a. Rape in the third degree unless the offense involved a child under 12 or the offense involved force or the threat of physical violence, rape in the fourth degree, sexual abuse of a child by a person in a position of trust, authority or supervision in the second degree unless the offense involved a child under 12, unlawful sexual contact in the second degree, unlawful sexual intercourse in the third degree, unlawful sexual penetration in the third degree, sexual extortion unless the offense involved force or the threat of force, bestiality, dangerous crime against a child unless the offense involved force or the threat of force, unlawfully dealing in child pornography, possession of child pornography, providing obscene materials to a person under the age of 18, sexual solicitation of a child, trafficking in persons where the offense involved sexual servitude of a minor aged 13 to 17 years old unless the offense involved force or threat of force, promoting prostitution in the second degree, promoting prostitution in the first degree; or

b. Federal offenses found at 18 U.S.C. § 2243, § 2244, § 2251, § 2251A, § 2252, § 2252A, § 2260, § 2421, § 2422(b), § 2423(a); or

c. Any comparable military offense specified by the Secretary of Defense under § 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. § 951 note); or

d. Any attempt or conspiracy to commit any of the offenses set forth in paragraph (d)(2)a. of this section; or
e. Any offense specified in the laws of another state, the United States, any territory of
the United States or any foreign government, which is the same as, or equivalent to, any
of the offenses set forth in paragraph (d)(2)a. and b. of this section; or

f. Upon motion of the State, any person convicted of any offense set forth in §§ 761
through 767 or §§ 1108 through 1111 or § 1321(5) or § 1352(2) or § 1353(2) of this title
which is not otherwise specified in this paragraph, or in paragraph (d)(1) of this section,
if the sentencing court determines by a preponderance of the evidence after it weighs all
relevant evidence which bears upon the particular facts and circumstances or details of
the commission of the offense and the character and propensities of the offender, that
public safety will be enhanced by assigning the offender to Risk Assessment Tier II; or

g. Any person described in paragraph (a)(4)f. of this section.

(3) Risk Assessment Tier I. Any sex offender not otherwise designated to Risk
Assessment Tier II or III in accord with paragraphs (d)(1) and (2) of this section shall be
designated by the court to Risk Assessment Tier I. Moreover, offenders convicted of the
following federal offenses shall register under Tier I: 18 U.S.C. § 1591; § 1801; §
2252(CP) [sic]; § 2252B; § 2252C; § 2422(a); § 2423(b), (c); § 2424; § 2425; or any
comparable military offense specified by the Secretary of Defense under §

(4) Notwithstanding any provision of this section to the contrary, any sex offender who
has previously been convicted of any offense set forth in paragraph (1) or paragraph (2)
of this subsection and who is thereafter convicted of any second or subsequent offense set
forth in paragraph (1) or paragraph (2) of this subsection shall be designated to Risk
Assessment Tier III.

(5) Notwithstanding any provision in this section to the contrary, any sex offender who
has previously been convicted of any offense set forth in paragraph (d)(3) of this section
and who is thereafter convicted of an offense which would otherwise result in a
designation to Risk Assessment Tier I shall be designated to Risk Assessment Tier II if
the conviction for the subsequent offense occurred within 5 years of the previous
conviction.

(6) Notwithstanding any provision in this section or in § 4120 of this title to the contrary,
any person who would otherwise be designated as a sex offender pursuant to this section
and to § 4120 of this title may petition the sentencing court for relief from such
designation, and from all obligations imposed by this section and § 4120 of this title if:

a. The Tier II or Tier III offense for which the person was convicted was a misdemeanor
and the victim was not a child under 13 years of age; and

b. The person has not previously been convicted of a violent felony, or any other offense
set forth in paragraph (a)(4) of this section, or of any offense specified in the laws of
another state, the United States or any territory of the United States, or any offense in a foreign jurisdiction which is the same as, or equivalent to, such offenses; and

c. The sentencing court determines by a preponderance of the evidence that such person is not likely to pose a threat to public safety if released from the obligations imposed by this section, and by § 4120 of this title.

Notwithstanding anything in this paragraph to the contrary, no person designated as a Tier II or Tier III sex offender shall be afforded relief from designation as a sex offender if the victim of any of the offenses for which the person was convicted were less than 12 years old at the time of the crime, unless the person was also less than 18 years old at the time of the crime in which case the prohibition set forth in this sentence shall not apply. Any person seeking relief from designation as a sex offender under this paragraph shall file a petition with the sentencing court prior to sentencing requesting such relief. The petition shall be granted or denied by the sentencing court after it weighs all relevant evidence which bears upon the particular facts and circumstances of the offense, and the character and propensities of the offender.

(7) In any case in which the State seeks to have the offender designated to a Risk Assessment Tier higher than the presumptive tier, the motion required by this subsection shall be filed by the State before sentencing, provided that such a motion shall be unnecessary if any written plea agreement relating to the conviction clearly informs the defendant of the State's intention to request a higher Tier designation.

(e)(1) Any person designated as a sex offender who is required to register pursuant to this section shall comply with the registration provisions of § 4120 of this title as follows:

a. For life, if the sex offender is designated to Risk Assessment Tier III, or if the person is designated to Risk Assessment Tier I or II, and has previously been convicted of any of the offenses specified in paragraph (a)(4)a., (a)(4)c. or (a)(4)d. of this section;

b. For 25 years following the sex offender's release from Level V custody, or for 25 years following the effective date of any sentence to be served at Level IV or below, if the person is designated to Risk Assessment Tier II, and is not otherwise required to register for life pursuant to this subsection, except that any time spent at any subsequent period of Level V custody shall not be counted against such 25-year period; or

c. For 15 years following the sex offender's release from Level V custody, or for 15 years following the effective date of any sentence to be served at Level IV or below, if the person is designated to Risk Assessment Tier I, and is not otherwise required to register for life pursuant to this subsection, except that any time spent at any subsequent period of Level V custody shall not be counted against such 15-year period.

(2) Notwithstanding any provision in this section to the contrary:
a. Any sex offender designated to Risk Assessment Tier III may petition to the Superior Court for redesignation to Risk Assessment Tier II if 25 years have elapsed from the last day of any Level IV or V sentence imposed at the time of the original conviction, or from the date of sentencing if no Level IV or V sentence was imposed, and the offender has successfully completed an appropriate sex offender treatment program certified by the State, has not been convicted of any crime (other than a motor vehicle offense) during such time. If the offender has been convicted of any subsequent offense (other than a motor vehicle offense) or has been otherwise found to have violated the terms of any probation, parole or conditional release relating to the sentence originally imposed following the conviction for the underlying sex offense, no petition or redesignation shall be permitted until 25 years have elapsed from the date of the subsequent conviction or finding of a violation, during which time no additional convictions or findings of violation can have occurred. Notwithstanding any provision of this section or § 4120 of this title to the contrary, any sex offender who is redesignated from Risk Assessment Tier III to Risk Assessment Tier II shall continue to comply with the registration and re-registration requirements imposed by § 4120(g) upon Tier III offenders for life. Any redesignation from Risk Assessment Tier III to Risk Assessment Tier II shall not release the offender from the requirement of lifetime registration or address verification every 90 days pursuant to § 4120(g)(1)(a) of this title and paragraph (e)(1) of this section.

b. Any sex offender designated to Risk Assessment Tier II may petition the Superior Court for redesignation to Risk Assessment Tier I if the victim was not a child under 18 years of age and 10 years have elapsed from the last day of any Level IV or V sentence imposed at the time of the original conviction, or from the date of sentencing if no Level IV or V sentence was imposed, and the offender has successfully completed an appropriate sex offender treatment program certified by the State and has not been convicted of any crime (other than a motor vehicle offense) during such time. If the offender has been convicted of any subsequent offense (other than a motor vehicle offense) or has been otherwise found to have violated the terms of any probation, parole or conditional release relating to the sentence originally imposed following the conviction for the underlying sex offense, no petition or redesignation shall be permitted until 10 years have elapsed from the date of the subsequent conviction or finding of a violation, during which time no additional convictions or findings of violation can have occurred.

c. Any sex offender designated to Risk Assessment Tier I may petition the Superior Court for relief from designation as a sex offender, and from all obligations imposed pursuant to this section and § 4120 of this title, if 10 years have elapsed from the last day of any Level IV or V sentence imposed at the time of the original conviction, or from the date of sentencing if no Level IV or V sentence was imposed, and the offender has successfully completed an appropriate sex offender treatment program certified by the State and has not been convicted of any crime (other than a motor vehicle offense) during such time. If the offender has been convicted of any subsequent offense (other than a motor vehicle offense) or has been otherwise found to have violated the terms of any probation, parole or conditional release relating to the sentence originally imposed following the conviction for the underlying sex offense, no petition or redesignation shall
be permitted until 10 years have elapsed from the date of the subsequent conviction or finding of violation, during which time no additional convictions or findings of violation can have occurred.

d. The Superior Court shall not grant a petition for redesignation or relief filed pursuant to this subsection unless:

1. The sex offender establishes, by a preponderance of the evidence, that the public safety no longer requires preservation of the original designation; and

2. The Court provides the Attorney General with notice of the petition and with a reasonable period of time to be heard upon the matter.

e. When considering a petition for redesignation, the Court shall weigh all the relevant evidence which bears upon the character and propensities of the offender, and the facts and circumstances of that offender’s prior offenses. The Court may in its discretion hold a hearing on the petition. If the Court grants the petition, it shall promptly notify the Sex Offender registry.

(f) Whenever a sex offender is released, discharged or paroled from any Level IV or V or other custodial institution after that sex offender has completed a Level IV or V sentence imposed following a conviction for any offense specified in paragraph (a)(4) of this section, the agency having custody over the sex offender at the time of the release, discharge or parole shall provide written notice of the release, discharge or parole to the Superintendent of the Delaware State Police, to the chief law-enforcement officer having jurisdiction over the offender's intended residence, to the original arresting law-enforcement agency and to the Attorney General. Such notice shall be provided not more than 90 days, and not less than 45 days, prior to the offender's release, discharge or parole. The notice shall include, but is not limited to, the sex offender's legal name, and any previously used names, aliases or nicknames, and the age, gender, race and physical characteristics of the sex offender, a photograph of the offender taken within 90 days of that offender’s release, along with any other known identifying factors, the person's offense history and that person’s place of anticipated future residence, school and/or employment. The notice shall also include a statement of any relevant conditions of release, discharge, parole or probation applicable to the offender. Additionally, the form shall identify or describe that offender’s relationship to the victim. Notwithstanding any law, rule or regulation to the contrary, no person shall be released from any Level V facility unless and until that person has made a good faith effort to cooperate with the appropriate authorities pursuant to this section except that no such person shall be held at Level V pursuant to this subsection beyond the maximum period of such custody originally ordered by the sentencing court. The notice required by this subsection shall be required whenever the offender is released from any Level V facility to any Level IV facility, and again when such offender is released from the Level IV facility.
(g) Whenever a sex offender is sentenced to a period of probation at Level III or below, or is required to pay a fine in any amount following a conviction for any offense specified in paragraph (a)(4) of this section, the sentencing court shall provide the notice specified in subsection (f) of this section to the entities specified therein. This subsection shall not apply whenever a sex offender is sentenced to serve a portion of that sex offender’s sentence at Level IV or Level V, unless such sentence is suspended in its entirety. Notice pursuant to this subsection shall be provided within 3 business days of sentencing.

(h) Upon receipt of the notice specified in subsections (f) and (g) of this section, the Attorney General shall use any reasonable means to notify the victim or victims of the crime or crimes for which the sex offender was convicted of the release or sentencing unless the victim has requested not to be notified. Such notice may include any information provided pursuant to subsections (f) and (g) of this section.

(i) When a sex offender assigned to Risk Assessment Tier II or III provides registration information as provided by § 4120 of this title, the chief law-enforcement officer of the local jurisdiction where the offender intends to reside, or the Superintendent of the State Police if no local police agency exists, shall provide public notification as follows:

(1) For sex offenders assigned to Risk Assessment Tier II, notification shall consist of searchable records available to the public, and may also consist of community notification pursuant to paragraph (l)(3) of this section; or

(2) For sex offenders assigned to Risk Assessment Tier III, notification shall consist of searchable records available to the public as well as community notification.

(3) For sex offenders assigned to Tier II or III, notice shall be given to any school the offender plans to attend and/or to the chief law-enforcement officer of the local jurisdiction where the offender plans to study or be employed.

(j) A complete register of all persons convicted of any of the offenses specified in paragraph (a)(4) of this section, who are thereafter designated sex offenders pursuant to this section, shall be created, maintained and routinely updated and audited by the Delaware State Police. The register shall be immediately accessible by the use of DELJIS computer by all law-enforcement agencies. The register shall be searchable by the name of the sex offender and by suitable geographic criteria.

(k) Notwithstanding any law, rule or regulation to the contrary, if after the exercise of due diligence by the sex offender, the offender is unable to secure an anticipated place of future residence, for the purposes of this subsection the offender shall be designated as “homeless.” “Homeless persons” must report their habitual locale, park or locations during the day and night, public buildings, restaurants, and libraries frequented. The term “homeless” shall also include any person who anticipates a future place of residence in or at any temporary homeless shelter or other similar place of temporary residence for 7 or more days. The fact that a sex offender has secured an anticipated place of future...
residence at a homeless shelter or other similar place of temporary residence shall be reported by the court or agency having custody of the offender, along with the name and address of the shelter or residence as required by subsections (h) and (i) of this section, but such information shall not be included in any public notification required or permitted by subsection (i) or subsection (j) of this section, except that such information shall be provided to the agency, organization or entity having supervisory or operational authority over such shelter or similar place of temporary residence. Notwithstanding any law, rule or regulation to the contrary, any sex offender who is designated as “homeless” pursuant to this section shall verify the sex offender’s own registration information as follows:

(1) A Tier III sex offender designated as “homeless” shall appear in person at locations designated by the Superintendent of the Delaware State Police to verify all registration information every week following the date of completion of the initial registration form;

(2) A Tier II sex offender designated as “homeless” shall appear in person at locations designated by the Superintendent of the Delaware State Police to verify all registration information every 30 days following the date of completion of the initial registration form;

(3) A Tier I sex offender designated as “homeless” shall appear in person at locations designated by the Superintendent of the Delaware State Police to verify all registration information every 90 days following the date of completion of the initial registration form.

(l)(1) All elected public officials, public employees and public agencies are immune from civil liability for any discretionary decision to release relevant information unless it is shown that the official, employee or agency acted with gross negligence or in bad faith. The immunity provided under this section applies to the release of relevant information to other employees, officials or public agencies as well as to the general public.

(2) There shall be no civil legal remedies available as a cause of action against any public official, public employee or public agency for failing to release information as authorized in this section.

(3) Any information contained in searchable records available to the public may be used in any manner by any person or by any public, governmental or private entity, organization or official, or any agent thereof, for any purpose consistent with the enhancement of public safety.

(m) Notwithstanding any law, rule or regulation to the contrary, upon a finding of probable cause that a sex offender has failed to comply with any provision of § 4120 of this title, the sex offender may be designated to Risk Assessment Tier III until such time as the agency or court to which the sex offender is obligated to provide notice determines that the sex offender is again in compliance with § 4120 of this title. In such cases, the agency or court which investigates the alleged noncompliance shall, upon a finding of
probable cause that a violation has occurred, immediately notify the Superintendent of
the Delaware State Police that a violation of the provisions of § 4120 of this title has
occurred and that, as a result, the sex offender is redesignated to Risk Assessment Tier III
until such time as the offender complies fully with § 4120 of this title. The agency or
court shall also immediately notify the Superintendent of the Delaware State Police when
the sex offender is again in compliance with § 4120 of this title, at which time the sex
offender will be returned to that sex offender’s originally designated Risk Assessment
Tier.

(n) Notwithstanding any provision of this section to the contrary, any sex offender
convicted of any offense specified in paragraph (a)(4)c. of this section shall be designated
to a Risk Assessment Tier by the court. The designation shall be in accord with the
provisions of subsection (d) of this section.

(o) When a sex offender is designated to a Risk Assessment Tier pursuant to this section,
that fact shall be made a part of any written or electronic sentencing order produced by
the sentencing court, and shall be entered into the DELJIS system by the sentencing
court. The agency responsible for registering the offender shall have the information
entered into the DELJIS system for any offender designated pursuant to subsection (n) of
this section.

(p) Any agency responsible for complying with this section shall be permitted to
promulgate reasonable regulations, policies and procedures to implement this statute.
Such rules, regulations, policies and procedures shall be effective and enforceable upon
their adoption by the agency, and shall not be subject to Chapter 11 or Chapter 101 of
Title 29.

(q) This section shall be effective notwithstanding any law, rule or regulation to the
contrary.

(r) Any sex offender who knowingly or recklessly fails to comply with any provision of
this section shall be guilty of a class G felony.

(s) Subject to § 4122 of this title, this section shall apply to all persons convicted.

(t)(1) If a school, school district or licensed child care provider receives community
notification, the community notification must be placed in a binder and kept in the
administrative office available to view upon request by adults and juveniles with adult
supervision. No community notification may be removed from the binder unless the
school or child care provider is notified of an address change informing them that the
offender has moved from the community. The school, school district or licensed child
care provider shall notify parents and staff frequently through their regular
communications of the availability and location of the community notification binder.
(2) The physical posting of community notifications in public school buildings and licensed child care facilities is prohibited.

(3) Schools shall ensure that students are taught personal safety and awareness skills in an age-appropriate manner consistent with the Delaware Health Education Curriculum Framework.

(u) Notwithstanding any provision of this section or title to the contrary, any Tier III sex offender being monitored at Level IV, III, II or I, shall as a condition of their probation, wear a GPS locator ankle bracelet paid for by the probationer. The obligation to pay for the GPS locator ankle bracelet shall not apply to any juvenile who is adjudicated delinquent and designated a Tier III sex offender pursuant to this title.

(v) If any provision of this subchapter or any amendment hereto, or the application thereof to any person, thing or circumstances is held invalid, such invalidity shall not affect the provisions or application of this subchapter or such amendments that can be given effect without the invalid provisions or application, and to this end the provisions of this subchapter and such amendments are declared to be severable.

DEL. CODE ANN. tit. 11, § 775 (2014). Bestiality
A person is guilty of bestiality when the person intentionally engages in any sexual act involving sexual contact, penetration or intercourse with the genitalia of an animal or intentionally causes another person to engage in any such sexual act with an animal for purposes of sexual gratification.

Bestiality is a class D felony.

DEL. CODE ANN. tit. 11, § 1100 (2014). Definitions relating to children
When used in this subchapter:

(1) “Abuse” means causing any physical injury to a child through unjustified force as defined in § 468(1)(c) of this title, torture, negligent treatment, sexual abuse, exploitation, maltreatment, mistreatment or any means other than accident.

(2) “Child” shall mean any individual less than 18 years of age. For the purposes of §§ 1108, 1109, 1110, 1111 and 1112A of this title, “child” shall also mean any individual who is intended by the defendant to appear to be 14 years of age or less.

(3) “Delinquent child” means a child who commits an act which if committed by an adult would constitute a crime.

(4) “Neglect” or “neglected child” is as defined in § 901 of Title 10.

(5) “Physical injury” to a child shall mean any impairment of physical condition or
(6) “Previous pattern” of abuse and/or neglect shall mean 2 or more incidents of conduct:

a. That constitute an act of abuse and/or neglect; and

b. Are not so closely related to each other or connected in point of time and place that they constitute a single event.

A conviction is not required for an act of abuse or neglect to be used in prosecution of a matter under this subchapter, including an act used as proof of a previous pattern as defined in this paragraph. A conviction for any act of abuse or neglect, including 1 which may be relied upon to establish a previous pattern of abuse and/or neglect, does not preclude prosecution under this subchapter.

(7) “Prohibited sexual act” shall include:

a. Sexual intercourse;

b. Anal intercourse;

c. Masturbation;

d. Bestiality;

e. Sadism;

f. Masochism;

g. Fellatio;

h. Cunnilingus;

i. Nudity, if such nudity is to be depicted for the purpose of the sexual stimulation or the sexual gratification of any individual who may view such depiction;

j. Sexual contact;

k. Lascivious exhibition of the genitals or pubic area of any child;

l. Any other act which is intended to be a depiction or simulation of any act described in this paragraph.

(8) “Serious physical injury” shall mean physical injury which creates a risk of death, or which causes disfigurement, impairment of health or loss or impairment of the function of any bodily organ or limb, or which causes the unlawful termination of a pregnancy without the consent of the pregnant female.
(9) “Significant intellectual or developmental disabilities” means impairment in the intellectual or physical capacity of a child as evidenced by a discernible inability to function within the normal range of performance and behavior with regard to age, development, and environment.

(10) “Truancy” or “truant” shall refer to a pupil enrolled in grades kindergarten through 12 of a public school who has been absent from school for more than 3 school days during a school year without a valid excuse as defined in regulations of the district board of education of the school district in which the pupil is or should be enrolled pursuant to the provisions of Title 14, or where a student is enrolled in a charter school, by the board of directors of the charter school.

(11) “Visual depiction” includes, but is not limited to:

a. Any image which is recorded, stored or contained on or by developed or undeveloped photographic film, motion picture film or videotape; or

b. Data which is stored or transmitted on or by any computer, or on or by any digital storage medium or by any other electronic means which is capable of conversion into a visual image; or

c. Any picture, or computer-generated image or picture, or any other image whether made, stored or produced by electronic, digital, mechanical or other means.

DEL. CODE ANN. tit. 11, § 1108 (2014). Sexual exploitation of a child; class B felony
A person is guilty of sexual exploitation of a child when:

(1) The person knowingly, photographs or films a child engaging in a prohibited sexual act or in the simulation of such an act, or otherwise knowingly creates a visual depiction of a child engaging in a prohibited sexual act or in the simulation of such an act; or

(2) The person knowingly, finances or produces any motion picture, video or other visual depiction of a child engaging in a prohibited sexual act or in the simulation of such an act; or

(3) The person knowingly publishes or makes available for public distribution or sale by any means, including but not limited to computer, any book, magazine, periodical, pamphlet, photograph, Internet site or web page which depicts a child engaging in a prohibited sexual act or in the simulation of such an act, or knowingly publishes or makes available for public distribution or sale by any means, including computer, any other visual depiction of a child engaging in a prohibited sexual act or in the simulation of such an act; or
(4) The person permits, causes, promotes, facilitates, finances, produces or otherwise advances an exhibition, display or performances of a child engaging in a prohibited sexual act or the simulation of such an act.

Sexual exploitation of a child is a class B felony.

**DEL. CODE ANN. tit. 11, § 1109 (2014). Dealing in child pornography; class B felony**

A person is guilty of dealing in child pornography when:

(1) The person knowingly ships, transmits, mails or transports by any means, including by computer or any other electronic or digital method, any “book, magazine, periodical, pamphlet, video or film depicting a child engaging in a prohibited sexual act or in the simulation of such an act, or knowingly ships, transmits, mails or transports by any means, including by computer or any other electronic or digital method, any other visual depiction of a child engaging in a prohibited sexual act or in the simulation of such an act;

(2) The person knowingly receives for the purpose of selling or sells any magazine, photograph or film which depicts a child engaging in a prohibited sexual act or in the simulation of such an act, or knowingly receives for the purpose of selling or sells any other visual depiction of a child engaging in a prohibited sexual act or in the simulation of such an act;

(3) The person knowingly distributes or disseminates, by means of computer or any other electronic or digital method, or by shows or viewings, any motion picture, video or other visual depiction of a child engaging in a prohibited sexual act or the simulation of such an act. The possession or showing of such motion pictures shall create a rebuttable presumption of ownership thereof for the purposes of distribution or dissemination;

(4) The person, intentionally compiles, enters, accesses, transmits, receives, exchanges, disseminates, stores, makes, prints, reproduces or otherwise possesses any photograph, image, file, data or other visual depiction of a child engaging in a prohibited sexual act or in the simulation of such an act. For the purposes of this subsection, conduct occurring outside the State shall be sufficient to constitute this offense if such conduct is within the terms of § 204 of this title, or if such photograph, image, file or data was compiled, entered, accessed, transmitted, received, exchanged, disseminated, stored, made, printed, reproduced or otherwise possessed by, through or with any computer located within Delaware and the person was aware of circumstances which rendered the presence of such computer within Delaware a reasonable possibility; or

(5) The person knowingly advertises, promotes, presents, describes, transmits or distributes any visual depiction, exhibition, display or performance with intent to create or convey the impression that such visual depiction, exhibition, display or performance is or contains a depiction of a child engaging in a prohibited sexual act or in the simulation of such an act.
of such an act.

Unlawfully dealing in child pornography is a class B felony.

DEL. CODE ANN. tit. 11, § 1111 (2014). Possession of child pornography; class F felony
A person is guilty of possession of child pornography when:

(1) the person knowingly possesses any visual depiction of a child engaging in a prohibited sexual act or in the simulation of such an act; or

(2) the person knowingly possesses any visual depiction which has been created, adapted, modified or edited so as to appear that a child is engaging in a prohibited sexual act or in the simulation of such an act.

Possession of child pornography is a class F felony.

DEL. CODE ANN. tit. 11, § 1112A (2014). Sexual solicitation of a child; class C felony
(a) A person is guilty of sexual solicitation of a child if the person, being 18 years of age or older, intentionally or knowingly:

(1) Solicits, requests, commands, importunes or otherwise attempts to cause any child to engage in a prohibited sexual act; or

(2) Uses a computer, cellular telephone or other electronic device to communicate with another person, including a child, to solicit, request, command, importune, entice, encourage or otherwise attempt to cause a child to engage in a prohibited sexual act.

(b) For purposes of this section, “child” means:

(1) An individual who is younger than 18 years of age; or

(2) An individual who represents himself or herself to be younger than 18 years of age; or

(3) An individual whom the person committing the offense believes to be younger than 18 years of age.

(c) For the purposes of this section, conduct occurring outside the State shall be sufficient to constitute this offense if such conduct is within the terms of § 204 of this title, or in the instance of any manner of electronic communication or other communication that does not occur in person, the offense is committed in this state if such communication either originated in this state or is received in this state.
(d) For the purposes of this section, and notwithstanding any section of this title to the contrary, it is a defense to prosecution that at the time the conduct described in subsection (a) occurred the person was married to the child.

(e) For the purposes of this section, it is not a defense to prosecution that at the time the conduct described in subsection (a) occurred:

(1) The solicited prohibited sexual act did not occur; or

(2) The person was engaged in a fantasy or role playing at the time of the commission of the offense.

(f) Nothing in this section shall preclude a separate charge, conviction and sentence for any other crime set forth in this title, or in the Delaware Code.

(g) Sexual solicitation of a child is a Class C felony, except as provided in subsection (h).

(h) Sexual solicitation of a child is a Class B felony if the defendant meets in person or attempts to meet in person with the child for the purpose of engaging in a prohibited sexual act.

**DISTRICT OF COLUMBIA**

**D.C. CODE § 22-4001 (2014). Definitions.**

For the purposes of this chapter, the term:

(1) “Agency” means the Court Services and Offender Supervision Agency for the District of Columbia, established pursuant to § 24-133 or, until that agency assumes its duties, the Trustee appointed under § 24-132(a).

(2) “Attends school” means being enrolled on a full-time or part-time basis in any type of public or private educational institution.

(3)(A) “Committed a registration offense” means:

(i) Was convicted or found not guilty by reason of insanity of a registration offense; or

(ii) Was determined to be a sexual psychopath under §§ 22-3803 through 22-3811.

(B) A person is not deemed to have committed a registration offense for purposes of this chapter, if the disposition described in subparagraph (A) of this paragraph has been reversed or vacated, or if the person has been pardoned for the offense on the ground of innocence.
(4) “Court” means the Superior Court of the District of Columbia.

(5) “In custody or under supervision” means:

(A) Detained, incarcerated, confined, hospitalized, civilly committed, on probation, on parole, on supervised release, or on conditional release because of:

(i) Being convicted of or found not guilty by reason of insanity of an offense under the District of Columbia Official Code; or

(ii) A sexual psychopath determination under §§ 22-3803 through 22-3811; or

(B) In any comparable status under the jurisdiction of the District of Columbia pursuant to subchapter II of Chapter 4 of Title 24, Chapter 10 of Title 24, or any other transfer agreement between the District of Columbia and another jurisdiction.

(6) “Lifetime registration offense” means:

(A) First or second degree sexual abuse as proscribed by § 22-3002 or § 22-3003; forcible rape as this offense was proscribed until May 23, 1995 by § 22-4801; or sodomy as this offense was proscribed until May 23, 1995 by § 22-3802(a) where the offense was forcible;

(B) First degree child sexual abuse as proscribed by § 22-3008 committed against a person under the age of 12 years, carnal knowledge or statutory rape as these offenses were proscribed until May 23, 1995 by § 22-4801 committed against a person under the age of 12 years, or sodomy as this offense was proscribed until May 23, 1995 by § 22-3802(a) committed against a person under the age of 12 years;

(C) Murder or manslaughter as proscribed by § 22-2101 committed before, during or after engaging in or attempting to engage in a sexual act or sexual contact, or rape as this offense was proscribed until May 23, 1995 by § 22-4801;

(D) An attempt or conspiracy to commit an offense as proscribed by § 22-1803 or § 22-1805a or § 22-3018 or assault with intent to commit rape, carnal knowledge, statutory rape, first degree sexual abuse, second degree sexual abuse, or child sexual abuse, as proscribed by § 22-401, which involved an attempt, conspiracy or assault with intent to commit an offense described in subparagraphs (A) through (C) of this paragraph; and

(E) An offense under the law of any state, under federal law, or under the law of any other jurisdiction, which involved conduct that would constitute an offense described in subparagraphs (A) through (D) of this paragraph if committed in the District of Columbia or prosecuted under the District of Columbia Official Code, or conduct which is substantially similar to that described in subparagraphs (A) through (D) of this paragraph.
(7) “Minor” means a person under 18 years of age.

(8) “Registration offense” means:

(A) An offense under Chapter 30 of this title;

(B) Forcible rape, carnal knowledge or statutory rape as these offenses were proscribed until May 23, 1995 by § 22-4801; indecent acts with children as this offense was proscribed until May 23, 1995 by § 22-3801(a); enticing a child as this offense was proscribed until May 23, 1995 by § 22-3801(b); or sodomy as this offense was proscribed until May 23, 1995 by § 22-3802(a) where the offense was forcible or committed against a minor;

(C) Any of the following offenses where the victim is a minor: acts proscribed by § 22-1312 (lewd, indecent, or obscene acts), acts proscribed by § 22-2201 (obscenity), acts proscribed by § 22-3102 (sexual performances using minors), acts proscribed by § 22-1901 (incest), acts proscribed by § 22-2001 (kidnapping), and acts proscribed by §§ 22-2701, 22-2703, 22-2704, 22-2705 to 22-2712, 22-2713 to 22-2720, 22-2722 and 22-2723 (prostitution; pandering);

(D) Any offense under the District of Columbia Official Code that involved a sexual act or sexual contact without consent or with a minor, assaulting or threatening another with the intent to engage in a sexual act or sexual contact or with the intent to commit rape, or causing the death of another in the course of, before, or after engaging or attempting to engage in a sexual act or sexual contact or rape;

(E) An attempt or a conspiracy to commit a crime, as proscribed by § 22-1803 or § 22-1805a which involved an attempt or conspiracy to commit an offense described in subparagraphs (A) through (D) of this paragraph, or assault with intent to commit rape, carnal knowledge, statutory rape, first degree sexual abuse, second degree sexual abuse, or child sexual abuse, as proscribed by § 22-401;

(F) Assault with intent to commit any other crime, as proscribed by § 22-403, or kidnapping or burglary, as proscribed by § 22-801 or § 22-2001 where the offense involved an intent, attempt or conspiracy to commit an offense described in subparagraphs (A) through (D) of this paragraph;

(G) An offense under the law of any state, under federal law, or under the law of any other jurisdiction, which involved conduct that would constitute an offense described in subparagraphs (A) through (F) of this paragraph if committed in the District of Columbia or prosecuted under the District of Columbia Official Code, or conduct which is substantially similar to that described in subparagraphs (A) through (F) of this paragraph; and
(H) Any other offense where the offender agrees in a plea agreement to be subject to sex offender registration requirements.

(9) “Sex offender” means a person who lives, resides, works, or attends school in the District of Columbia, and who:

(A) Committed a registration offense on or after July 11, 2000;

(B) Committed a registration offense at any time and is in custody or under supervision on or after July 11, 2000;

(C) Was required to register under the law of the District of Columbia on the day before July 11, 2000; or

(D) Committed a registration offense at any time in another jurisdiction and, within the registration period, enters the District of Columbia to live, reside, work or attend school.

(10) “Sexual act” has the meaning stated in § 22-3001(8).

(11) “Sexual contact” has the meaning stated in § 22-3001(9).

(12) “State” means a state of the United States, or any territory, commonwealth, or possession of the United States.

(13) “Works” means engaging in any type of full-time or part-time employment or occupation, whether paid or unpaid, for a period of time exceeding 14 calendar days or for an aggregate period of time exceeding 30 days during any calendar year.
(A) Actual or simulated sexual intercourse:

(i) Between the penis and the vulva, anus, or mouth;

(ii) Between the mouth and the vulva or anus; or

(iii) Between an artificial sexual organ or other object or instrument used in the manner of an artificial sexual organ and the anus or vulva;

(B) Masturbation;

(C) Sexual bestiality;

(D) Sadomasochistic sexual activity for the purpose of sexual stimulation; or

(E) Lewd exhibition of the genitals.

(6) “Sexual performance” means any performance or part thereof which includes sexual conduct by a person under 18 years of age.


(a) It shall be unlawful in the District of Columbia for a person knowingly to use a minor in a sexual performance or to promote a sexual performance by a minor.

(1) A person is guilty of the use of a minor in a sexual performance if knowing the character and content thereof, he or she employs, authorizes, or induces a person under 18 years of age to engage in a sexual performance or being the parent, legal guardian, or custodian of a minor, he or she consents to the participation by a minor in a sexual performance.

(2) A person is guilty of promoting a sexual performance by a minor when, knowing the character and content thereof, he or she produces, directs, or promotes any performance which includes sexual conduct by a person under 18 years of age.

(b) It shall be unlawful in the District of Columbia for a person, knowing the character and content thereof, to attend, transmit, or possess a sexual performance by a minor.

(c) If the sexual performance consists solely of a still or motion picture, then this section:

(1) Shall not apply to the minor or minors depicted in a still or motion picture who possess it or transmit it to another person unless at least one of the minors depicted in it does not consent to its possession or transmission; and

(2) Shall not apply to possession of a still or motion picture by a minor, or by an adult not more than 4 years older than the minor or minors depicted in it, who receives it from a
minor depicted in it unless the recipient knows that at least one of the minors depicted in the still or motion picture did not consent to its transmission.

(d) For the purposes of subsections (b) and (c) of this section, the term:

(1) “Possess,” “possession,” or “possessing” requires accessing the sexual performance if electronically received or available.

(2) “Still or motion picture” includes a photograph, motion picture, electronic or digital representation, video, or other visual depiction, however produced or reproduced.

(3) “Transmit” or “transmission” includes distribution, and can occur by any means, including electronically.”.

**FLORIDA**

**FLA. STAT. ANN. § 775.21 (2014). The Florida Sexual Predators Act (containing amendments effective October 1, 2014)**

(1) **Short title.**--This section may be cited as “The Florida Sexual Predators Act.”

(2) **Definitions.**--As used in this section, the term:

(a) “Change in enrollment or employment status” means the commencement or termination of enrollment or employment or a change in location of enrollment or employment.

(b) “Chief of police” means the chief law enforcement officer of a municipality.

(c) “Child care facility” has the same meaning as provided in s. 402.302.

(d) “Community” means any county where the sexual predator lives or otherwise establishes or maintains a temporary or permanent residence.

(e) “Conviction” means a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld. A conviction for a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere resulting in a sanction in any state of the United States or other jurisdiction. A sanction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility.

(f) “Department” means the Department of Law Enforcement.
(g) “Electronic mail address” has the same meaning as provided in s. 668.602.

(h) “Entering the county” includes being discharged from a correctional facility or jail or secure treatment facility within the county or being under supervision within the county for the commission of a violation enumerated in subsection (4).

(i) “Internet identifier” means all electronic mail, chat, instant messenger, social networking, application software, or similar names used for Internet communication, but does not include a date of birth, social security number, or personal identification number (PIN). Voluntary disclosure by a sexual predator of his or her date of birth, social security number, or PIN as an Internet identifier waives the disclosure exemption in this paragraph for such personal information.

(j) “Institution of higher education” means a career center, community college, college, state university, or independent postsecondary institution.

(k) “Permanent residence” means a place where the person abides, lodges, or resides for 5 or more consecutive days.

(l) “Temporary residence” means a place where the person abides, lodges, or resides, including, but not limited to, vacation, business, or personal travel destinations in or out of this state, for a period of 5 or more days in the aggregate during any calendar year and which is not the person's permanent address or, for a person whose permanent residence is not in this state, a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this state.

(m) “Transient residence” means a county where a person lives, remains, or is located for a period of 5 or more days in the aggregate during a calendar year and which is not the person's permanent or temporary address. The term includes, but is not limited to, a place where the person sleeps or seeks shelter and a location that has no specific street address.

(n) “Vehicles owned” means any motor vehicle as defined in s. 320.01, which is registered, coregistered, leased, titled, or rented by a sexual predator or sexual offender; a rented vehicle that a sexual predator or sexual offender is authorized to drive; or a vehicle for which a sexual predator or sexual offender is insured as a driver. The term also includes any motor vehicle as defined in s. 320.01, which is registered, coregistered, leased, titled, or rented by a person or persons residing at a sexual predator's or sexual offender's permanent residence for 5 or more consecutive days.

(3) Legislative findings and purpose; legislative intent.--

(a) Repeat sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses, and most sexual offenders commit many offenses, have many more
victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.

(b) The high level of threat that a sexual predator presents to the public safety, and the long-term effects suffered by victims of sex offenses, provide the state with sufficient justification to implement a strategy that includes:

1. Incarcerating sexual predators and maintaining adequate facilities to ensure that decisions to release sexual predators into the community are not made on the basis of inadequate space.

2. Providing for specialized supervision of sexual predators who are in the community by specially trained probation officers with low caseloads, as described in ss. 947.1405(7) and 948.30. The sexual predator is subject to specified terms and conditions implemented at sentencing or at the time of release from incarceration, with a requirement that those who are financially able must pay all or part of the costs of supervision.

3. Requiring the registration of sexual predators, with a requirement that complete and accurate information be maintained and accessible for use by law enforcement authorities, communities, and the public.

4. Providing for community and public notification concerning the presence of sexual predators.

5. Prohibiting sexual predators from working with children, either for compensation or as a volunteer.

(c) The state has a compelling interest in protecting the public from sexual predators and in protecting children from predatory sexual activity, and there is sufficient justification for requiring sexual predators to register and for requiring community and public notification of the presence of sexual predators.

(d) It is the purpose of the Legislature that, upon the court’s written finding that an offender is a sexual predator, in order to protect the public, it is necessary that the sexual predator be registered with the department and that members of the community and the public be notified of the sexual predator's presence. The designation of a person as a sexual predator is neither a sentence nor a punishment but simply a status resulting from the conviction of certain crimes.

(e) It is the intent of the Legislature to address the problem of sexual predators by:

1. Requiring sexual predators supervised in the community to have special conditions of supervision and to be supervised by probation officers with low caseloads;
2. Requiring sexual predators to register with the Florida Department of Law Enforcement, as provided in this section; and

3. Requiring community and public notification of the presence of a sexual predator, as provided in this section.

(4) Sexual predator criteria.--

(a) For a current offense committed on or after October 1, 1993, upon conviction, an offender shall be designated as a “sexual predator” under subsection (5), and subject to registration under subsection (6) and community and public notification under subsection (7) if:

1. The felony is:

   a. A capital, life, or first-degree felony violation, or any attempt thereof, of s. 787.01 or s. 787.02, where the victim is a minor and the defendant is not the victim's parent or guardian, or s. 794.011, s. 800.04, or s. 847.0145, or a violation of a similar law of another jurisdiction; or

   b. Any felony violation, or any attempt thereof, of s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent or guardian; s. 787.06(3)(b), (d), (f), (g); former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8)(b); s. 825.1025; s. 827.071; s. 847.0135, excluding s. 847.0135(6); s. 847.0145; s. 916.1075(2); or s. 985.701(1); or a violation of a similar law of another jurisdiction, and the offender has previously been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation of s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent or guardian; s. 787.06(3)(b), (d), (f), (g); former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8)(b); s. 825.1025; s. 827.071; s. 847.0135, excluding s. 847.0135(6); s. 847.0145; s. 916.1075(2); or s. 985.701(1); or a violation of a similar law of another jurisdiction;

2. The offender has not received a pardon for any felony or similar law of another jurisdiction that is necessary for the operation of this paragraph; and

3. A conviction of a felony or similar law of another jurisdiction necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.

(b) In order to be counted as a prior felony for purposes of this subsection, the felony must have resulted in a conviction sentenced separately, or an adjudication of delinquency entered separately, prior to the current offense and sentenced or adjudicated
separately from any other felony conviction that is to be counted as a prior felony regardless of the date of offense of the prior felony.

(c) If an offender has been registered as a sexual predator by the Department of Corrections, the department, or any other law enforcement agency and if:

1. The court did not, for whatever reason, make a written finding at the time of sentencing that the offender was a sexual predator; or

2. The offender was administratively registered as a sexual predator because the Department of Corrections, the department, or any other law enforcement agency obtained information that indicated that the offender met the criteria for designation as a sexual predator based on a violation of a similar law in another jurisdiction,

the department shall remove that offender from the department's list of sexual predators and, for an offender described under subparagraph 1., shall notify the state attorney who prosecuted the offense that met the criteria for administrative designation as a sexual predator, and, for an offender described under this paragraph, shall notify the state attorney of the county where the offender establishes or maintains a permanent, temporary, or transient residence. The state attorney shall bring the matter to the court's attention in order to establish that the offender meets the criteria for designation as a sexual predator. If the court makes a written finding that the offender is a sexual predator, the offender must be designated as a sexual predator, must register or be registered as a sexual predator with the department as provided in subsection (6), and is subject to the community and public notification as provided in subsection (7). If the court does not make a written finding that the offender is a sexual predator, the offender may not be designated as a sexual predator with respect to that offense and is not required to register or be registered as a sexual predator with the department.

(d) An offender who has been determined to be a sexually violent predator pursuant to a civil commitment proceeding under chapter 394 shall be designated as a “sexual predator” under subsection (5) and subject to registration under subsection (6) and community and public notification under subsection (7).

(5) Sexual predator designation.--An offender is designated as a sexual predator as follows:

(a) 1. An offender who meets the sexual predator criteria described in paragraph (4)(d) is a sexual predator, and the court shall make a written finding at the time such offender is determined to be a sexually violent predator under chapter 394 that such person meets the criteria for designation as a sexual predator for purposes of this section. The clerk shall transmit a copy of the order containing the written finding to the department within 48 hours after the entry of the order;
2. An offender who meets the sexual predator criteria described in paragraph (4)(a) who is before the court for sentencing for a current offense committed on or after October 1, 1993, is a sexual predator, and the sentencing court must make a written finding at the time of sentencing that the offender is a sexual predator, and the clerk of the court shall transmit a copy of the order containing the written finding to the department within 48 hours after the entry of the order; or

3. If the Department of Corrections, the department, or any other law enforcement agency obtains information which indicates that an offender who establishes or maintains a permanent, temporary, or transient residence in this state meets the sexual predator criteria described in paragraph (4)(a) or paragraph (4)(d) because the offender was civilly committed or committed a similar violation in another jurisdiction on or after October 1, 1993, the Department of Corrections, the department, or the law enforcement agency shall notify the state attorney of the county where the offender establishes or maintains a permanent, temporary, or transient residence of the offender's presence in the community. The state attorney shall file a petition with the criminal division of the circuit court for the purpose of holding a hearing to determine if the offender's criminal record or record of civil commitment from another jurisdiction meets the sexual predator criteria. If the court finds that the offender meets the sexual predator criteria because the offender has violated a similar law or similar laws in another jurisdiction, the court shall make a written finding that the offender is a sexual predator.

When the court makes a written finding that an offender is a sexual predator, the court shall inform the sexual predator of the registration and community and public notification requirements described in this section. Within 48 hours after the court designating an offender as a sexual predator, the clerk of the circuit court shall transmit a copy of the court's written sexual predator finding to the department. If the offender is sentenced to a term of imprisonment or supervision, a copy of the court's written sexual predator finding must be submitted to the Department of Corrections.

(b) If a sexual predator is not sentenced to a term of imprisonment, the clerk of the court shall ensure that the sexual predator's fingerprints are taken and forwarded to the department within 48 hours after the court renders its written sexual predator finding. The fingerprints shall be clearly marked, “Sexual Predator Registration.” The clerk of the court that convicts and sentences the sexual predator for the offense or offenses described in subsection (4) shall forward to the department and to the Department of Corrections a certified copy of any order entered by the court imposing any special condition or restriction on the sexual predator that restricts or prohibits access to the victim, if the victim is a minor, or to other minors.

(c) If the Department of Corrections, the department, or any other law enforcement agency obtains information which indicates that an offender meets the sexual predator criteria but the court did not make a written finding that the offender is a sexual predator as required in paragraph (a), the Department of Corrections, the department, or the law enforcement agency shall notify the state attorney who prosecuted the offense for
offenders described in subparagraph (a)1., or the state attorney of the county where the offender establishes or maintains a residence upon first entering the state for offenders described in subparagraph (a)3. The state attorney shall bring the matter to the court's attention in order to establish that the offender meets the sexual predator criteria. If the state attorney fails to establish that an offender meets the sexual predator criteria and the court does not make a written finding that an offender is a sexual predator, the offender is not required to register with the department as a sexual predator. The Department of Corrections, the department, or any other law enforcement agency shall not administratively designate an offender as a sexual predator without a written finding from the court that the offender is a sexual predator.

(d) A person who establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person was a resident of that state or jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a sexual offender, shall register in the manner provided in s. 943.0435 or s. 944.607 and shall be subject to community and public notification as provided in s. 943.0435 or s. 944.607. A person who meets the criteria of this section is subject to the requirements and penalty provisions of s. 943.0435 or s. 944.607 until the person provides the department with an order issued by the court that designated the person as a sexual predator, as a sexually violent predator, or by another sexual offender designation in the state or jurisdiction in which the order was issued which states that such designation has been removed or demonstrates to the department that such designation, if not imposed by a court, has been removed by operation of law or court order in the state or jurisdiction in which the designation was made, and provided such person no longer meets the criteria for registration as a sexual offender under the laws of this state.

(6) Registration.--

(a) A sexual predator shall register with the department through the sheriff's office by providing the following information to the department:

1. Name; social security number; age; race; sex; date of birth; height; weight; tattoos or other identifying marks; hair and eye color; photograph; address of legal residence and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or temporary address, any transient residence within the state; address, location or description, and dates of any current or known future temporary residence within the state or out of state; all electronic mail addresses and all Internet identifiers required to be provided pursuant to subparagraph (g)5.; all home telephone numbers and cellular telephone numbers; date and place of any employment; the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; date and place of each conviction;
fingerprints; palm prints; and a brief description of the crime or crimes committed by the offender. A post office box may not be provided in lieu of a physical residential address. The sexual predator shall produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The sexual predator shall also provide information about any professional licenses he or she has.

a. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual predator shall also provide to the department written notice of the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If a sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual predator shall also provide to the department written notice of the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

b. If the sexual predator is enrolled, employed, volunteering, or carrying on a vocation at an institution of higher education in this state, the sexual predator shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual predator's enrollment, volunteer, or employment status. Each change in enrollment, volunteer, or employment status must be reported in person at the sheriff's office, or the Department of Corrections if the sexual predator is in the custody or control of or under the supervision of the Department of Corrections, within 48 hours after any change in status. The sheriff or the Department of Corrections shall promptly notify each institution of the sexual predator's presence and any change in the sexual predator's enrollment, volunteer, or employment status.

c. A sexual predator shall report in person to the sheriff's office within 48 hours after any change in vehicles owned to report those vehicle information changes.

2. Any other information determined necessary by the department, including criminal and corrections records; nonprivileged personnel and treatment records; and evidentiary genetic markers when available.

(b) If the sexual predator is in the custody or control of, or under the supervision of, the Department of Corrections, or is in the custody of a private correctional facility, the sexual predator shall register with the Department of Corrections. A sexual predator who is under the supervision of the Department of Corrections but who is not incarcerated shall register with the Department of Corrections within 3 business days after the court finds the offender to be a sexual predator. The Department of Corrections shall provide to the department registration information and the location of, and local telephone number for, any Department of Corrections office that is responsible for supervising the sexual predator. In addition, the Department of Corrections shall notify the department if the
sexual predator escapes or absconds from custody or supervision or if the sexual predator dies.

(c) If the sexual predator is in the custody of a local jail, the custodian of the local jail shall register the sexual predator within 3 business days after intake of the sexual predator for any reason and upon release, and shall forward the registration information to the department. The custodian of the local jail shall also take a digitized photograph of the sexual predator while the sexual predator remains in custody and shall provide the digitized photograph to the department. The custodian shall notify the department if the sexual predator escapes from custody or dies.

(d) If the sexual predator is under federal supervision, the federal agency responsible for supervising the sexual predator may forward to the department any information regarding the sexual predator which is consistent with the information provided by the Department of Corrections under this section, and may indicate whether use of the information is restricted to law enforcement purposes only or may be used by the department for purposes of public notification.

(e) 1. If the sexual predator is not in the custody or control of, or under the supervision of, the Department of Corrections or is not in the custody of a private correctional facility, the sexual predator shall register in person:

a. At the sheriff’s office in the county where he or she establishes or maintains a residence within 48 hours after establishing or maintaining a residence in this state; and

b. At the sheriff’s office in the county where he or she was designated a sexual predator by the court within 48 hours after such finding is made.

2. Any change in the sexual predator's permanent or temporary residence, name, vehicles owned, electronic mail addresses, or Internet identifiers required to be provided pursuant to subparagraph (g)5., after the sexual predator registers in person at the sheriff's office as provided in subparagraph 1., must be accomplished in the manner provided in paragraphs (g), (i), and (j). When a sexual predator registers with the sheriff's office, the sheriff shall take a photograph, a set of fingerprints, and palm prints of the predator and forward the photographs, palm prints, and fingerprints to the department, along with the information that the predator is required to provide pursuant to this section.

(f) Within 48 hours after the registration required under paragraph (a) or paragraph (e), a sexual predator who is not incarcerated and who resides in the community, including a sexual predator under the supervision of the Department of Corrections, shall register in person at a driver license office of the Department of Highway Safety and Motor Vehicles and shall present proof of registration. At the driver license office the sexual predator shall:
1. If otherwise qualified, secure a Florida driver license, renew a Florida driver license, or secure an identification card. The sexual predator shall identify himself or herself as a sexual predator who is required to comply with this section, provide his or her place of permanent, temporary, or transient residence, including a rural route address and a post office box, and submit to the taking of a photograph for use in issuing a driver license, renewed license, or identification card, and for use by the department in maintaining current records of sexual predators. A post office box may not be provided in lieu of a physical residential address. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual predator shall also provide to the Department of Highway Safety and Motor Vehicles the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If a sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual predator shall also provide to the Department of Highway Safety and Motor Vehicles the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

2. Pay the costs assessed by the Department of Highway Safety and Motor Vehicles for issuing or renewing a driver license or identification card as required by this section. The driver license or identification card issued to the sexual predator must comply with s. 322.141(3).

3. Provide, upon request, any additional information necessary to confirm the identity of the sexual predator, including a set of fingerprints.

(g) 1. Each time a sexual predator's driver license or identification card is subject to renewal, and, without regard to the status of the predator's driver license or identification card, within 48 hours after any change of the predator's residence or change in the predator's name by reason of marriage or other legal process, the predator shall report in person to a driver license office and is subject to the requirements specified in paragraph (f). The Department of Highway Safety and Motor Vehicles shall forward to the department and to the Department of Corrections all photographs and information provided by sexual predators. Notwithstanding the restrictions set forth in s. 322.142, the Department of Highway Safety and Motor Vehicles may release a reproduction of a color-photograph or digital-image license to the Department of Law Enforcement for purposes of public notification of sexual predators as provided in this section. A sexual predator who is unable to secure or update a driver license or identification card with the Department of Highway Safety and Motor Vehicles as provided in paragraph (f) and this paragraph shall also report any change of the predator's residence or change in the predator's name by reason of marriage or other legal process within 48 hours after the change to the sheriff's office in the county where the predator resides or is located and provide confirmation that he or she reported such information to the Department of Highway Safety and Motor Vehicles.
2. a. A sexual predator who vacates a permanent, temporary, or transient residence and fails to establish or maintain another permanent, temporary, or transient residence shall, within 48 hours after vacating the permanent, temporary, or transient residence, report in person to the sheriff's office of the county in which he or she is located. The sexual predator shall specify the date upon which he or she intends to or did vacate such residence. The sexual predator shall provide or update all of the registration information required under paragraph (a). The sexual predator shall provide an address for the residence or other place that he or she is or will be located during the time in which he or she fails to establish or maintain a permanent or temporary residence.

b. A sexual predator shall report in person at the sheriff’s office in the county in which he or she is located within 48 hours after establishing a transient residence and thereafter must report in person every 30 days to the sheriff’s office in the county in which he or she is located while maintaining a transient residence. The sexual predator must provide the addresses and locations where he or she maintains a transient residence. Each sheriff’s office shall establish procedures for reporting transient residence information and provide notice to transient registrants to report transient residence information as required in this sub-subparagraph. Reporting to the sheriff's office as required by this sub-subparagraph does not exempt registrants from any reregistration requirement. The sheriff may coordinate and enter into agreements with police departments and other governmental entities to facilitate additional reporting sites for transient residence registration required in this sub-subparagraph. The sheriff's office shall, within 2 business days, electronically submit and update all information provided by the sexual predator to the department.

3. A sexual predator who remains at a permanent, temporary, or transient residence after reporting his or her intent to vacate such residence shall, within 48 hours after the date upon which the predator indicated he or she would or did vacate such residence, report in person to the sheriff's office to which he or she reported pursuant to subparagraph 2. for the purpose of reporting his or her address at such residence. When the sheriff receives the report, the sheriff shall promptly convey the information to the department. An offender who makes a report as required under subparagraph 2. but fails to make a report as required under this subparagraph commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

4. The failure of a sexual predator who maintains a transient residence to report in person to the sheriff's office every 30 days as required by sub-subparagraph (g)2.b. is punishable as provided in subsection (10).

5. A sexual predator shall register all electronic mail addresses and Internet identifiers with the department before using such electronic mail addresses and Internet identifiers. The department shall establish an online system through which sexual predators may securely access and update all electronic mail address and Internet identifier information.

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(h) The department shall notify the sheriff and the state attorney of the county and, if applicable, the police chief of the municipality, where the sexual predator maintains a residence.

(i) A sexual predator who intends to establish a permanent, temporary, or transient residence in another state or jurisdiction other than the State of Florida shall report in person to the sheriff of the county of current residence within 48 hours before the date he or she intends to leave this state to establish residence in another state or jurisdiction or within 21 days before his or her planned departure date if the intended residence of 5 days or more is outside of the United States. The sexual predator shall provide to the sheriff the address, municipality, county, state, and country of intended residence. The sheriff shall promptly provide to the department the information received from the sexual predator. The department shall notify the statewide law enforcement agency, or a comparable agency, in the intended state, jurisdiction, or country of residence of the sexual predator's intended residence. The failure of a sexual predator to provide his or her intended place of residence is punishable as provided in subsection (10).

(j) A sexual predator who indicates his or her intent to establish a permanent, temporary, or transient residence in another state, a jurisdiction other than the State of Florida, or another country and later decides to remain in this state shall, within 48 hours after the date upon which the sexual predator indicated he or she would leave this state, report in person to the sheriff to which the sexual predator reported the intended change of residence, and report his or her intent to remain in this state. If the sheriff is notified by the sexual predator that he or she intends to remain in this state, the sheriff shall promptly report this information to the department. A sexual predator who reports his or her intent to establish a permanent, temporary, or transient residence in another state, a jurisdiction other than the State of Florida, or another country, but who remains in this state without reporting to the sheriff in the manner required by this paragraph, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(k) 1. The department is responsible for the online maintenance of current information regarding each registered sexual predator. The department shall maintain hotline access for state, local, and federal law enforcement agencies to obtain instantaneous locator file and offender characteristics information on all released registered sexual predators for purposes of monitoring, tracking, and prosecution. The photograph, palm prints, and fingerprints do not have to be stored in a computerized format.

2. The department's sexual predator registration list, containing the information described in subparagraph (a)1., is a public record. The department may disseminate this public information by any means deemed appropriate, including operating a toll-free telephone number for this purpose. When the department provides information regarding a registered sexual predator to the public, department personnel shall advise the person making the inquiry that positive identification of a person believed to be a sexual predator cannot be established unless a fingerprint comparison is made, and that it is illegal to use
public information regarding a registered sexual predator to facilitate the commission of a crime.

3. The department shall adopt guidelines as necessary regarding the registration of sexual predators and the dissemination of information regarding sexual predators as required by this section.

(l) A sexual predator shall maintain registration with the department for the duration of his or her life, unless the sexual predator has received a full pardon or has had a conviction set aside in a postconviction proceeding for any offense that met the criteria for the sexual predator designation.

(7) Community and public notification.--

(a) Law enforcement agencies must inform members of the community and the public of a sexual predator's presence. Upon notification of the presence of a sexual predator, the sheriff of the county or the chief of police of the municipality where the sexual predator establishes or maintains a permanent or temporary residence shall notify members of the community and the public of the presence of the sexual predator in a manner deemed appropriate by the sheriff or the chief of police. Within 48 hours after receiving notification of the presence of a sexual predator, the sheriff of the county or the chief of police of the municipality where the sexual predator temporarily or permanently resides shall notify each licensed child care facility, elementary school, middle school, and high school within a 1-mile radius of the temporary or permanent residence of the sexual predator of the presence of the sexual predator. Information provided to members of the community and the public regarding a sexual predator must include:

1. The name of the sexual predator;

2. A description of the sexual predator, including a photograph;

3. The sexual predator's current permanent, temporary, and transient addresses, and descriptions of registered locations that have no specific street address, including the name of the county or municipality if known;

4. The circumstances of the sexual predator's offense or offenses; and

5. Whether the victim of the sexual predator's offense or offenses was, at the time of the offense, a minor or an adult.

This paragraph does not authorize the release of the name of any victim of the sexual predator.
(b) The sheriff or the police chief may coordinate the community and public notification efforts with the department. Statewide notification to the public is authorized, as deemed appropriate by local law enforcement personnel and the department.

(c) The department shall notify the public of all designated sexual predators through the Internet. The Internet notice shall include the information required by paragraph (a).

(d) The department shall adopt a protocol to assist law enforcement agencies in their efforts to notify the community and the public of the presence of sexual predators.

(8) Verification.--The department and the Department of Corrections shall implement a system for verifying the addresses of sexual predators. The system must be consistent with the provisions of the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to such verification or required to be met as a condition for the receipt of federal funds by the state. The Department of Corrections shall verify the addresses of sexual predators who are not incarcerated but who reside in the community under the supervision of the Department of Corrections and shall report to the department any failure by a sexual predator to comply with registration requirements. County and local law enforcement agencies, in conjunction with the department, shall verify the addresses of sexual predators who are not under the care, custody, control, or supervision of the Department of Corrections, and may verify the addresses of sexual predators who are under the care, custody, control, or supervision of the Department of Corrections. Local law enforcement agencies shall report to the department any failure by a sexual predator to comply with registration requirements.

(a) A sexual predator shall report in person each year during the month of the sexual predator's birthday and during every third month thereafter to the sheriff's office in the county in which he or she resides or is otherwise located to reregister. The sheriff's office may determine the appropriate times and days for reporting by the sexual predator, which must be consistent with the reporting requirements of this paragraph. Reregistration must include any changes to the following information:

1. Name; social security number; age; race; sex; date of birth; height; weight; tattoos or other identifying marks; hair and eye color; address of any permanent residence and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or temporary address, any transient residence within the state; address, location or description, and dates of any current or known future temporary residence within the state or out of state; all electronic mail addresses or Internet identifiers required to be provided pursuant to subparagraph (6)(g)(5); all home telephone numbers and cellular telephone numbers; date and place of any employment; the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; fingerprints; palm prints; and photograph. A post office box may not be provided in lieu of a physical residential address. The sexual predator shall also produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or
her immigration status. The sexual predator shall also provide information about any professional licenses he or she has.

2. If the sexual predator is enrolled, employed, volunteering, or carrying on a vocation at an institution of higher education in this state, the sexual predator shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual predator’s enrollment, volunteer, or employment status.

3. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual predator shall also provide the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual predator shall also provide the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

(b) The sheriff's office shall, within 2 working days, electronically submit and update all information provided by the sexual predator to the department in a manner prescribed by the department.

9) Immunity.--The department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the Department of Juvenile Justice, any law enforcement agency in this state, and the personnel of those departments; an elected or appointed official, public employee, or school administrator; or an employee, agency, or any individual or entity acting at the request or upon the direction of any law enforcement agency is immune from civil liability for damages for good faith compliance with the requirements of this section or for the release of information under this section, and shall be presumed to have acted in good faith in compiling, recording, reporting, or releasing the information. The presumption of good faith is not overcome if a technical or clerical error is made by the department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the Department of Juvenile Justice, the personnel of those departments, or any individual or entity acting at the request or upon the direction of any of those departments in compiling or providing information, or if information is incomplete or incorrect because a sexual predator fails to report or falsely reports his or her current place of permanent or temporary residence.

10) Penalties.--

(a) Except as otherwise specifically provided, a sexual predator who fails to register; who fails, after registration, to maintain, acquire, or renew a driver license or identification card; who fails to provide required location information, electronic mail address information before use, Internet identifier information before use, all home telephone numbers and cellular telephone numbers, or change-of-name information; who fails to
make a required report in connection with vacating a permanent residence; who fails to reregister as required; who fails to respond to any address verification correspondence from the department within 3 weeks of the date of the correspondence; who knowingly provides false registration information by act or omission; or who otherwise fails, by act or omission, to comply with the requirements of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A sexual predator who has been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation, or attempted violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent or guardian; s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 827.071; s. 847.0133; s. 847.0135(5); s. 847.0145; or s. 985.701(1); or a violation of a similar law of another jurisdiction when the victim of the offense was a minor, and who works, whether for compensation or as a volunteer, at any business, school, child care facility, park, playground, or other place where children regularly congregate, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Any person who misuses public records information relating to a sexual predator, as defined in this section, or a sexual offender, as defined in s. 943.0435 or s. 944.607, to secure a payment from such a predator or offender; who knowingly distributes or publishes false information relating to such a predator or offender which the person misrepresents as being public records information; or who materially alters public records information with the intent to misrepresent the information, including documents, summaries of public records information provided by law enforcement agencies, or public records information displayed by law enforcement agencies on websites or provided through other means of communication, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(d) A sexual predator who commits any act or omission in violation of this section may be prosecuted for the act or omission in the county in which the act or omission was committed, the county of the last registered address of the sexual predator, the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual predator, in the county where the sexual predator was released from incarceration, or in the county of the intended address of the sexual predator as reported by the predator prior to his or her release from incarceration. In addition, a sexual predator may be prosecuted for any such act or omission in the county in which he or she was designated a sexual predator.

(e) An arrest on charges of failure to register, the service of an information or a complaint for a violation of this section, or an arraignment on charges for a violation of this section constitutes actual notice of the duty to register when the predator has been provided and advised of his or her statutory obligation to register under subsection (6). A sexual predator's failure to immediately register as required by this section following such arrest, service, or arraignment constitutes grounds for a subsequent charge of failure to register.
A sexual predator charged with the crime of failure to register who asserts, or intends to assert, a lack of notice of the duty to register as a defense to a charge of failure to register shall immediately register as required by this section. A sexual predator who is charged with a subsequent failure to register may not assert the defense of a lack of notice of the duty to register.

(f) Registration following such arrest, service, or arraignment is not a defense and does not relieve the sexual predator of criminal liability for the failure to register.

(g) Any person who has reason to believe that a sexual predator is not complying, or has not complied, with the requirements of this section and who, with the intent to assist the sexual predator in eluding a law enforcement agency that is seeking to find the sexual predator to question the sexual predator about, or to arrest the sexual predator for, his or her noncompliance with the requirements of this section:

1. Withholds information from, or does not notify, the law enforcement agency about the sexual predator's noncompliance with the requirements of this section, and, if known, the whereabouts of the sexual predator;

2. Harbors, or attempts to harbor, or assists another person in harboring or attempting to harbor, the sexual predator;

3. Conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the sexual predator; or

4. Provides information to the law enforcement agency regarding the sexual predator which the person knows to be false information,

commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. This paragraph does not apply if the sexual predator is incarcerated in or is in the custody of a state correctional facility, a private correctional facility, a local jail, or a federal correctional facility.

**FLA. STAT. ANN. § 943.0435 (2014). Sexual offenders required to register with the department; penalty (contains amendments effective October 1, 2014)**

(1) As used in this section, the term:

(a) 1. “Sexual offender” means a person who meets the criteria in sub-subparagraph a., sub-subparagraph b., sub-subparagraph c., or sub-subparagraph d., as follows:

a. (I) Has been convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the
victim's parent or guardian; s. 787.06(3)(b), (d), (f), (g), or (h); s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s. 916.1075(2); or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-sub-subparagraph; and

(II) Has been released on or after October 1, 1997, from the sanction imposed for any conviction of an offense described in sub-sub-subparagraph (I). For purposes of sub-sub-subparagraph (I), a sanction imposed in this state or in any other jurisdiction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility;

b. Establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person were a resident of that state or jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a sexual offender;

c. Establishes or maintains a residence in this state who is in the custody or control of, or under the supervision of, any other state or jurisdiction as a result of a conviction for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes or similar offense in another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent or guardian; s. 787.06(3)(b), (d), (f), (g), or (h); s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s. 916.1075(2); or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-subparagraph; or

d. On or after July 1, 2007, has been adjudicated delinquent for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction when the juvenile was 14 years of age or older at the time of the offense:

(I) Section 794.011, excluding s. 794.011(10);

(II) Section 800.04(4)(a) 2. where the victim is under 12 years of age or where the court finds sexual activity by the use of force or coercion;

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(III) Section 800.04(5)(c) 1. where the court finds molestation involving unclothed genitals; or

(IV) Section 800.04(5)(d) where the court finds the use of force or coercion and unclothed genitals.

2. For all qualifying offenses listed in sub-subparagraph (1)(a)1.d., the court shall make a written finding of the age of the offender at the time of the offense.

For each violation of a qualifying offense listed in this subsection, except for a violation of s. 794.011, the court shall make a written finding of the age of the victim at the time of the offense. For a violation of s. 800.04(4), the court shall also make a written finding indicating whether the offense involved sexual activity and indicating whether the offense involves force or coercion. For a violation of s. 800.04(5), the court shall also make a written finding that the offense did or did not involve unclothed genitals or genital area and that the offense did or did not involve the use of force or coercion.

(b) “Convicted” means that there has been a determination of guilt as a result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld, and includes an adjudication of delinquency of a juvenile as specified in this section. Conviction of a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere resulting in a sanction in any state of the United States or other jurisdiction. A sanction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility.

(c) “Permanent residence,” “temporary residence,” and “transient residence” have the same meaning ascribed in s. 775.21.

(d) “Institution of higher education” means a career center, community college, college, state university, or independent postsecondary institution.

(e) “Change in enrollment or employment status” means the commencement or termination of enrollment or employment or a change in location of enrollment or employment.

(f) “Electronic mail address” has the same meaning as provided in s. 668.602.

(g) “Internet identifier” has the same meaning as provided in s. 775.21.

(h) “Vehicles owned” has the same meaning as provided in s. 775.21.

(2) A sexual offender shall:
(a) Report in person at the sheriff’s office:

1. In the county in which the offender establishes or maintains a permanent, temporary, or transient residence within 48 hours after:

   a. Establishing permanent, temporary, or transient residence in this state; or

   b. Being released from the custody, control, or supervision of the Department of Corrections or from the custody of a private correctional facility; or

2. In the county where he or she was convicted within 48 hours after being convicted for a qualifying offense for registration under this section if the offender is not in the custody or control of, or under the supervision of, the Department of Corrections, or is not in the custody of a private correctional facility.

Any change in the information required to be provided pursuant to paragraph (b), including, but not limited to, any change in the sexual offender’s permanent, temporary, or transient residence, name, electronic mail addresses, or Internet identifiers required to be provided pursuant to paragraph (4)(e), after the sexual offender reports in person at the sheriff’s office, must be accomplished in the manner provided in subsections (4), (7), and (8).

(b) Provide his or her name; date of birth; social security number; race; sex; height; weight; hair and eye color; tattoos or other identifying marks; fingerprints; palm prints; photograph; occupation and place of employment; address of permanent or legal residence or address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or temporary address, any transient residence within the state, address, location or description, and dates of any current or known future temporary residence within the state or out of state; the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; all home telephone numbers and cellular telephone numbers; all electronic mail addresses and all Internet identifiers required to be provided pursuant to paragraph (4)(e); date and place of each conviction; and a brief description of the crime or crimes committed by the offender. A post office box may not be provided in lieu of a physical residential address. The sexual offender shall also produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The sexual offender shall also provide information about any professional licenses he or she has.

1. If the sexual offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual offender shall also provide to the department through the sheriff's office written notice of the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the
sexual offender's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual offender shall also provide to the department written notice of the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

2. If the sexual offender is enrolled, employed, volunteering, or carrying on a vocation at an institution of higher education in this state, the sexual offender shall also provide to the department through the sheriff's office the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment, volunteer, or employment status. Each change in enrollment, volunteer, or employment status must be reported in person at the sheriff's office, within 48 hours after any change in status. The sheriff shall promptly notify each institution of the sexual offender's presence and any change in the sexual offender's enrollment, volunteer, or employment status.

3. A sexual offender shall report in person to the sheriff's office within 48 hours after any change in vehicles owned to report those vehicle information changes.

(c) Provide any other information determined necessary by the department, including criminal and corrections records; nonprivileged personnel and treatment records; and evidentiary genetic markers, when available.

When a sexual offender reports at the sheriff's office, the sheriff shall take a photograph, a set of fingerprints, and palm prints of the offender and forward the photographs, palm prints, and fingerprints to the department, along with the information provided by the sexual offender. The sheriff shall promptly provide to the department the information received from the sexual offender.

(3) Within 48 hours after the report required under subsection (2), a sexual offender shall report in person at a driver's license office of the Department of Highway Safety and Motor Vehicles, unless a driver's license or identification card that complies with the requirements of s. 322.141(3) was previously secured or updated under s. 944.607. At the driver's license office the sexual offender shall:

(a) If otherwise qualified, secure a Florida driver's license, renew a Florida driver's license, or secure an identification card. The sexual offender shall identify himself or herself as a sexual offender who is required to comply with this section and shall provide proof that the sexual offender reported as required in subsection (2). The sexual offender shall provide any of the information specified in subsection (2), if requested. The sexual offender shall submit to the taking of a photograph for use in issuing a driver's license, renewed license, or identification card, and for use by the department in maintaining current records of sexual offenders.
(b) Pay the costs assessed by the Department of Highway Safety and Motor Vehicles for issuing or renewing a driver's license or identification card as required by this section. The driver's license or identification card issued must be in compliance with s. 322.141(3).

c) Provide, upon request, any additional information necessary to confirm the identity of the sexual offender, including a set of fingerprints.

(4)(a) Each time a sexual offender's driver license or identification card is subject to renewal, and, without regard to the status of the offender's driver license or identification card, within 48 hours after any change in the offender's permanent, temporary, or transient residence or change in the offender's name by reason of marriage or other legal process, the offender shall report in person to a driver license office, and is subject to the requirements specified in subsection (3). The Department of Highway Safety and Motor Vehicles shall forward to the department all photographs and information provided by sexual offenders. Notwithstanding the restrictions set forth in s. 322.142, the Department of Highway Safety and Motor Vehicles may release a reproduction of a color-photograph or digital-image license to the Department of Law Enforcement for purposes of public notification of sexual offenders as provided in this section and ss. 943.043 and 944.606. A sexual offender who is unable to secure or update a driver license or identification card with the Department of Highway Safety and Motor Vehicles as provided in subsection (3) and this subsection shall also report any change in the sexual offender's permanent, temporary, or transient residence or change in the offender's name by reason of marriage or other legal process within 48 hours after the change to the sheriff's office in the county where the offender resides or is located and provide confirmation that he or she reported such information to the Department of Highway Safety and Motor Vehicles.

(b) 1. A sexual offender who vacates a permanent, temporary, or transient residence and fails to establish or maintain another permanent, temporary, or transient residence shall, within 48 hours after vacating the permanent, temporary, or transient residence, report in person to the sheriff's office of the county in which he or she is located. The sexual offender shall specify the date upon which he or she intends to or did vacate such residence. The sexual offender must provide or update all of the registration information required under paragraph (2)(b). The sexual offender must provide an address for the residence or other place that he or she is or will be located during the time in which he or she fails to establish or maintain a permanent or temporary residence.

2. A sexual offender shall report in person at the sheriff's office in the county in which he or she is located within 48 hours after establishing a transient residence and thereafter must report in person every 30 days to the sheriff's office in the county in which he or she is located while maintaining a transient residence. The sexual offender must provide the addresses and locations where he or she maintains a transient residence. Each sheriff's office shall establish procedures for reporting transient residence information and provide notice to transient registrants to report transient residence information as required in this subparagraph. Reporting to the sheriff's office as required by this subparagraph does not
exempt registrants from any reregistration requirement. The sheriff may coordinate and enter into agreements with police departments and other governmental entities to facilitate additional reporting sites for transient residence registration required in this subparagraph. The sheriff's office shall, within 2 business days, electronically submit and update all information provided by the sexual offender to the department.

(c) A sexual offender who remains at a permanent, temporary, or transient residence after reporting his or her intent to vacate such residence shall, within 48 hours after the date upon which the offender indicated he or she would or did vacate such residence, report in person to the agency to which he or she reported pursuant to paragraph (b) for the purpose of reporting his or her address at such residence. When the sheriff receives the report, the sheriff shall promptly convey the information to the department. An offender who makes a report as required under paragraph (b) but fails to make a report as required under this paragraph commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) The failure of a sexual offender who maintains a transient residence to report in person to the sheriff's office every 30 days as required in subparagraph (b)2. is punishable as provided in subsection (9).

(e) A sexual offender shall register all electronic mail addresses and Internet identifiers with the department before using such electronic mail addresses and Internet identifiers. The department shall establish an online system through which sexual offenders may securely access and update all electronic mail address and Internet identifier information.

(5) This section does not apply to a sexual offender who is also a sexual predator, as defined in s. 775.21. A sexual predator must register as required under s. 775.21.

(6) County and local law enforcement agencies, in conjunction with the department, shall verify the addresses of sexual offenders who are not under the care, custody, control, or supervision of the Department of Corrections, and may verify the addresses of sexual offenders who are under the care, custody, control, or supervision of the Department of Corrections, in a manner that is consistent with the provisions of the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to such verification or required to be met as a condition for the receipt of federal funds by the state. Local law enforcement agencies shall report to the department any failure by a sexual offender to comply with registration requirements.

(7) A sexual offender who intends to establish a permanent, temporary, or transient residence in another state or jurisdiction other than the State of Florida shall report in person to the sheriff of the county of current residence within 48 hours before the date he or she intends to leave this state to establish residence in another state or jurisdiction or within 21 days before his or her planned departure date if the intended residence of 5 days or more is outside of the United States. The notification must include the address, municipality, county, state, and country of intended residence. The sheriff shall promptly
provide to the department the information received from the sexual offender. The department shall notify the statewide law enforcement agency, or a comparable agency, in the intended state, jurisdiction, or country of residence of the sexual offender's intended residence. The failure of a sexual offender to provide his or her intended place of residence is punishable as provided in subsection (9).

(8) A sexual offender who indicates his or her intent to establish a permanent, temporary, or transient residence in another state, a jurisdiction other than the State of Florida, or another country and later decides to remain in this state shall, within 48 hours after the date upon which the sexual offender indicated he or she would leave this state, report in person to the sheriff to which the sexual offender reported the intended change of permanent, temporary, or transient residence, and report his or her intent to remain in this state. The sheriff shall promptly report this information to the department. A sexual offender who reports his or her intent to establish a permanent, temporary, or transient residence in another state, a jurisdiction other than the State of Florida, or another country but who remains in this state without reporting to the sheriff in the manner required by this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(9)(a) A sexual offender who does not comply with the requirements of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A sexual offender who commits any act or omission in violation of this section may be prosecuted for the act or omission in the county in which the act or omission was committed, the county of the last registered address of the sexual offender, the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual offender, in the county where the sexual offender was released from incarceration, or in the county of the intended address of the sexual offender as reported by the offender prior to his or her release from incarceration.

(c) An arrest on charges of failure to register when the offender has been provided and advised of his or her statutory obligations to register under subsection (2), the service of an information or a complaint for a violation of this section, or an arraignment on charges for a violation of this section constitutes actual notice of the duty to register. A sexual offender's failure to immediately register as required by this section following such arrest, service, or arraignment constitutes grounds for a subsequent charge of failure to register. A sexual offender charged with the crime of failure to register who asserts, or intends to assert, a lack of notice of the duty to register as a defense to a charge of failure to register shall immediately register as required by this section following such arrest, service, or arraignment. A sexual offender who is charged with a subsequent failure to register may not assert the defense of a lack of notice of the duty to register.

(d) Registration following such arrest, service, or arraignment is not a defense and does not relieve the sexual offender of criminal liability for the failure to register.
(10) The department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the Department of Juvenile Justice, any law enforcement agency in this state, and the personnel of those departments; an elected or appointed official, public employee, or school administrator; or an employee, agency, or any individual or entity acting at the request or upon the direction of any law enforcement agency is immune from civil liability for damages for good faith compliance with the requirements of this section or for the release of information under this section, and shall be presumed to have acted in good faith in compiling, recording, reporting, or releasing the information. The presumption of good faith is not overcome if a technical or clerical error is made by the department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the Department of Juvenile Justice, the personnel of those departments, or any individual or entity acting at the request or upon the direction of any of those departments in compiling or providing information, or if information is incomplete or incorrect because a sexual offender fails to report or falsely reports his or her current place of permanent, temporary, or transient residence.

(11) Except as provided in s. 943.04354, a sexual offender shall maintain registration with the department for the duration of his or her life unless the sexual offender has received a full pardon or has had a conviction set aside in a postconviction proceeding for any offense that meets the criteria for classifying the person as a sexual offender for purposes of registration. However, a sexual offender:

(a) 1. Who has been lawfully released from confinement, supervision, or sanction, whichever is later, for at least 25 years and has not been arrested for any felony or misdemeanor offense since release, provided that the sexual offender's requirement to register was not based upon an adult conviction:

   a. For a violation of s. 787.01 or s. 787.02;

   b. For a violation of s. 794.011, excluding s. 794.011(10);

   c. For a violation of s. 800.04(4)(a) where the court finds the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion;

   d. For a violation of s. 800.04(5)(b);

   e. For a violation of s. 800.04(5)(c) 2. where the court finds the offense involved the use of force or coercion and unclothed genitals or genital area;

   f. For any attempt or conspiracy to commit any such offense;

   g. For a violation of similar law of another jurisdiction; or
h. For a violation of a similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this subparagraph, a person may petition the criminal division of the circuit court of the circuit where the conviction or adjudication occurred for the purpose of removing the requirement for registration as a sexual offender.

2. The court may grant or deny relief if the offender demonstrates to the court that he or she has not been arrested for any crime since release; the requested relief complies with the provisions of the federal Adam Walsh Child Protection and Safety Act of 2006 \[FN1\] and any other federal standards applicable to the removal of registration requirements for a sexual offender or required to be met as a condition for the receipt of federal funds by the state; and the court is otherwise satisfied that the offender is not a current or potential threat to public safety. The state attorney in the circuit in which the petition is filed must be given notice of the petition at least 3 weeks before the hearing on the matter. The state attorney may present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied. If the court denies the petition, the court may set a future date at which the sexual offender may again petition the court for relief, subject to the standards for relief provided in this subsection.

3. The department shall remove an offender from classification as a sexual offender for purposes of registration if the offender provides to the department a certified copy of the court's written findings or order that indicates that the offender is no longer required to comply with the requirements for registration as a sexual offender.

4. For purposes of this paragraph:

a. The registration period of a sexual offender sentenced to a term of incarceration or committed to a residential program begins upon the offender's release from incarceration or commitment for the most recent conviction that required the offender to register.

b. A sexual offender's registration period is tolled during any period in which the offender is incarcerated, civilly committed, detained pursuant to chapter 985, or committed to a residential program.

c. Except as provided in sub-subparagraph e., if the sexual offender is only sentenced to a term of supervision for the most recent conviction that required the offender to register as a sexual offender or is only subject to a period of supervision for that conviction, the registration period begins when the term or period of supervision for that conviction begins.

d. Except as provided in sub-subparagraph e., if the sexual offender is sentenced to a term of supervision that follows a term of incarceration for the most recent conviction that required the offender to register as a sexual offender or is subject to a period of supervision that follows commitment to a residential program for that conviction, the

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registration period begins when the term or period of supervision for that conviction begins.

e. If a sexual offender is sentenced to a term of more than 25 years' supervision for the most recent conviction that required the offender to register as a sexual offender, the sexual offender may not petition for removal of the requirement for registration as a sexual offender until the term of supervision for that conviction is completed.

(b) As defined in sub-subparagraph (1)(a)(1)b. must maintain registration with the department for the duration of his or her life until the person provides the department with an order issued by the court that designated the person as a sexual predator, as a sexually violent predator, or by another sexual offender designation in the state or jurisdiction in which the order was issued which states that such designation has been removed or demonstrates to the department that such designation, if not imposed by a court, has been removed by operation of law or court order in the state or jurisdiction in which the designation was made, and provided such person no longer meets the criteria for registration as a sexual offender under the laws of this state.

(12) The Legislature finds that sexual offenders, especially those who have committed offenses against minors, often pose a high risk of engaging in sexual offenses even after being released from incarceration or commitment and that protection of the public from sexual offenders is a paramount government interest. Sexual offenders have a reduced expectation of privacy because of the public's interest in public safety and in the effective operation of government. Releasing information concerning sexual offenders to law enforcement agencies and to persons who request such information, and the release of such information to the public by a law enforcement agency or public agency, will further the governmental interests of public safety. The designation of a person as a sexual offender is not a sentence or a punishment but is simply the status of the offender which is the result of a conviction for having committed certain crimes.

(13) Any person who has reason to believe that a sexual offender is not complying, or has not complied, with the requirements of this section and who, with the intent to assist the sexual offender in eluding a law enforcement agency that is seeking to find the sexual offender to question the sexual offender about, or to arrest the sexual offender for, his or her noncompliance with the requirements of this section:

(a) Withholds information from, or does not notify, the law enforcement agency about the sexual offender's noncompliance with the requirements of this section, and, if known, the whereabouts of the sexual offender;

(b) Harbors, or attempts to harbor, or assists another person in harboring or attempting to harbor, the sexual offender; or

(c) Conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the sexual offender; or
(d) Provides information to the law enforcement agency regarding the sexual offender that the person knows to be false information, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(14)(a) A sexual offender must report in person each year during the month of the sexual offender's birthday and during the sixth month following the sexual offender's birth month to the sheriff's office in the county in which he or she resides or is otherwise located to reregister.

(b) However, a sexual offender who is required to register as a result of a conviction for:

1. Section 787.01 or s. 787.02 where the victim is a minor and the offender is not the victim's parent or guardian;

2. Section 794.011, excluding s. 794.011(10);

3. Section 800.04(4)(a) 2. where the court finds the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion;

4. Section 800.04(5)(b);

5. Section 800.04(5)(c) 1. where the court finds molestation involving unclothed genitals or genital area;

6. Section 800.04(5)(c) 2. where the court finds molestation involving the use of force or coercion and unclothed genitals or genital area;

7. Section 800.04(5)(d) where the court finds the use of force or coercion and unclothed genitals or genital area;

8. Any attempt or conspiracy to commit such offense;

9. A violation of a similar law of another jurisdiction; or

10. A violation of a similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this paragraph, must reregister each year during the month of the sexual offender's birthday and every third month thereafter.

(c) The sheriff's office may determine the appropriate times and days for reporting by the sexual offender, which must be consistent with the reporting requirements of this subsection. Reregistration must include any changes to the following information:
1. Name; social security number; age; race; sex; date of birth; height; weight; tattoos or other identifying marks; hair and eye color; address of any permanent residence and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or temporary address, any transient residence within the state; address, location or description, and dates of any current or known future temporary residence within the state or out of state; all electronic mail addresses or Internet identifiers required to be provided pursuant to paragraph (4)(e); all home telephone numbers and cellular telephone numbers; date and place of any employment; the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; fingerprints; palm prints; and photograph. A post office box may not be provided in lieu of a physical residential address. The sexual offender shall also produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The sexual offender shall also provide information about any professional licenses he or she has.

2. If the sexual offender is enrolled, volunteering, employed, or carrying on a vocation at an institution of higher education in this state, the sexual offender shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment, volunteer, or employment status.

3. If the sexual offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual offender shall also provide the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual offender's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual offender shall also provide the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel or houseboat.

4. Any sexual offender who fails to report in person as required at the sheriff's office, who fails to respond to any address verification correspondence from the department within 3 weeks of the date of the correspondence, who fails to report all electronic mail addresses and all Internet identifiers prior to use, or who knowingly provides false registration information by act or omission commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) The sheriff's office shall, within 2 working days, electronically submit and update all information provided by the sexual offender to the department in a manner prescribed by the department.

**Fla. Stat. Ann. § 800.04 (2014). Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age (contains amendments effective**
October 1, 2014

(1) Definitions.--As used in this section:

(a) “Sexual activity” means the oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual activity does not include an act done for a bona fide medical purpose.

(b) “Consent” means intelligent, knowing, and voluntary consent, and does not include submission by coercion.

(c) “Coercion” means the use of exploitation, bribes, threats of force, or intimidation to gain cooperation or compliance.

(d) “Victim” means a person upon whom an offense described in this section was committed or attempted or a person who has reported a violation of this section to a law enforcement officer.

(2) Prohibited defenses.--Neither the victim's lack of chastity nor the victim's consent is a defense to the crimes proscribed by this section.

(3) Ignorance or belief of victim's age.--The perpetrator's ignorance of the victim's age, the victim's misrepresentation of his or her age, or the perpetrator's bona fide belief of the victim's age cannot be raised as a defense in a prosecution under this section.

(4) Lewd or lascivious battery.--

(a) A person commits lewd or lascivious battery by:

1. Engaging in sexual activity with a person 12 years of age or older but less than 16 years of age; or

2. Encouraging, forcing, or enticing any person less than 16 years of age to engage in sadomasochistic abuse, sexual bestiality, prostitution, or any other act involving sexual activity.

(b) Except as provided in paragraph (c), an offender who commits lewd or lascivious battery commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) A person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 if the person is an offender 18 years of age or older who commits lewd or lascivious battery and was previously convicted of a violation of:

1. Section 787.01(2) or s. 787.02(2) when the violation involved a victim who was a minor and, in the course of committing that violation, the defendant committed against
the minor a sexual battery under chapter 794 or a lewd act under this section or s. 847.0135(5);

2. Section 787.01(3)(a) 2. or 3.;

3. Section 787.02(3)(a) 2. or 3.;

4. Chapter 794, excluding s. 794.011(10);

5. Section 825.1025;

6. Section 847.0135(5); or

7. This section.

(5) **Lewd or lascivious molestation.**

(a) A person who intentionally touches in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of a person less than 16 years of age, or forces or entices a person under 16 years of age to so touch the perpetrator, commits lewd or lascivious molestation.

(b) An offender 18 years of age or older who commits lewd or lascivious molestation against a victim less than 12 years of age commits a life felony, punishable as provided in s. 775.082(3)(a) 4.

(c) 1. An offender less than 18 years of age who commits lewd or lascivious molestation against a victim less than 12 years of age; or

2. An offender 18 years of age or older who commits lewd or lascivious molestation against a victim 12 years of age or older but less than 16 years of age commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) An offender less than 18 years of age who commits lewd or lascivious molestation against a victim 12 years of age or older but less than 16 years of age commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(e) A person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 if the person is 18 years of age or older and commits lewd or lascivious molestation against a victim 12 years of age or older but less than 16 years of age and the person was previously convicted of a violation of:
1. Section 787.01(2) or s. 787.02(2) when the violation involved a victim who was a minor and, in the course of committing the violation, the defendant committed against the minor a sexual battery under chapter 794 or a lewd act under this section or s. 847.0135(5);

2. Section 787.01(3)(a) 2. or 3.;

3. Section 787.02(3)(a) 2. or 3.;

4. Chapter 794, excluding s. 794.011(10);

5. Section 825.1025;

6. Section 847.0135(5); or

7. This section.

(6) **Lewd or lascivious conduct.**--

(a) A person who:

1. Intentionally touches a person under 16 years of age in a lewd or lascivious manner; or

2. Solicits a person under 16 years of age to commit a lewd or lascivious act

   commits lewd or lascivious conduct.

(b) An offender 18 years of age or older who commits lewd or lascivious conduct

   commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) An offender less than 18 years of age who commits lewd or lascivious conduct

   commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(7) **Lewd or lascivious exhibition.**--

(a) A person who:

1. Intentionally masturbates;

2. Intentionally exposes the genitals in a lewd or lascivious manner; or
3. Intentionally commits any other sexual act that does not involve actual physical or sexual contact with the victim, including, but not limited to, sadomasochistic abuse, sexual bestiality, or the simulation of any act involving sexual activity in the presence of a victim who is less than 16 years of age, commits lewd or lascivious exhibition.

(b) An offender 18 years of age or older who commits a lewd or lascivious exhibition commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) An offender less than 18 years of age who commits a lewd or lascivious exhibition commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(8) Exception.--A mother's breastfeeding of her baby does not under any circumstance constitute a violation of this section.

**FLA. STAT. ANN. § 827.071 (2014). Sexual Performance by a Child; Penalties**

(1) As used in this section, the following definitions shall apply:

(a) “Deviate sexual intercourse” means sexual conduct between persons not married to each other consisting of contact between the penis and the anus, the mouth and the penis, or the mouth and the vulva.

(b) “Intentionally view” means to deliberately, purposefully, and voluntarily view. Proof of intentional viewing requires establishing more than a single image, motion picture, exhibition, show, image, data, computer depiction, representation, or other presentation over any period of time.

(c) “Performance” means any play, motion picture, photograph, or dance or any other visual representation exhibited before an audience.

(d) “Promote” means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer or agree to do the same.

(e) “Sadomasochistic abuse” means flagellation or torture by or upon a person, or the condition of being fettered, bound, or otherwise physically restrained, for the purpose of deriving sexual satisfaction from inflicting harm on another or receiving such harm oneself.

(f) “Sexual battery” means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, “sexual battery” does not include an act done for a bona fide medical purpose.
(g) “Sexual bestiality” means any sexual act between a person and an animal involving the sex organ of the one and the mouth, anus, or vagina of the other.

(h) “Sexual conduct” means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual lewd exhibition of the genitals; actual physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breast, with the intent to arouse or gratify the sexual desire of either party; or any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed. A mother's breastfeeding of her baby does not under any circumstance constitute “sexual conduct.”

(i) “Sexual performance” means any performance or part thereof which includes sexual conduct by a child of less than 18 years of age.

(j) “Simulated” means the explicit depiction of conduct set forth in paragraph (h) which creates the appearance of such conduct and which exhibits any uncovered portion of the breasts, genitals, or buttocks.

(2) A person is guilty of the use of a child in a sexual performance if, knowing the character and content thereof, he or she employs, authorizes, or induces a child less than 18 years of age to engage in a sexual performance or, being a parent, legal guardian, or custodian of such child, consents to the participation by such child in a sexual performance. Whoever violates this subsection is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) A person is guilty of promoting a sexual performance by a child when, knowing the character and content thereof, he or she produces, directs, or promotes any performance which includes sexual conduct by a child less than 18 years of age. Whoever violates this subsection is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) It is unlawful for any person to possess with the intent to promote any photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or in part, includes any sexual conduct by a child. The possession of three or more copies of such photograph, motion picture, representation, or presentation is prima facie evidence of an intent to promote. Whoever violates this subsection is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5)(a) It is unlawful for any person to knowingly possess, control, or intentionally view a photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation which, in whole or in part, he or she knows to include any sexual conduct by a child. The possession, control, or intentional viewing of each such photograph, motion picture, exhibition, show, image, data, computer depiction, representation, or presentation is a separate offense. If such photograph, motion picture,
exhibition, show, representation, image, data, computer depiction, or other presentation includes sexual conduct by more than one child, then each such child in each such photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation that is knowingly possessed, controlled, or intentionally viewed is a separate offense. A person who violates this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) This subsection does not apply to material possessed, controlled, or intentionally viewed as part of a law enforcement investigation.

(6) Prosecution of any person for an offense under this section shall not prohibit prosecution of that person in this state for a violation of any law of this state, including a law providing for greater penalties than prescribed in this section or any other crime punishing the sexual performance or the sexual exploitation of children.

FLA. STAT. ANN. § 847.001 (2014). Definitions
As used in this chapter, the term:

(1) “Adult” means a person 18 years of age or older.

(2) “Adult entertainment establishment” means the following terms as defined:

(a) “Adult bookstore” means any corporation, partnership, or business of any kind which restricts or purports to restrict admission only to adults, which has as part of its stock books, magazines, other periodicals, videos, discs, or other graphic media and which offers, sells, provides, or rents for a fee any sexually oriented material.

(b) “Adult theater” means an enclosed building or an enclosed space within a building used for presenting either films, live plays, dances, or other performances that are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specific sexual activities for observation by patrons, and which restricts or purports to restrict admission only to adults.

(c) “Special Cabaret” means any business that features persons who engage in specific sexual activities for observation by patrons, and which restricts or purports to restrict admission only to adults.

(d) “Unlicensed massage establishment” means any business or enterprise that offers, sells, or provides, or that holds itself out as offering, selling, or providing, massages that include bathing, physical massage, rubbing, kneading, anointing, stroking, manipulating, or other tactile stimulation of the human body by either male or female employees or attendants, by hand or by any electrical or mechanical device, on or off the premises. The term “unlicensed massage establishment” does not include an establishment licensed under s. 480.043 which routinely provides medical services by state-licensed health care
practitioners and massage therapists licensed under s. 480.041.

(3) “Child pornography” means any image depicting a minor engaged in sexual conduct.

(4) “Computer” means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions and includes any data storage facility or communications facility directly related to or operating in conjunction with such device. The term also includes: any online service, Internet service, or local bulletin board; any electronic storage device, including a floppy disk or other magnetic storage device; or any compact disk that has read-only memory and the capacity to store audio, video, or written materials.

(5) “Deviate sexual intercourse” means sexual conduct between persons not married to each other consisting of contact between the penis and the anus, the mouth and the penis, or the mouth and the vulva.

(6) “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.

A mother's breastfeeding of her baby is not under any circumstance “harmful to minors.”

(7) “Masochism” means sexual gratification achieved by a person through, or the association of sexual activity with, submission or subjection to physical pain, suffering, humiliation, torture, or death.

(8) “Minor” means any person under the age of 18 years.

(9) “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 feeding.

(10) “Obscene” means the status of material which:
(a) The average person, applying contemporary community standards, would find, taken as a whole, appeals to the prurient interest;

(b) Depicts or describes, in a patently offensive way, sexual conduct as specifically defined herein; and

(c) Taken as a whole, lacks serious literary, artistic, political, or scientific value.

A mother's breastfeeding of her baby is not under any circumstance “obscene.”

(11) “Person” includes individuals, children, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.

(12) “Sadism” means sexual gratification achieved through, or the association of sexual activity with, the infliction of physical pain, suffering, humiliation, torture, or death upon another person or an animal.

(13) “Sadomasochistic abuse” means flagellation or torture by or upon a person or animal, or the condition of being fettered, bound, or otherwise physically restrained, for the purpose of deriving sexual satisfaction, or satisfaction brought about as a result of sadistic violence, from inflicting harm on another or receiving such harm oneself.

(14) “Sexual battery” means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, “sexual battery” does not include an act done for a bona fide medical purpose.

(15) “Sexual bestiality” means any sexual act, actual or simulated, between a person and an animal involving the sex organ of the one and the mouth, anus, or vagina of the other.

(16) “Sexual conduct” means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual lewd exhibition of the genitals; actual physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breast with the intent to arouse or gratify the sexual desire of either party; or any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed. A mother's breastfeeding of her baby does not under any circumstance constitute “sexual conduct.”

(17) “Sexual excitement” means the condition of the human male or female genitals when in a state of sexual stimulation or arousal.

(18) “Sexually oriented material” means any book, article, magazine, publication, or written matter of any kind or any drawing, etching, painting, photograph, motion picture film, or sound recording that depicts sexual activity, actual or simulated, involving human beings or human beings and animals, that exhibits uncovered human genitals or
the pubic region in a lewd or lascivious manner, or that exhibits human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(19) “Simulated” means the explicit depiction of conduct described in subsection (16) which creates the appearance of such conduct and which exhibits any uncovered portion of the breasts, genitals, or buttocks.

(20) “Specific sexual activities” includes the following sexual activities and the exhibition of the following anatomical areas:

(a) Human genitals in the state of sexual stimulation or arousal.

(b) Acts of human masturbation, sexual intercourse, sodomy, cunnilingus, fellatio, or any excretory function, or representation thereof.

(c) The fondling or erotic touching of human genitals, the pubic region, the buttocks, or the female breasts.

(d) Less than completely and opaquely covered:

1. Human genitals or the pubic region.

2. Buttocks.

3. Female breasts below the top of the areola.

4. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**FLA. STAT. ANN. § 847.0145 (2014). Selling or buying of minors; penalties**

(1) Any parent, legal guardian, or other person having custody or control of a minor who sells or otherwise transfers custody or control of such minor, or offers to sell or otherwise transfer custody of such minor, either:

(a) With knowledge that, as a consequence of the sale or transfer, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct; or

(b) With intent to promote either:

1. The engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or
2. The rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;

shall be guilty of a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Whoever purchases or otherwise obtains custody or control of a minor, or offers to purchase or otherwise obtain custody or control of a minor, either:

(a) With knowledge that, as a consequence of the purchase or obtaining of custody, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct;

(b) With intent to promote either:

1. The engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or

2. The rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;

shall be guilty of a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

GEORGIA

GA. CODE ANN. § 42-1-12 (2014). Registration of sex offenders

(a) As used in this article, the term:

(1) “Address” means the street or route address of the sexual offender's residence. For purposes of this Code section, the term shall not mean a post office box.

(2) “Appropriate official” means:

(A) With respect to a sexual offender who is sentenced to probation without any sentence of incarceration in the state prison system or who is sentenced pursuant to Article 3 of Chapter 8 of this title, relating to first offenders, the Division of Probation of the Department of Corrections;

(B) With respect to a sexual offender who is sentenced to a period of incarceration in a prison under the jurisdiction of the Department of Corrections and who is subsequently released from prison or placed on probation, the commissioner of corrections or his or her designee;
(C) With respect to a sexual offender who is placed on parole, the chairperson of the State Board of Pardons and Paroles or his or her designee; and

(D) With respect to a sexual offender who is placed on probation through a private probation agency, the director of the private probation agency or his or her designee.

(3) “Area where minors congregate” shall include all public and private parks and recreation facilities, playgrounds, skating rinks, neighborhood centers, gymnasiums, school bus stops, public libraries, and public and community swimming pools.

(4) “Assessment criteria” means the tests that the board members use to determine the likelihood that a sexual offender will commit another criminal offense against a victim who is a minor or commit a dangerous sexual offense.

(5) “Board” means the Sexual Offender Registration Review Board.

(6) “Child care facility” means all public and private pre-kindergarten facilities, child care learning centers, preschool facilities, and long-term care facilities for children.

(6.1) “Child care learning center” shall have the same meaning as set forth in paragraph (2) of Code Section 20-1A-2.

(7) “Church” means a place of public religious worship.

(8) “Conviction” includes a final judgment of conviction entered upon a verdict or finding of guilty of a crime, a plea of guilty, or a plea of nolo contendere. A defendant who is discharged without adjudication of guilt and who is not considered to have a criminal conviction pursuant to Article 3 of Chapter 8 of this title, relating to first offenders, shall be subject to the registration requirements of this Code section for the period of time prior to the defendant's discharge after completion of his or her sentence or upon the defendant being adjudicated guilty. Unless otherwise required by federal law, a defendant who is discharged without adjudication of guilt and who is not considered to have a criminal conviction pursuant to Article 3 of Chapter 8 of this title, relating to first offenders, shall not be subject to the registration requirements of this Code section upon the defendant's discharge.

(9)(A) “Criminal offense against a victim who is a minor” with respect to convictions occurring on or before June 30, 2001, means any criminal offense under Title 16 or any offense under federal law or the laws of another state or territory of the United States which consists of:

(i) Kidnapping of a minor, except by a parent;

(ii) False imprisonment of a minor, except by a parent;
(iii) Criminal sexual conduct toward a minor;
(iv) Solicitation of a minor to engage in sexual conduct;
(v) Use of a minor in a sexual performance;
(vi) Solicitation of a minor to practice prostitution; or
(vii) Any conviction resulting from an underlying sexual offense against a victim who is a minor.

(B) “Criminal offense against a victim who is a minor” with respect to convictions occurring after June 30, 2001, means any criminal offense under Title 16 or any offense under federal law or the laws of another state or territory of the United States which consists of:

(i) Kidnapping of a minor, except by a parent;
(ii) False imprisonment of a minor, except by a parent;
(iii) Criminal sexual conduct toward a minor;
(iv) Solicitation of a minor to engage in sexual conduct;
(v) Use of a minor in a sexual performance;
(vi) Solicitation of a minor to practice prostitution;
(vii) Use of a minor to engage in any sexually explicit conduct to produce any visual medium depicting such conduct;
(viii) Creating, publishing, selling, distributing, or possessing any material depicting a minor or a portion of a minor's body engaged in sexually explicit conduct;
(ix) Transmitting, making, selling, buying, or disseminating by means of a computer any descriptive or identifying information regarding a child for the purpose of offering or soliciting sexual conduct of or with a child or the visual depicting of such conduct;
(x) Conspiracy to transport, ship, receive, or distribute visual depictions of minors engaged in sexually explicit conduct; or
(xi) Any conduct which, by its nature, is a sexual offense against a victim who is a minor.

(C) For purposes of this paragraph, a conviction for a misdemeanor shall not be considered a criminal offense against a victim who is a minor, and conduct which is
adjudicated in juvenile court shall not be considered a criminal offense against a victim who is a minor.

(10)(A) “Dangerous sexual offense” with respect to convictions occurring on or before June 30, 2006, means any criminal offense, or the attempt to commit any criminal offense, under Title 16 as specified in this paragraph or any offense under federal law or the laws of another state or territory of the United States which consists of the same or similar elements of the following offenses:

(i) Aggravated assault with the intent to rape in violation of Code Section 16-5-21;

(ii) Rape in violation of Code Section 16-6-1;

(iii) Aggravated sodomy in violation of Code Section 16-6-2;

(iv) Aggravated child molestation in violation of Code Section 16-6-4; or

(v) Aggravated sexual battery in violation of Code Section 16-6-22.2.

(B) “Dangerous sexual offense” with respect to convictions occurring after June 30, 2006, means any criminal offense, or the attempt to commit any criminal offense, under Title 16 as specified in this paragraph or any offense under federal law or the laws of another state or territory of the United States which consists of the same or similar elements of the following offenses:

(i) Aggravated assault with the intent to rape in violation of Code Section 16-5-21;

(ii) Kidnapping in violation of Code Section 16-5-40 which involves a victim who is less than 14 years of age, except by a parent;

(iii) False imprisonment in violation of Code Section 16-5-41 which involves a victim who is less than 14 years of age, except by a parent;

(iv) Rape in violation of Code Section 16-6-1;

(v) Sodomy in violation of Code Section 16-6-2;

(vi) Aggravated sodomy in violation of Code Section 16-6-2;

(vii) Statutory rape in violation of Code Section 16-6-3, if the individual convicted of the offense is 21 years of age or older;

(viii) Child molestation in violation of Code Section 16-6-4;
(ix) Aggravated child molestation in violation of Code Section 16-6-4, unless the person was convicted of a misdemeanor offense;

(x) Enticing a child for indecent purposes in violation of Code Section 16-6-5;

(xi) Sexual assault against persons in custody in violation of Code Section 16-6-5.1;

(xii) Incest in violation of Code Section 16-6-22;

(xiii) A second conviction for sexual battery in violation of Code Section 16-6-22.1;

(xiv) Aggravated sexual battery in violation of Code Section 16-6-22.2;

(xv) Sexual exploitation of children in violation of Code Section 16-12-100;

(xvi) Electronically furnishing obscene material to minors in violation of Code Section 16-12-100.1;

(xvii) Computer pornography and child exploitation prevention in violation of Code Section 16-12-100.2;

(xviii) Obscene telephone contact in violation of Code Section 16-12-100.3; or

(xix) Any conduct which, by its nature, is a sexual offense against a victim who is a minor or an attempt to commit a sexual offense against a victim who is a minor.

(C) For purposes of this paragraph, a conviction for a misdemeanor shall not be considered a dangerous sexual offense, and conduct which is adjudicated in juvenile court shall not be considered a dangerous sexual offense.

(11) “Institution of higher education” means a private or public community college, state university, state college, or independent postsecondary institution.

(12) “Level I risk assessment classification” means the sexual offender is a low sex offense risk and low recidivism risk for future sexual offenses.

(13) “Level II risk assessment classification” means the sexual offender is an intermediate sex offense risk and intermediate recidivism risk for future sexual offenses and includes all sexual offenders who do not meet the criteria for classification either as a sexually dangerous predator or for Level I risk assessment.

(14) “Minor” means any individual under the age of 18 years and any individual that the sexual offender believed at the time of the offense was under the age of 18 years if such individual was the victim of an offense.
(15) “Public and community swimming pools” includes municipal, school, hotel, motel, or any pool to which access is granted in exchange for payment of a daily fee. The term includes apartment complex pools, country club pools, or subdivision pools which are open only to residents of the subdivision and their guests. This term does not include a private pool or hot tub serving a single-family dwelling and used only by the residents of the dwelling and their guests.

(16) “Required registration information” means:

(A) Name; social security number; age; race; sex; date of birth; height; weight; hair color; eye color; fingerprints; and photograph;

(B) Address, within this state or out of state, and, if applicable in addition to the address, a rural route address and a post office box;

(C) If the place of residence is a motor vehicle or trailer, the vehicle identification number, the license tag number, and a description, including color scheme, of the motor vehicle or trailer;

(D) If the place of residence is a mobile home, the mobile home location permit number; the name and address of the owner of the home; a description, including the color scheme of the mobile home; and, if applicable, a description of where the mobile home is located on the property;

(E) If the place of residence is a manufactured home, the name and address of the owner of the home; a description, including the color scheme of the manufactured home; and, if applicable, a description of where the manufactured home is located on the property;

(F) If the place of residence is a vessel, live-aboard vessel, or houseboat, the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat;

(F.1) If the place of residence is the status of homelessness, information as provided under paragraph (2.1) of subsection (f) of this Code section;

(G) Date of employment, place of any employment, and address of employer;

(H) Place of vocation and address of the place of vocation;

(I) Vehicle make, model, color, and license tag number;

(J) If enrolled, employed, or carrying on a vocation at an institution of higher education in this state, the name, address, and county of each institution, including each campus attended, and enrollment or employment status; and
(K) The name of the crime or crimes for which the sexual offender is registering and the date released from prison or placed on probation, parole, or supervised release.

(17) “Risk assessment classification” means the notification level into which a sexual offender is placed based on the board's assessment.

(18) “School” means all public and private kindergarten, elementary, and secondary schools.

(19) “School bus stop” means a school bus stop as designated by local school boards of education or by a private school.

(20) “Sexual offender” means any individual:

(A) Who has been convicted of a criminal offense against a victim who is a minor or any dangerous sexual offense;

(B) Who has been convicted under the laws of another state or territory, under the laws of the United States, under the Uniform Code of Military Justice, or in a tribal court of a criminal offense against a victim who is a minor or a dangerous sexual offense; or

(C) Who is required to register pursuant to subsection (e) of this Code section.

(21) “Sexually dangerous predator” means a sexual offender:

(A) Who was designated as a sexually violent predator between July 1, 1996, and June 30, 2006; or

(B) Who is determined by the Sexual Offender Registration Review Board to be at risk of perpetrating any future dangerous sexual offense.

(22) “Vocation” means any full-time, part-time, or volunteer employment with or without compensation exceeding 14 consecutive days or for an aggregate period of time exceeding 30 days during any calendar year.

(b) Before a sexual offender who is required to register under this Code section is released from prison or placed on parole, supervised release, or probation, the appropriate official shall:

(1) Inform the sexual offender of the obligation to register, the amount of the registration fee, and how to maintain registration;

(2) Obtain the information necessary for the required registration information;
(3) Inform the sexual offender that, if the sexual offender changes any of the required registration information, other than residence address, the sexual offender shall give the new information to the sheriff of the county with whom the sexual offender is registered within 72 hours of the change of information; if the information is the sexual offender's new residence address, the sexual offender shall give the information to the sheriff of the county with whom the sexual offender last registered within 72 hours prior to moving and to the sheriff of the county to which the sexual offender is moving within 72 hours prior to moving;

(4) Inform the sexual offender that he or she shall also register in any state where he or she is employed, carries on a vocation, or is a student;

(5) Inform the sexual offender that, if he or she changes residence to another state, the sexual offender shall register the new address with the sheriff of the county with whom the sexual offender last registered and that the sexual offender shall also register with a designated law enforcement agency in the new state within 72 hours after establishing residence in the new state;

(6) Obtain fingerprints and a current photograph of the sexual offender;

(7) Require the sexual offender to read and sign a form stating that the obligations of the sexual offender have been explained;

(8) Obtain and forward any information obtained from the clerk of court pursuant to Code Section 42-5-50 to the sheriff's office of the county in which the sexual offender will reside; and

(9) If required by Code Section 42-1-14, place any required electronic monitoring system on the sexually dangerous predator and explain its operation and cost.

c) The Department of Corrections shall:

(1) Forward to the Georgia Bureau of Investigation a copy of the form stating that the obligations of the sexual offender have been explained;

(2) Forward any required registration information to the Georgia Bureau of Investigation;

(3) Forward the sexual offender's fingerprints and photograph to the sheriff's office of the county where the sexual offender is going to reside;

(4) Inform the board and the prosecuting attorney for the jurisdiction in which a sexual offender was convicted of the impending release of a sexual offender at least eight months prior to such release so as to facilitate compliance with Code Section 42-1-14; and
(5) Keep all records of sexual offenders in a secure facility in accordance with Code Sections 15-1-10, 15-6-62, and 15-6-62.1 until official proof of death of a registered sexual offender; thereafter, the records shall be destroyed.

(d) No sexual offender shall be released from prison or placed on parole, supervised release, or probation until:

(1) The appropriate official has provided the Georgia Bureau of Investigation and the sheriff's office in the county where the sexual offender will be residing with the sexual offender's required registration information and risk assessment classification level; and

(2) The sexual offender's name has been added to the list of sexual offenders maintained by the Georgia Bureau of Investigation and the sheriff's office as required by this Code section.

(e) Registration pursuant to this Code section shall be required by any individual who:

(1) Is convicted on or after July 1, 1996, of a criminal offense against a victim who is a minor;

(2) Is convicted on or after July 1, 1996, of a dangerous sexual offense;

(3) Has previously been convicted of a criminal offense against a victim who is a minor and may be released from prison or placed on parole, supervised release, or probation on or after July 1, 1996;

(4) Has previously been convicted of a sexually violent offense or dangerous sexual offense and may be released from prison or placed on parole, supervised release, or probation on or after July 1, 1996;

(5) Is a resident of Georgia who intends to reside in this state and who is convicted under the laws of another state or the United States, under the Uniform Code of Military Justice, or in a tribal court of a sexually violent offense, a criminal offense against a victim who is a minor on or after July 1, 1999, or a dangerous sexual offense on or after July 1, 1996;

(6) Is a nonresident who changes residence from another state or territory of the United States or any other place to Georgia who is required to register as a sexual offender under federal law, military law, tribal law, or the laws of another state or territory or who has been convicted in this state of a criminal offense against a victim who is a minor or any dangerous sexual offense;

(7) Is a nonresident sexual offender who enters this state for the purpose of employment or any other reason for a period exceeding 14 consecutive days or for an aggregate period of time exceeding 30 days during any calendar year regardless of whether such sexual
offender is required to register under federal law, military law, tribal law, or the laws of another state or territory; or

(8) Is a nonresident sexual offender who enters this state for the purpose of attending school as a full-time or part-time student regardless of whether such sexual offender is required to register under federal law, military law, tribal law, or the laws of another state or territory.

(f) Any sexual offender required to register under this Code section shall:

(1) Provide the required registration information to the appropriate official before being released from prison or placed on parole, supervised release, or probation;

(2) Register in person with the sheriff of the county in which the sexual offender resides within 72 hours after the sexual offender's release from prison or placement on parole, supervised release, probation, or entry into this state;

(2.1) In the case of a sexual offender whose place of residence is the status of homelessness, in lieu of the requirements of paragraph (2) of this subsection, register in person with the sheriff of the county in which the sexual offender sleeps within 72 hours after the sexual offender's release from prison or placement on parole, supervised release, probation, or entry into this state and provide the location where he or she sleeps;

(3) Maintain the required registration information with the sheriff of each county in which the sexual offender resides or sleeps;

(4) Renew the required registration information with the sheriff of the county in which the sexual offender resides or sleeps by reporting in person to the sheriff within 72 hours prior to such offender's birthday each year to be photographed and fingerprinted;

(5) Update the required registration information with the sheriff of the county in which the sexual offender resides within 72 hours of any change to the required registration information, other than where he or she resides or sleeps if such person is homeless. If the information is the sexual offender's new address, the sexual offender shall give the information regarding the sexual offender's new address to the sheriff of the county in which the sexual offender last registered within 72 hours prior to any change of address and to the sheriff of the county to which the sexual offender is moving within 72 hours prior to establishing such new address. If the sexual offender is homeless and the information is the sexual offender's new sleeping location, within 72 hours of changing sleeping locations, the sexual offender shall give the information regarding the sexual offender's new sleeping location to the sheriff of the county in which the sexual offender last registered, and if the county has changed, to the sheriff of the county to which the sexual offender has moved; and
(6) Continue to comply with the registration requirements of this Code section for the entire life of the sexual offender, excluding ensuing periods of incarceration.

(g) A sexual offender required to register under this Code section may petition to be released from the registration requirements and from the residency or employment restrictions of this Code section in accordance with the provisions of Code Section 42-1-19.

(h)(1) The appropriate official or sheriff shall, within 72 hours after receipt of the required registration information, forward such information to the Georgia Bureau of Investigation. Once the data is entered into the Criminal Justice Information System by the appropriate official or sheriff, the Georgia Crime Information Center shall notify the sheriff of the sexual offender's county of residence, either permanent or temporary, the sheriff of the county of employment, and the sheriff of the county where the sexual offender attends an institution of higher education within 24 hours of entering the data or any change to the data.

(2) The Georgia Bureau of Investigation shall:

(A) Transmit all information, including the conviction data and fingerprints, to the Federal Bureau of Investigation within 24 hours of entering the data;

(B) Establish operating policies and procedures concerning record ownership, quality, verification, modification, and cancellation; and

(C) Perform mail out and verification duties as follows:

(i) Send each month Criminal Justice Information System network messages to sheriffs listing sexual offenders due for verification;

(ii) Create a photo image file from original entries and provide such entries to sheriffs to assist in sexual offender identification and verification;

(iii) Mail a nonforwardable verification form to the last reported address of the sexual offender within ten days prior to the sexual offender's birthday;

(iv) If the sexual offender changes residence to another state, notify the law enforcement agency with which the sexual offender shall register in the new state; and

(v) Maintain records required under this Code section.

(i) The sheriff's office in each county shall:

(1) Prepare and maintain a list of all sexual offenders and sexually dangerous predators residing in each county. Such list shall include the sexual offender's name; age; physical
description; address; crime of conviction, including conviction date and the jurisdiction of the conviction; photograph; and the risk assessment classification level provided by the board, and an explanation of how the board classifies sexual offenders and sexually dangerous predators;

(2) Electronically submit and update all information provided by the sexual offender within two business days to the Georgia Bureau of Investigation in a manner prescribed by the Georgia Bureau of Investigation;

(3) Maintain and provide a list, manually or electronically, of every sexual offender residing in each county so that it may be available for inspection:

(A) In the sheriff's office;

(B) In any county administrative building;

(C) In the main administrative building for any municipal corporation;

(D) In the office of the clerk of the superior court so that such list is available to the public; and

(E) On a website maintained by the sheriff of the county for the posting of general information;

(4) Update the public notices required by paragraph (3) of this subsection within two business days of the receipt of such information;

(5) Inform the public of the presence of sexual offenders in each community;

(6) Update the list of sexual offenders residing in the county upon receipt of new information affecting the residence address of a sexual offender or upon the registration of a sexual offender moving into the county by virtue of release from prison, relocation from another county, conviction in another state, federal court, military tribunal, or tribal court. Such list, and any additions to such list, shall be delivered, within 72 hours of updating the list of sexual offenders residing in the county, to all schools or institutions of higher education located in the county;

(7) Within 72 hours of the receipt of changed required registration information, notify the Georgia Bureau of Investigation through the Criminal Justice Information System of each change of information;

(8) Retain the verification form stating that the sexual offender still resides at the address last reported;
(9) Enforce the criminal provisions of this Code section. The sheriff may request the assistance of the Georgia Bureau of Investigation to enforce the provisions of this Code section;

(10) Cooperate and communicate with other sheriffs’ offices in this state and in the United States to maintain current data on the location of sexual offenders;

(11) Determine the appropriate time of day for reporting by sexual offenders, which shall be consistent with the reporting requirements of this Code section;

(12) If required by Code Section 42-1-14, place any electronic monitoring system on the sexually dangerous predator and explain its operation and cost;

(13) Provide current information on names and addresses of all registered sexual offenders to campus police with jurisdiction for the campus of an institution of higher education if the campus is within the sheriff’s jurisdiction; and

(14) Collect the annual $250.00 registration fee from the sexual offender and transmit such fees to the state for deposit into the general fund.

(j)(1) The sheriff of the county where the sexual offender resides or last registered shall be the primary law enforcement official charged with communicating the whereabouts of the sexual offender and any changes in required registration information to the sheriff’s office of the county or counties where the sexual offender is employed, volunteers, attends an institution of higher education, or moves.

(2) The sheriff’s office may post the list of sexual offenders in any public building in addition to those locations enumerated in subsection (h) of this Code section.

(k) The Georgia Crime Information Center shall create the Criminal Justice Information System network transaction screens by which appropriate officials shall enter original data required by this Code section. Screens shall also be created for sheriffs’ offices for the entry of record confirmation data; employment; changes of residence, institutions of higher education, or employment; or other pertinent data to assist in sexual offender identification.

(l)(1) On at least an annual basis, the Department of Education shall obtain from the Georgia Bureau of Investigation a complete list of the names and addresses of all registered sexual offenders and shall provide access to such information, accompanied by a hold harmless provision, to each school in this state. In addition, the Department of Education shall provide information to each school in this state on accessing and retrieving from the Georgia Bureau of Investigation's website a list of the names and addresses of all registered sexual offenders.
(2) On at least an annual basis, the Department of Early Care and Learning shall provide current information to all child care programs regulated pursuant to Code Section 20-1A-10 and to all child care learning centers, day-care, group day-care, and family day-care programs regulated pursuant to Code Section 49-5-12 on accessing and retrieving from the Georgia Bureau of Investigation's website a list of the names and addresses of all registered sexual offenders and shall include, on a continuing basis, such information with each application for licensure, commissioning, or registration for early care and education programs.

(3) On at least an annual basis, the Department of Human Services shall provide current information to all long-term care facilities for children on accessing and retrieving from the Georgia Bureau of Investigation's website a list of the names and addresses of all registered sexual offenders.

(m) Within ten days of the filing of a defendant's discharge and exoneration of guilt pursuant to Article 3 of Chapter 8 of this title, the clerk of court shall transmit the order of discharge and exoneration to the Georgia Bureau of Investigation and any sheriff maintaining records required under this Code section.

(n) Any individual who:

(1) Is required to register under this Code section and who fails to comply with the requirements of this Code section;

(2) Provides false information; or

(3) Fails to respond directly to the sheriff of the county where he or she resides or sleeps within 72 hours prior to such individual's birthday

shall be guilty of a felony and shall be punished by imprisonment for not less than one nor more than 30 years; provided, however, that upon the conviction of the second offense under this subsection, the defendant shall be punished by imprisonment for not less than five nor more than 30 years.

(o) The information collected pursuant to this Code section shall be treated as private data except that:

(1) Such information may be disclosed to law enforcement agencies for law enforcement purposes;

(2) Such information may be disclosed to government agencies conducting confidential background checks; and

(3) The Georgia Bureau of Investigation or any sheriff maintaining records required under this Code section shall, in addition to the requirements of this Code section to
inform the public of the presence of sexual offenders in each community, release such other relevant information collected under this Code section that is necessary to protect the public concerning sexual offenders required to register under this Code section, except that the identity of a victim of an offense that requires registration under this Code section shall not be released.

(p) The Board of Public Safety is authorized to promulgate rules and regulations necessary for the Georgia Bureau of Investigation and the Georgia Crime Information Center to implement and carry out the provisions of this Code section.

(q) Law enforcement agencies, employees of law enforcement agencies, and state officials shall be immune from liability for good faith conduct under this article.

**GA. CODE ANN. § 16-12-100 (2014). Sexual exploitation of children**

(a) As used in this Code section, the term:

(1) “Minor” means any person under the age of 18 years.

(2) “Performance” means any play, dance, or exhibit to be shown to or viewed by an audience.

(3) “Producing” means producing, directing, manufacturing, issuing, or publishing.

(4) “Sexually explicit conduct” means actual or simulated:

(A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(B) Bestiality;

(C) Masturbation;

(D) Lewd exhibition of the genitals or pubic area of any person;

(E) Flagellation or torture by or upon a person who is nude;

(F) Condition of being fettered, bound, or otherwise physically restrained on the part of a person who is nude;

(G) Physical contact in an act of apparent sexual stimulation or gratification with any person's unclothed genitals, pubic area, or buttocks or with a female's nude breasts;

(H) Defecation or urination for the purpose of sexual stimulation of the viewer; or
(1) Penetration of the vagina or rectum by any object except when done as part of a recognized medical procedure.

(5) “Visual medium” means any film, photograph, negative, slide, magazine, or other visual medium.

(b)(1) It is unlawful for any person knowingly to employ, use, persuade, induce, entice, or coerce any minor to engage in or assist any other person to engage in any sexually explicit conduct for the purpose of producing any visual medium depicting such conduct.

(2) It is unlawful for any parent, legal guardian, or person having custody or control of a minor knowingly to permit the minor to engage in or to assist any other person to engage in sexually explicit conduct for the purpose of producing any visual medium depicting such conduct.

(3) It is unlawful for any person knowingly to employ, use, persuade, induce, entice, or coerce any minor to engage in or assist any other person to engage in any sexually explicit conduct for the purpose of any performance.

(4) It is unlawful for any parent, legal guardian, or person having custody or control of a minor knowingly to permit the minor to engage in or to assist any other person to engage in sexually explicit conduct for the purpose of any performance.

(5) It is unlawful for any person knowingly to create, reproduce, publish, promote, sell, distribute, give, exhibit, or possess with intent to sell or distribute any visual medium which depicts a minor or a portion of a minor's body engaged in any sexually explicit conduct.

(6) It is unlawful for any person knowingly to advertise, sell, purchase, barter, or exchange any medium which provides information as to where any visual medium which depicts a minor or a portion of a minor's body engaged in any sexually explicit conduct can be found or purchased.

(7) It is unlawful for any person knowingly to bring or cause to be brought into this state any material which depicts a minor or a portion of a minor's body engaged in any sexually explicit conduct.

(8) It is unlawful for any person knowingly to possess or control any material which depicts a minor or a portion of a minor's body engaged in any sexually explicit conduct.

(c) A person who, in the course of processing or producing visual or printed matter either privately or commercially, has reasonable cause to believe that the visual or printed matter submitted for processing or producing depicts a minor engaged in sexually explicit conduct shall immediately report such incident, or cause a report to be made, to the Georgia Bureau of Investigation or the law enforcement agency for the county in which
such matter is submitted. Any person participating in the making of a report or causing a report to be made pursuant to this subsection or participating in any judicial proceeding or any other proceeding resulting therefrom shall in so doing be immune from any civil or criminal liability that might otherwise be incurred or imposed, providing such participation pursuant to this subsection is made in good faith.

(d) The provisions of subsection (b) of this Code section shall not apply to:

(1) The activities of law enforcement and prosecution agencies in the investigation and prosecution of criminal offenses;

(2) Legitimate medical, scientific, or educational activities; or

(3) Any person who creates or possesses a visual medium depicting only himself or herself engaged in sexually explicit conduct.

(e)(1) A person who is convicted of an offense under this Code section shall forfeit to the State of Georgia such interest as the person may have in:

(A) Any property constituting or directly derived from gross profits or other proceeds obtained from such offense; and

(B) Any property used, or intended to be used, to commit such offense.

(2) In any action under this Code section, the court may enter such restraining orders or take other appropriate action, including acceptance of performance bonds, in connection with any interest that is subject to forfeiture.

(3) The court shall order forfeiture of property referred to in paragraph (1) of this subsection if the trier of fact determines, beyond a reasonable doubt, that such property is subject to forfeiture.

(4) The provisions of subsection (u) of Code Section 16-13-49 shall apply for the disposition of any property forfeited under this subsection. In any disposition of property under this subsection, a convicted person shall not be permitted to acquire property forfeited by such person.

(f)(1) The following property shall be subject to forfeiture to the State of Georgia:

(A) Any material or equipment used, or intended for use, in producing, reproducing, transporting, shipping, or receiving any visual medium in violation of this Code section;

(B) Any visual medium produced, transported, shipped, or received in violation of this Code section, or any material containing such depiction; provided, however, that any
such property so forfeited shall be destroyed by the appropriate law enforcement agency after it is no longer needed in any court proceedings; or

(C) Any property constituting or directly derived from gross profits or other proceeds obtained from a violation of this Code section;

except that no property of any owner shall be forfeited under this paragraph, to the extent of the interest of such owner, by reason of an act or omission established by such owner to have been committed or omitted without knowledge or consent of such owner.

(2) The procedure for forfeiture and disposition of forfeited property under this subsection shall be as provided for forfeitures under Code Section 16-13-49.

(g)(1) Except as otherwise provided in paragraphs (2) and (3) of this subsection, any person who violates a provision of this Code section shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than five nor more than 20 years and by a fine of not more than $100,000.00; provided, however, that if the person so convicted is a member of the immediate family of the victim, no fine shall be imposed.

(2) Any person who violates subsection (c) of this Code section shall be guilty of a misdemeanor.

(3) Any person who violates paragraph (1), (5), (7), or (8) of subsection (b) of this Code section shall be guilty of a misdemeanor if:

(A) The minor depicted was at least 14 years of age at the time the visual medium was created;

(B) The visual medium was created with the permission of the minor depicted; and

(C) The defendant was 18 years of age or younger at the time of the offense and:

(i) The defendant's violation of such paragraphs did not involve the distribution of such visual medium to another person; or

(ii) In the court's discretion, and when the prosecuting attorney and the defendant have agreed, if the defendant's violation of such paragraphs involved the distribution of such visual medium to another person but such distribution was not for the purpose of:

(I) Harassing, intimidating, or embarrassing the minor depicted; or

(II) For any commercial purpose.
GA. CODE ANN. § 16-12-100.1 (2014). Electronically furnishing obscene material to minors
(a) As used in this Code section, the term:

(1) “Bulletin board system” means a computer data and file service that is accessed wirelessly or by physical connection to store and transmit information.

(2) “CD-ROM” means a compact disc with read only memory which has the capacity to store audio, video, and written materials and is used by computers to reveal the above-said material.

(3) “Electronically furnishes“ means:

(A) To make available by electronic storage device, including floppy disks and other magnetic storage devices, or by CD-ROM; or

(B) To make available by allowing access to information stored in a computer, including making material available by operating a computer bulletin board system.

(4) “Harmful to minors” means that quality of description or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, when it:

(A) Taken as a whole, predominantly appeals to the prurient, shameful, or morbid interest of minors;

(B) Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and

(C) Is, when taken as a whole, lacking in serious literary, artistic, political, or scientific value for minors.

(5) “Minor” means an unmarried person younger than 18 years of age.

(6) “Sadomasochistic abuse” means flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed.

(7) “Sexual conduct” means human masturbation, sexual intercourse, or any touching of the genitals, pubic areas, or buttocks of the human male or female or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

(8) “Sexual excitement” means the condition of human male or female genitals or the breasts of the female when in a state of sexual stimulation.
(b) A person commits the crime of electronically furnishing obscene materials to minors if:

(1) Knowing or having good reason to know the character of the material furnished, the person electronically furnishes to an individual whom the person knows or should have known is a minor:

(A) Any picture, photograph, drawing, or similar visual representation or image of a person or portion of a human body which depicts sexually explicit nudity, sexual conduct, or sadomasochistic abuse and which is harmful to minors; or

(B) Any written or aural matter that contains material of the nature described in subparagraph (A) of this paragraph or contains explicit verbal descriptions or narrative accounts of sexual conduct, sexual excitement, or sadomasochistic abuse;

(2) The offensive portions of the material electronically furnished to the minor are not merely an incidental part of an otherwise nonoffending whole;

(3) The material furnished to the minor, taken as a whole, lacks serious literary, artistic, political, or scientific value; and

(4) The material furnished to the minor, taken as a whole, is harmful to minors in that it appeals to and incites prurient interest.

(c) Except as provided in subsection (d) of this Code section, any person who violates this Code section shall be guilty of a misdemeanor of a high and aggravated nature.

(d) Any person who violates this Code section shall be guilty of a misdemeanor if:

(1) At the time of the offense, the minor receiving the obscene materials was at least 14 years of age;

(2) The receipt of the materials was with the permission of the minor; and

(3) The defendant was 18 years of age or younger.


(a) This Code section shall be known and may be cited as the “Computer or Electronic Pornography and Child Exploitation Prevention Act of 2007.”

(b) As used in this Code section, the term:

(1) “Child” means any person under the age of 16 years.
(2) “Electronic device” means any device used for the purpose of communicating with a child for sexual purposes or any device used to visually depict a child engaged in sexually explicit conduct, store any image or audio of a child engaged in sexually explicit conduct, or transmit any audio or visual image of a child for sexual purposes. Such term may include, but shall not be limited to, a computer, cellular phone, thumb drive, video game system, or any other electronic device that can be used in furtherance of exploiting a child for sexual purposes;

(3) “Identifiable child” means a person:

(A) Who was a child at the time the visual depiction was created, adapted, or modified or whose image as a child was used in creating, adapting, or modifying the visual depiction; and

(B) Who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature or by electronic or scientific means as may be available.

The term shall not be construed to require proof of the actual identity of the child.

(4) “Sadomasochistic abuse” has the same meaning as provided in Code Section 16-12-100.1.

(5) “Sexual conduct” has the same meaning as provided in Code Section 16-12-100.1.

(6) “Sexual excitement” has the same meaning as provided in Code Section 16-12-100.1.

(7) “Sexually explicit nudity” has the same meaning as provided in Code Section 16-12-102.

(8) “Visual depiction” means any image and includes undeveloped film and video tape and data stored on computer disk or by electronic means which is capable of conversion into a visual image or which has been created, adapted, or modified to show an identifiable child engaged in sexually explicit conduct.

(c)(1) A person commits the offense of computer or electronic pornography if such person intentionally or willfully:

(A) Compiles, enters into, or transmits by computer or other electronic device;

(B) Makes, prints, publishes, or reproduces by other computer or other electronic device;

(C) Causes or allows to be entered into or transmitted by computer or other electronic device; or
(D) Buys, sells, receives, exchanges, or disseminates

any notice, statement, or advertisement, or any child's name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information for the purpose of offering or soliciting sexual conduct of or with an identifiable child or the visual depiction of such conduct.

(2) Except as provided in paragraphs (3) and (4) of this subsection, any person convicted of violating paragraph (1) of this subsection shall be punished by a fine of not more than $10,000.00 and by imprisonment for not less than one nor more than 20 years.

(3) Any person who violates paragraph (1) of this subsection shall be guilty of a misdemeanor if:

(A) At the time of the offense, any identifiable child visually depicted was at least 14 years of age when the visual depiction was created;

(B) The visual depiction was created with the permission of such child;

(C) The defendant possessed the visual depiction with the permission of such child; and

(D) The defendant was 18 years of age or younger at the time of the offense and:

(i) The defendant did not distribute the visual depiction to another person; or

(ii) In the court's discretion, and when the prosecuting attorney and the defendant have agreed, if the defendant's violation involved the distribution of such visual depiction to another person but such distribution was not for the purpose of:

(I) Harassing, intimidating, or embarrassing the minor depicted; or

(II) For any commercial purpose.

(4) The prohibition contained in paragraph (1) of this subsection shall not apply to any person who creates or possesses a visual depiction of only himself or herself.

(d)(1) It shall be unlawful for any person intentionally or willfully to utilize a computer wireless service or Internet service, including, but not limited to, a local bulletin board service, Internet chat room, e-mail, instant messaging service, or other electronic device, to seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice a child, another person believed by such person to be a child, any person having custody or control of a child, or another person believed by such person to have custody or control of a child to commit any illegal act by, with, or against a child as described in Code Section 16-6-2, relating to the offense of sodomy or aggravated sodomy; Code Section
 Paragraphs 16-6-4, relating to the offense of child molestation or aggravated child molestation; Code Section 16-6-5, relating to the offense of enticing a child for indecent purposes; or Code Section 16-6-8, relating to the offense of public indecency, or to engage in any conduct that by its nature is an unlawful sexual offense against a child.

(2) Any person who violates paragraph (1) of this subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than 20 years and by a fine of not more than $25,000.00; provided, however, that if at the time of the offense the victim was at least 14 years of age and the defendant was 18 years of age or younger, then the defendant shall be guilty of a misdemeanor.

(e)(1) A person commits the offense of obscene Internet contact with a child if he or she has contact with someone he or she knows to be a child or with someone he or she believes to be a child via a computer wireless service or Internet service, including, but not limited to, a local bulletin board service, Internet chat room, e-mail, or instant messaging service, and the contact involves any matter containing explicit verbal descriptions or narrative accounts of sexually explicit nudity, sexual conduct, sexual excitement, or sadomasochistic abuse that is intended to arouse or satisfy the sexual desire of either the child or the person, provided that no conviction shall be had for a violation of this subsection on the unsupported testimony of a child.

(2) Any person who violates paragraph (1) of this subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than ten years or by a fine of not more than $10,000.00; provided, however, that if at the time of the offense the victim was at least 14 years of age and the defendant was 18 years of age or younger, then the defendant shall be guilty of a misdemeanor.

(f)(1) It shall be unlawful for any owner or operator of a computer on-line service, Internet service, local bulletin board service, or other electronic device that is in the business of providing a service that may be used to sexually exploit a child to intentionally or willfully to permit a subscriber to utilize the service to commit a violation of this Code section, knowing that such person intended to utilize such service to violate this Code section. No owner or operator of a public computer on-line service, Internet service, local bulletin board service, or other electronic device that is in the business of providing a service that may be used to sexually exploit a child shall be held liable on account of any action taken in good faith in providing the aforementioned services.

(2) Any person who violates paragraph (1) of this subsection shall be guilty of a misdemeanor of a high and aggravated nature.

(g) The sole fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense under this Code section shall not constitute a defense to prosecution under this Code section.
(h) A person is subject to prosecution in this state pursuant to Code Section 17-2-1, relating to jurisdiction over crimes and persons charged with commission of crimes generally, for any conduct made unlawful by this Code section which the person engages in while:

(1) Either within or outside of this state if, by such conduct, the person commits a violation of this Code section which involves a child who resides in this state or another person believed by such person to be a child residing in this state; or

(2) Within this state if, by such conduct, the person commits a violation of this Code section which involves a child who resides within or outside this state or another person believed by such person to be a child residing within or outside this state.

(i) Any violation of this Code section shall constitute a separate offense.

HAWAII

HAW. REV. STAT. ANN. § 846E-1 (2014). Definitions
As used in this chapter, unless the context clearly requires otherwise:

“Agency having jurisdiction” means that agency with the authority to direct the release of a person serving a sentence or term of confinement or place a person on probation, supervised release, or parole and includes the department of public safety, the Hawaii paroling authority, the courts, and the department of health.

“Attorney general” means the attorney general of the State of Hawaii, the department of the attorney general, or an authorized representative of the attorney general.

“Chief of police” means the county chief of police, the county police department, or an authorized representative of the chief of police.

“Clean record” means no conviction for a felony or covered offense, if placed on probation or parole, completion of probation or parole without more than one revocation, and, for sex offenders, successful completion of an appropriate sex offender treatment program, if such program was ordered.

“Conviction” means a judgment on the verdict, or a finding of guilt after a plea of guilty or nolo contendere, excluding the adjudication of a minor, and occurs on the date judgment is entered.

“Covered offender” means a “sex offender” or an “offender against minors”, as defined in this section.

“Covered offense” means a criminal offense that is:
(1) A crime within the definition of “crimes against minors” in this section; or

(2) A crime within the definition of “sexual offense” in this section.

“Crime against minors” excludes “sexual offenses” as defined in this section and means a criminal offense that consists of:

(1) Kidnapping of a minor, by someone other than a parent;

(2) Unlawful imprisonment in the first or second degree that involves the unlawful imprisonment of a minor by someone other than a parent;

(3) An act, as described in chapter 705, that is an attempt, criminal solicitation, or criminal conspiracy to commit one of the offenses designated in paragraph (1) or (2);

(4) A criminal offense that is comparable to or which exceeds one of the offenses designated in paragraphs (1) through (3); or

(5) Any federal, military, out-of-state, tribal, or foreign conviction for any offense that, under the laws of this State, would be a crime against minors as designated in paragraphs (1) through (4).

“Foreign conviction” means a conviction under the laws of:

(1) Canada, United Kingdom, Australia, or New Zealand; or

(2) Any other foreign country, if the United States Department of State, in its Country Reports on Human Rights Practices, has concluded that an independent judiciary vigorously enforced the right to a fair trial in that country during the year in which the conviction occurred and enforces the right to a fair trial to the same or higher standard as the countries listed in paragraph (1).

“Offender against minors” means a person who is not a “sex offender”, as defined in this section, and is or has been:

(1) Convicted at any time, whether before or after May 9, 2005, of a “crime against minors” as defined in this section; or

(2) Charged at any time, whether before or after May 9, 2005, with a “crime against minors” as defined in this section and who is found unfit to proceed and is released into the community or who is acquitted due to a physical or mental disease, disorder, or defect pursuant to chapter 704 and is released into the community.
“Out-of-state conviction” means a conviction in any other state of the United States, the District of Columbia, or the five principal United States territories, including the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, and the United States Virgin Islands.

“Parent” means a parent, legal guardian, or a person who has a substantial familial or hanai relationship with the minor.

“Permanent residence” means a building, permanent structure or unit therein, or watercraft where the covered offender resides and intends to reside indefinitely, or at least for the next one hundred eighty days, and which the offender owns, rents, or occupies with the consent of the owner.

“Registration information” means the information specified in section 846E-2(d) and (e).

“Release” means release from:

(1) Imprisonment;

(2) Imprisonment and placed on parole;

(3) Imprisonment and placed on furlough;

(4) Any form of commitment, custody, or confinement resulting from an order made pursuant to chapter 704; or

(5) A halfway house or other equivalent facility,

whichever is later.

“Repeat covered offender” means:

(1) A person who is or has been convicted at any time, whether before or after May 9, 2005, of more than one covered offense as defined in this section, except that a conviction for multiple counts within a single charging document that allege covered offenses against the same victim and that allege the same date of the covered offense against that single victim shall be considered, for the purposes of this definition, a single covered offense; or

(2) A person who is or has been charged at any time, whether before or after May 9, 2005, with more than one covered offense as defined in this section and who has been, more than once, either:

(A) Convicted;
(B) Found unfit to proceed pursuant to chapter 704; or

(C) Acquitted due to a physical or mental disease, disorder, or defect pursuant to chapter 704.

“Sex offender” means:

(1) A person who is or has been convicted at any time, whether before or after May 9, 2005, of a “sexual offense”; or

(2) A person who is or has been charged at any time, whether before or after May 9, 2005, with a “sexual offense” and is or has been found unfit to proceed and is or has been released into the community or who is acquitted due to a physical or mental disease, disorder, or defect pursuant to chapter 704 and is released into the community.

“Sexual offense” means an offense that is:

(1) Set forth in section 707-730(1), 707-731(1), 707-732(1), 707-733(1)(a), 707-733.6, 712-1202(1), or 712-1203(1), but excludes conduct that is criminal only because of the age of the victim, as provided in section 707-730(1)(b), or section 707-732(1)(b) if the perpetrator is under the age of eighteen;

(2) An act defined in section 707-720 if the charging document for the offense for which there has been a conviction alleged intent to subject the victim to a sexual offense;

(3) An act that consists of:

(A) Criminal sexual conduct toward a minor, including but not limited to an offense set forth in section 707-759;

(B) Solicitation of a minor who is less than fourteen years old to engage in sexual conduct;

(C) Use of a minor in a sexual performance;

(D) Production, distribution, or possession of child pornography chargeable as a felony under section 707-750, 707-751, or 707-752;

(E) Electronic enticement of a child chargeable under section 707-756 or 707-757 if the offense was committed with the intent to promote or facilitate the commission of another covered offense as defined in this section; or

(F) Solicitation of a minor for prostitution in violation of section 712-1209.1;

(4) A violation of privacy under section 711-1110.9;
(5) An act, as described in chapter 705, that is an attempt, criminal solicitation, or criminal conspiracy to commit one of the offenses designated in paragraphs (1) through (4);

(6) A criminal offense that is comparable to or that exceeds a sexual offense as defined in paragraphs (1) through (5); or

(7) Any federal, military, out-of-state, tribal, or foreign conviction for any offense that under the laws of this State would be a sexual offense as defined in paragraphs (1) through (6).

“Temporary residence” means a building, permanent structure or unit therein, watercraft, emergency shelter, or transitional housing facility where the covered offender resides, but does not intend to reside for more than one hundred eighty days.

“Tribal conviction” means a conviction by a tribal court of an Indian tribe recognized by the government of the United States.

(1) A person commits the offense of promoting child abuse in the first degree if, knowing or having reason to know its character and content, the person:

(a) Produces or participates in the preparation of child pornography;

(b) Produces or participates in the preparation of pornographic material that employs, uses, or otherwise contains a minor engaging in or assisting others to engage in sexual conduct; or

(c) Engages in a pornographic performance that employs, uses, or otherwise contains a minor engaging in or assisting others to engage in sexual conduct.

(2) As used in this section:

“Child pornography” means any pornographic visual representation, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexual conduct, if:

(a) The pornographic production of such visual representation involves the use of a minor engaging in sexual conduct; or

(b) The pornographic visual representation has been created, adapted, or modified to appear that an identifiable minor is engaging in sexual conduct.
“Community standards” means the standards of the State.

“Computer” shall have the same meaning as in section 708-890.

“Lascivious” means tending to incite lust, to deprave the morals in respect to sexual relations, or to produce voluptuous or lewd emotions in the average person, applying contemporary community standards.

“Material” means any printed matter, visual representation, or sound recording and includes, but is not limited to, books, magazines, motion picture films, pamphlets, newspapers, pictures, photographs, and tape or wire recordings.

“Minor” means any person less than eighteen years old.

“Performance” means any play, motion picture film, dance, or other exhibition performed before any audience.

“Pornographic” shall have the same meaning as in section 712-1210.

“Produces” means to produce, direct, manufacture, issue, publish, or advertise.

“Sadomasochistic abuse” means flagellation or torture by or upon a person as an act of sexual stimulation or gratification.

“Sexual conduct” means acts of masturbation, homosexuality, lesbianism, bestiality, sexual penetration, deviate sexual intercourse, sadomasochistic abuse, or lascivious exhibition of the genital or pubic area of a minor.

“Visual representation” refers to, but is not limited to, undeveloped film and videotape and data stored on computer disk or by electronic means that are capable of conversion into a visual image.

(3) The fact that a person engaged in the conduct specified by this section is prima facie evidence that the person engaged in that conduct with knowledge of the character and content of the material or the performance produced, directed, or participated in. The fact that the person who was employed, used, or otherwise contained in the pornographic material or performance, was at that time, a minor, is prima facie evidence that the defendant knew the person to be a minor.

(4) Promoting child abuse in the first degree is a class A felony.

**HAW. REV. STAT. ANN. § 707-751 (2014). Promoting child abuse in the second degree**

(1) A person commits the offense of promoting child abuse in the second degree if, knowing or having reason to know its character and content, the person:
(a) Disseminates child pornography;

(b) Reproduces child pornography with intent to disseminate;

(c) Disseminates any book, magazine, periodical, film, videotape, computer disk, or any other material that contains an image of child pornography;

(d) Disseminates any pornographic material which employs, uses, or otherwise contains a minor engaging in or assisting others to engage in sexual conduct; or

(e) Possesses thirty or more images of any form of child pornography, and the content of at least one image contains one or more of the following:

(i) A minor who is younger than the age of twelve;

(ii) Sadomasochistic abuse of a minor; or

(iii) Bestiality involving a minor.

(2) As used in this section:

“Child pornography” means any pornographic visual representation, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexual conduct, if:

(a) The pornographic production of such visual representation involves the use of a minor engaging in sexual conduct; or

(b) The pornographic visual representation has been created, adapted, or modified to appear that an identifiable minor is engaging in sexual conduct.

“Community standards” means the standards of the State.

“Computer” shall have the same meaning as in section 708-890.

“Disseminate” means to publish, sell, distribute, transmit, exhibit, present material, mail, ship, or transport by any means, including by computer, or to offer or agree to do the same.

“Lascivious” means tending to incite lust, to deprave the morals in respect to sexual relations, or to produce voluptuous or lewd emotions in the average person, applying contemporary community standards.
“Material” means any printed matter, visual representation, or sound recording and includes, but is not limited to, books, magazines, motion picture films, pamphlets, newspapers, pictures, photographs, and tape or wire recordings.

“Minor” means any person less than eighteen years old.

“Pornographic” shall have the same meaning as in section 712-1210.

“Sadomasochistic abuse” means flagellation or torture by or upon a person as an act of sexual stimulation or gratification.

“Sexual conduct” means acts of masturbation, homosexuality, lesbianism, bestiality, sexual penetration, deviate sexual intercourse, sadomasochistic abuse, or lascivious exhibition of the genital or pubic area of a minor.

“Visual representation” refers to, but is not limited to, undeveloped film and videotape, and data stored on computer disk or by electronic means that are capable of conversion into a visual image.

(3) The fact that a person engaged in the conduct specified by this section is prima facie evidence that the person engaged in that conduct with knowledge of the character and content of the material. The fact that the person who was employed, used, or otherwise contained in the pornographic material was at that time, a minor, is prima facie evidence that the defendant knew the person to be a minor.

(4) Promoting child abuse in the second degree is a class B felony.

**HAW. REV. STAT. ANN. § 707-752 (2014). Promoting child abuse in the third degree**

(1) A person commits the offense of promoting child abuse in the third degree if, knowing or having reason to know its character and content, the person possesses:

(a) Child pornography;

(b) Any book, magazine, periodical, film, videotape, computer disk, electronically stored data, or any other material that contains an image of child pornography; or

(c) Any pornographic material that employs, uses, or otherwise contains a minor engaging in or assisting others to engage in sexual conduct.

(2) As used in this section:

“Child pornography” means any pornographic visual representation, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexual conduct, if:
(a) The pornographic production of the visual representation involves the use of a minor engaging in sexual conduct; or

(b) The pornographic visual representation has been created, adapted, or modified to appear that an identifiable minor is engaging in sexual conduct.

“Community standards” means the standards of the State.

“Computer” shall have the same meaning as in section 708-890.

“Lascivious” means tending to incite lust, to deprave the morals with respect to sexual relations, or to produce voluptuous or lewd emotions in the average person, applying contemporary community standards.

“Material” means any printed matter, visual representation, or sound recording and includes, but is not limited to, books, magazines, motion picture films, pamphlets, newspapers, pictures, photographs, and tape or wire recordings.

“Minor” means any person less than eighteen years old.

“Pornographic” shall have the same meaning as in section 712-1210.

“Sadomasochistic abuse” means flagellation or torture by or upon a person as an act of sexual stimulation or gratification.

“Sexual conduct” means acts of masturbation, homosexuality, lesbianism, bestiality, sexual penetration, deviate sexual intercourse, sadomasochistic abuse, or lascivious exhibition of the genital or pubic area of a minor.

“Visual representation” includes but is not limited to undeveloped film and videotape and data stored on computer disk or by electronic means that are capable of conversion into a visual image.

(3) The fact that a person engaged in the conduct specified by this section is prima facie evidence that the person engaged in that conduct with knowledge of the character and content of the material. The fact that the person who was employed, used, or otherwise contained in the pornographic material was, at that time, a minor is prima facie evidence that the defendant knew the person to be a minor.

(4) Promoting child abuse in the third degree is a class C felony.

IDAHO
IDAHO CODE ANN. § 18-8304 (2014). Application of chapter--Rulemaking authority

(1) The provisions of this chapter shall apply to any person who:

(a) On or after July 1, 1993, is convicted of the crime, or an attempt, a solicitation, or a conspiracy to commit a crime provided for in section 18-909 (assault with intent to commit rape, infamous crime against nature, or lewd and lascivious conduct with a minor, but excluding mayhem, murder or robbery), 18-911 (battery with intent to commit rape, infamous crime against nature, or lewd and lascivious conduct with a minor, but excluding mayhem, murder or robbery), 18-919 (sexual exploitation by a medical care provider), 18-1505B (sexual abuse and exploitation of a vulnerable adult), 18-1506 (sexual abuse of a child under sixteen years of age), 18-1506A (ritualized abuse of a child), 18-1507 (sexual exploitation of a child), 18-1508 (lewd conduct with a minor child), 18-1508A (sexual battery of a minor child sixteen or seventeen years of age), 18-1509A (enticing a child over the internet), 18-4003(d) (murder committed in perpetration of rape), 18-4116 (indecent exposure, but excluding a misdemeanor conviction), 18-4502 (first degree kidnapping committed for the purpose of rape, committing the infamous crime against nature or for committing any lewd and lascivious act upon any child under the age of sixteen, or for purposes of sexual gratification or arousal), 18-4503 (second degree kidnapping where the victim is an unrelated minor child), 18-5605 (detention for prostitution), 18-5609 (inducing person under eighteen years of age into prostitution), 18-5610 (utilizing a person under eighteen years of age for prostitution), 18-5611 (inducing person under eighteen years of age to patronize a prostitute), 18-6101 (rape, but excluding 18-6101(1) where the defendant is eighteen years of age), 18-6108 (male rape, but excluding 18-6108(1) where the defendant is eighteen years of age), 18-6110 (sexual contact with a prisoner), 18-6602 (incest), 18-6605 (crime against nature), 18-6608 (forcible sexual penetration by use of a foreign object), 18-6609 (video voyeurism where the victim is a minor or upon a second or subsequent conviction), 18-7804 (if the racketeering act involves kidnapping of a minor) or 18-8602(1), Idaho Code, (sex trafficking).

(b) On or after July 1, 1993, has been convicted of any crime, an attempt, a solicitation or a conspiracy to commit a crime in another jurisdiction or who has a foreign conviction that is substantially equivalent to the offenses listed in subsection (1)(a) of this section and enters this state to establish residence or for employment purposes or to attend, on a full-time or part-time basis, any public or private educational institution including any secondary school, trade or professional institution or institution of higher education.

(c) Has been convicted of any crime, an attempt, a solicitation or a conspiracy to commit a crime in another jurisdiction, including military courts, that is substantially equivalent to the offenses listed in subsection (1) (a) of this section and was required to register as a sex offender in any other state or jurisdiction when he established residency in Idaho.

(d) Pleads guilty to or has been found guilty of a crime covered in this chapter prior to July 1, 1993, and the person, as a result of the offense, is incarcerated in a county jail.
facility or a penal facility or is under probation or parole supervision, on or after July 1, 1993.

(e) Is a nonresident regularly employed or working in Idaho or is a student in the state of Idaho and was convicted, found guilty or pleaded guilty to a crime covered by this chapter and, as a result of such conviction, finding or plea, is required to register in his state of residence.

(2) An offender shall not be required to comply with the registration provisions of this chapter while incarcerated in a correctional institution of the department of correction, a county jail facility, committed to the department of juvenile corrections or committed to a mental health institution of the department of health and welfare.

(3) A conviction for purposes of this chapter means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment or withheld judgment.

(4) The department shall have authority to promulgate rules to implement the provisions of this chapter.

(1) It is a felony for any person, with the intent of arousing, appealing to or gratifying the lust, passion or sexual desires of such person, a vulnerable adult or a third party, to:

(a) Commit any lewd or lascivious act or acts upon or with the body or any part or member thereof of a vulnerable adult including, but not limited to: genital-genital contact, oral-genital contact, anal-genital contact, oral-anal contact, manual-anal contact or manual-genital contact, whether between persons of the same or opposite sex;

(b) Involve a vulnerable adult in any act of bestiality or sadomasochism as defined in section 18-1507, Idaho Code; or

(c) Cause or have sexual contact with a vulnerable adult, not amounting to lewd conduct as defined in paragraph (a) of this subsection.

(2) For the purposes of this section:

(a) “Commercial purpose” means the intention, objective, anticipation or expectation of monetary gain or other material consideration, compensation, remuneration or profit.

(b) “Sexual contact” means any physical contact between a vulnerable adult and any person or between vulnerable adults, which is caused by the actor, or the actor causing the vulnerable adult to have self-contact;
(c) “Sexually exploitative material” means any image, photograph, motion picture, video, print, negative, slide or other mechanically, electronically, digitally or chemically produced or reproduced visual material that shows a vulnerable adult engaged in, participating in, observing or being used for explicit sexual conduct, or showing a vulnerable adult engaging in, participating in, observing or being used for explicit sexual conduct, in actual time, including, but not limited to, video chat, webcam sessions or video calling; and

(d) “Vulnerable adult” is as defined in section 18-1505, Idaho Code.

(3) Sexual abuse of a vulnerable adult is a felony and shall be punishable by imprisonment in the state prison for a period not to exceed twenty-five (25) years or by a fine not to exceed twenty-five thousand dollars ($25,000), or by both such fine and imprisonment.

(4) It shall be a felony for any person to commit sexual exploitation of a vulnerable adult if, for any commercial purpose, he knowingly:

(a) Causes, induces or permits a vulnerable adult to engage in or be used in any explicit sexual conduct as defined in section 18-1507, Idaho Code; or

(b) Prepares, arranges for, publishes, produces, promotes, makes, sells, finances, offers, exhibits, advertises, deals in, possesses or distributes sexually exploitative material.

(5) The possession by any person of three (3) or more identical copies of any sexually exploitative material shall create a presumption that such possession is for a commercial purpose.

(6) Sexual exploitation of a vulnerable adult shall be punishable by imprisonment in the state prison for a period not to exceed fifteen (15) years or by a fine not to exceed twenty-five thousand dollars ($25,000), or by both such fine and imprisonment.

IDaho Code Ann. § 18-1506 (2014). Sexual abuse of a child under the age of sixteen years
(1) It is a felony for any person eighteen (18) years of age or older, with the intent to gratify the lust, passions, or sexual desire of the actor, minor child or third party, to:

(a) Solicit a minor child under the age of sixteen (16) years to participate in a sexual act;

(b) Cause or have sexual contact with such minor child, not amounting to lewd conduct as defined in section 18-1508, Idaho Code;

(c) Make any photographic or electronic recording of such minor child; or

(d) Induce, cause or permit a minor child to witness an act of sexual conduct.
(2) For the purposes of this section “solicit” means any written, verbal, or physical act which is intended to communicate to such minor child the desire of the actor or third party to participate in a sexual act or participate in sexual foreplay, by the means of sexual contact, photographing or observing such minor child engaged in sexual contact.

(3) For the purposes of this section “sexual contact” means any physical contact between such minor child and any person, which is caused by the actor, or the actor causing such minor child to have self contact.

(4) For the purposes of this section “sexual conduct” means human masturbation, sexual intercourse, sadomasochistic abuse, or any touching of the genitals or pubic areas of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

(5) Any person guilty of a violation of the provisions of this section shall be imprisoned in the state prison for a period not to exceed twenty-five (25) years.

**Idaho Code Ann. § 18-1507 (2014). Sexual exploitation of a child**

(1) As used in this section, unless the context otherwise requires:

(a) “Bestiality” means a sexual connection in any manner between a human being and any animal.

(b) “Child” means a person who is less than eighteen (18) years of age.

(c) “Erotic fondling” means touching a person's clothed or unclothed genitals or pubic area, developing or undeveloped genitals or pubic area (if the person is a child), buttocks, breasts (if the person is a female), or developing or undeveloped breast area (if the person is a female child), for the purpose of real or simulated overt sexual gratification or stimulation of one (1) or more of the persons involved. “Erotic fondling” shall not be construed to include physical contact, even if affectionate, which is not for the purpose of real or simulated overt sexual gratification or stimulation of one (1) or more of the persons involved.

(d) “Erotic nudity” means the display of the human male or female genitals or pubic area, the undeveloped or developing genitals or pubic area of the human male or female child, the human female breasts, or the undeveloped or developing breast area of the human female child, for the purpose of real or simulated overt sexual gratification or stimulation of one (1) or more of the persons involved.

(e) “Explicit sexual conduct” means sexual intercourse, erotic fondling, erotic nudity, masturbation, sadomasochism, sexual excitement, or bestiality.
(f) “Masturbation” means the real or simulated touching, rubbing, or otherwise stimulating of a person's own clothed or unclothed genitals or pubic area, developing or undeveloped genitals or pubic area (if the person is a child), buttocks, breasts (if the person is a female), or developing or undeveloped breast area (if the person is a female child), by manual manipulation or self-induced or with an artificial instrument, for the purpose of real or simulated overt sexual gratification or arousal of the person.

(g) “Sadomasochism” means:

(i) Real or simulated flagellation or torture for the purpose of real or simulated sexual stimulation or gratification; or

(ii) The real or simulated condition of being fettered, bound, or otherwise physically restrained for sexual stimulation or gratification of a person.

(h) “Sexual excitement” means the real or simulated condition of human male or female genitals when in a state of real or simulated overt sexual stimulation or arousal.

(i) “Sexual intercourse” means real or simulated intercourse, whether genital-genital, oral-genital, anal-genital, or oral-anal, between persons of the same or opposite sex, or between a human and an animal, or with an artificial genital.

(j) “Sexually exploitative material” means any image, photograph, motion picture, video, print, negative, slide, or other mechanically, electronically, digitally or chemically produced or reproduced visual material which shows a child engaged in, participating in, observing, or being used for explicit sexual conduct, or showing a child engaging in, participating in, observing or being used for explicit sexual conduct, in actual time, including, but not limited to, video chat, webcam sessions or video calling.

(2) A person commits sexual exploitation of a child if he knowingly and willfully:

(a) Possesses or accesses through any means including, but not limited to, the internet, any sexually exploitative material; or

(b) Causes, induces or permits a child to engage in, or be used for, any explicit sexual conduct for the purpose of producing or making sexually exploitative material; or

(c) Promotes, prepares, publishes, produces, makes, finances, offers, exhibits or advertises any sexually exploitative material; or

(d) Distributes through any means including, but not limited to, mail, physical delivery or exchange, use of a computer or any other electronic or digital method, any sexually exploitative material. Distribution of sexually exploitative material does not require a pecuniary transaction or exchange of interests in order to complete the offense.
(3) The sexual exploitation of a child pursuant to subsection (2)(a) of this section is a felony and shall be punishable by imprisonment in the state prison for a period not to exceed ten (10) years or by a fine not to exceed ten thousand dollars ($10,000), or by both such imprisonment and fine.

(4) The sexual exploitation of a child pursuant to subsections (2)(b), (c) and (d) of this section is a felony and shall be punishable by imprisonment in the state prison for a term not to exceed thirty (30) years or by a fine not to exceed fifty thousand dollars ($50,000) or by both such fine and imprisonment.

(5) If any provision of this section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable.

**Idaho Code Ann. § 18-1508 (2014). Lewd conduct with minor child under sixteen**

Any person who shall commit any lewd or lascivious act or acts upon or with the body or any part or member thereof of a minor child under the age of sixteen (16) years, including but not limited to, genital-genital contact, oral-genital contact, anal-genital contact, oral-oral contact, manual-anal contact, or manual-genital contact, whether between persons of the same or opposite sex, or who shall involve such minor child in any act of bestiality or sado-masochism as defined in section 18-1507, Idaho Code, when any of such acts are done with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of such person, such minor child, or third party, shall be guilty of a felony and shall be imprisoned in the state prison for a term of not more than life.

**Idaho Code Ann. § 18-1508A (2014). Sexual battery of a minor child sixteen or seventeen years of age--Penalty**

(1) It is a felony for any person at least five (5) years of age older than a minor child who is sixteen (16) or seventeen (17) years of age, who, with the intent of arousing, appealing to or gratifying the lust, passion, or sexual desires of such person, minor child, or third party, to:

(a) Commit any lewd or lascivious act or acts upon or with the body or any part or any member thereof of such minor child including, but not limited to, genital-genital contact, oral-genital contact, anal-genital contact, oral-anal contact, manual-anal contact or manual-genital contact, whether between persons of the same or opposite sex, or who shall involve such minor child in any act of explicit sexual conduct as defined in section 18-1507, Idaho Code; or

(b) Solicit such minor child to participate in a sexual act; or
(c) Cause or have sexual contact with such minor child, not amounting to lewd conduct as defined in paragraph (a) of this subsection; or

(d) Make any photographic or electronic recording of such minor child.

(2) For the purpose of subsection (b) of this section, “solicit” means any written, verbal or physical act which is intended to communicate to such minor child the desire of the actor or third party to participate in a sexual act or participate in sexual foreplay, by the means of sexual contact, photographing or observing such minor child engaged in sexual contact.

(3) For the purpose of this section, “sexual contact” means any physical contact between such minor child and any person or between such minor children which is caused by the actor, or the actor causing such minor child to have self contact.

(4) Any person guilty of a violation of the provisions of subsection (1)(a) of this section shall be imprisoned in the state prison for a period not to exceed life.

(5) Any person guilty of a violation of the provisions of subsections (1)(b), (1)(c), or (1)(d) of this section shall be imprisoned in the state prison for a period not to exceed twenty-five (25) years.


(1) A person aged eighteen (18) years or older shall be guilty of a felony if such person knowingly uses the internet or any device that provides transmission of messages, signals, facsimiles, video images or other communication to solicit, seduce, lure, persuade or entice by words or actions, or both, a person under the age of sixteen (16) years or a person the defendant believes to be under the age of sixteen (16) years to engage in any sexual act with or against the person where such act would be a violation of chapter 15, 61 or 66, title 18, Idaho Code.

(2) Any person who is convicted of a violation of this section shall be punished by imprisonment in the state prison for a period not to exceed fifteen (15) years.

(3) It shall not constitute a defense against any charge or violation of this section that a law enforcement officer, peace officer, or other person working at the direction of law enforcement was involved in the detection or investigation of a violation of this section.

(4) In a prosecution under this section, it is not necessary for the prosecution to show that an act described in chapter 15, 61 or 66, title 18, Idaho Code, actually occurred.

(5) The offense is committed in the state of Idaho for purposes of determining jurisdiction if the transmission that constitutes the offense either originates in or is received in the state of Idaho.
**IDAHO CODE ANN. § 18-6605 (2014). Crime against nature--Punishment**

Every person who is guilty of the infamous crime against nature, committed with mankind or with any animal, is punishable by imprisonment in the state prison not less than five years.

**ILLINOIS**

**730 ILL. COMP. STAT. 150/2 (2014). Definitions**

(A) As used in this Article, “sex offender” means any person who is:

(1) charged pursuant to Illinois law, or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law, with a sex offense set forth in subsection (B) of this Section or the attempt to commit an included sex offense, and:

(a) is convicted of such offense or an attempt to commit such offense; or

(b) is found not guilty by reason of insanity of such offense or an attempt to commit such offense; or

(c) is found not guilty by reason of insanity pursuant to Section 104-25(c) of the Code of Criminal Procedure of 1963 of such offense or an attempt to commit such offense; or

(d) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to Section 104-25(a) of the Code of Criminal Procedure of 1963 for the alleged commission or attempted commission of such offense; or

(e) is found not guilty by reason of insanity following a hearing conducted pursuant to a federal, Uniform Code of Military Justice, sister state, or foreign country law substantially similar to Section 104-25(c) of the Code of Criminal Procedure of 1963 of such offense or of the attempted commission of such offense; or

(f) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to a federal, Uniform Code of Military Justice, sister state, or foreign country law substantially similar to Section 104-25(a) of the Code of Criminal Procedure of 1963 for the alleged violation or attempted commission of such offense; or

(2) declared as a sexually dangerous person pursuant to the Illinois Sexually Dangerous Persons Act, or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law; or

(3) subject to the provisions of Section 2 of the Interstate Agreements on Sexually Dangerous Persons Act; or
(4) found to be a sexually violent person pursuant to the Sexually Violent Persons
Commitment Act or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law; or

(5) adjudicated a juvenile delinquent as the result of committing or attempting to commit an act which, if committed by an adult, would constitute any of the offenses specified in item (B), (C), or (C-5) of this Section or a violation of any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law, or found guilty under Article V of the Juvenile Court Act of 1987 of committing or attempting to commit an act which, if committed by an adult, would constitute any of the offenses specified in item (B), (C), or (C-5) of this Section or a violation of any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law.

Convictions that result from or are connected with the same act, or result from offenses committed at the same time, shall be counted for the purpose of this Article as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this Article.

For purposes of this Section, “convicted” shall have the same meaning as “adjudicated”.

(B) As used in this Article, “sex offense” means:

(1) A violation of any of the following Sections of the Criminal Code of 1961 or the Criminal Code of 2012:

11-20.1 (child pornography),

11-20.1B or 11-20.3 (aggravated child pornography),

11-6 (indecent solicitation of a child),

11-9.1 (sexual exploitation of a child),

11-9.2 (custodial sexual misconduct),

11-9.5 (sexual misconduct with a person with a disability),

11-14.4 (promoting juvenile prostitution),

11-15.1 (soliciting for a juvenile prostitute),

11-18.1 (patronizing a juvenile prostitute),

11-17.1 (keeping a place of juvenile prostitution),
11-19.1 (juvenile pimping),
11-19.2 (exploitation of a child),
11-25 (grooming),
11-26 (traveling to meet a minor),
11-1.20 or 12-13 (criminal sexual assault),
11-1.30 or 12-14 (aggravated criminal sexual assault),
11-1.40 or 12-14.1 (predatory criminal sexual assault of a child),
11-1.50 or 12-15 (criminal sexual abuse),
11-1.60 or 12-16 (aggravated criminal sexual abuse),
12-33 (ritualized abuse of a child).

An attempt to commit any of these offenses.

(1.5) A violation of any of the following Sections of the Criminal Code of 1961 or the Criminal Code of 2012, when the victim is a person under 18 years of age, the defendant is not a parent of the victim, the offense was sexually motivated as defined in Section 10 of the Sex Offender Evaluation and Treatment Act, and the offense was committed on or after January 1, 1996:

10-1 (kidnapping),
10-2 (aggravated kidnapping),
10-3 (unlawful restraint),
10-3.1 (aggravated unlawful restraint).

If the offense was committed before January 1, 1996, it is a sex offense requiring registration only when the person is convicted of any felony after July 1, 2011, and paragraph (2.1) of subsection (c) of Section 3 of this Act applies.

(1.6) First degree murder under Section 9-1 of the Criminal Code of 1961 or the Criminal Code of 2012, provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act.

(1.7) (Blank).
(1.8) A violation or attempted violation of Section 11-11 (sexual relations within families) of the Criminal Code of 1961 or the Criminal Code of 2012, and the offense was committed on or after June 1, 1997. If the offense was committed before June 1, 1997, it is a sex offense requiring registration only when the person is convicted of any felony after July 1, 2011, and paragraph (2.1) of subsection (c) of Section 3 of this Act applies.

(1.9) Child abduction under paragraph (10) of subsection (b) of Section 10-5 of the Criminal Code of 1961 or the Criminal Code of 2012 committed by luring or attempting to lure a child under the age of 16 into a motor vehicle, building, house trailer, or dwelling place without the consent of the parent or lawful custodian of the child for other than a lawful purpose and the offense was committed on or after January 1, 1998, provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act. If the offense was committed before January 1, 1998, it is a sex offense requiring registration only when the person is convicted of any felony after July 1, 2011, and paragraph (2.1) of subsection (c) of Section 3 of this Act applies.

(1.10) A violation or attempted violation of any of the following Sections of the Criminal Code of 1961 or the Criminal Code of 2012 when the offense was committed on or after July 1, 1999:

10-4 (forcible detention, if the victim is under 18 years of age), provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act,

11-6.5 (indecent solicitation of an adult),

11-14.3 that involves soliciting for a prostitute, or 11-15 (soliciting for a prostitute, if the victim is under 18 years of age),

subdivision (a)(2)(A) or (a)(2)(B) of Section 11-14.3, or Section 11-16 (pandering, if the victim is under 18 years of age),

11-18 (patronizing a prostitute, if the victim is under 18 years of age),

subdivision (a)(2)(C) of Section 11-14.3, or Section 11-19 (pimping, if the victim is under 18 years of age).

If the offense was committed before July 1, 1999, it is a sex offense requiring registration only when the person is convicted of any felony after July 1, 2011, and paragraph (2.1) of subsection (c) of Section 3 of this Act applies.

(1.11) A violation or attempted violation of any of the following Sections of the Criminal Code of 1961 or the Criminal Code of 2012 when the offense was committed on or after August 22, 2002:
11-9 or 11-30 (public indecency for a third or subsequent conviction).

If the third or subsequent conviction was imposed before August 22, 2002, it is a sex offense requiring registration only when the person is convicted of any felony after July 1, 2011, and paragraph (2.1) of subsection (c) of Section 3 of this Act applies.

(1.12) A violation or attempted violation of Section 5.1 of the Wrongs to Children Act or Section 11-9.1A of the Criminal Code of 1961 or the Criminal Code of 2012 (permitting sexual abuse) when the offense was committed on or after August 22, 2002. If the offense was committed before August 22, 2002, it is a sex offense requiring registration only when the person is convicted of any felony after July 1, 2011, and paragraph (2.1) of subsection (c) of Section 3 of this Act applies.

(2) A violation of any former law of this State substantially equivalent to any offense listed in subsection (B) of this Section.

(C) A conviction for an offense of federal law, Uniform Code of Military Justice, or the law of another state or foreign country that is substantially equivalent to any offense listed in subsections (B), (C), (E), and (E-5) of this Section shall constitute a conviction for the purpose of this Article. A finding or adjudication as a sexually dangerous person or a sexually violent person under any federal law, Uniform Code of Military Justice, or the law of another state or foreign country that is substantially equivalent to the Sexually Dangerous Persons Act or the Sexually Violent Persons Commitment Act shall constitute an adjudication for the purposes of this Article.

(C-5) A person at least 17 years of age at the time of the commission of the offense who is convicted of first degree murder under Section 9-1 of the Criminal Code of 1961 or the Criminal Code of 2012, against a person under 18 years of age, shall be required to register for natural life. A conviction for an offense of federal, Uniform Code of Military Justice, sister state, or foreign country law that is substantially equivalent to any offense listed in subsection (C-5) of this Section shall constitute a conviction for the purpose of this Article. This subsection (C-5) applies to a person who committed the offense before June 1, 1996 if: (i) the person is incarcerated in an Illinois Department of Corrections facility on August 20, 2004 (the effective date of Public Act 93-977), or (ii) subparagraph (i) does not apply and the person is convicted of any felony after July 1, 2011, and paragraph (2.1) of subsection (c) of Section 3 of this Act applies.

(C-6) A person who is convicted or adjudicated delinquent of first degree murder as defined in Section 9-1 of the Criminal Code of 1961 or the Criminal Code of 2012, against a person 18 years of age or over, shall be required to register for his or her natural life. A conviction for an offense of federal, Uniform Code of Military Justice, sister state, or foreign country law that is substantially equivalent to any offense listed in subsection (C-6) of this Section shall constitute a conviction for the purpose of this Article. This
subsection (C-6) does not apply to those individuals released from incarceration more than 10 years prior to January 1, 2012 (the effective date of Public Act 97-154).

(D) As used in this Article, “law enforcement agency having jurisdiction” means the Chief of Police in each of the municipalities in which the sex offender expects to reside, work, or attend school (1) upon his or her discharge, parole or release or (2) during the service of his or her sentence of probation or conditional discharge, or the Sheriff of the county, in the event no Police Chief exists or if the offender intends to reside, work, or attend school in an unincorporated area. “Law enforcement agency having jurisdiction” includes the location where out-of-state students attend school and where out-of-state employees are employed or are otherwise required to register.

(D-1) As used in this Article, “supervising officer” means the assigned Illinois Department of Corrections parole agent or county probation officer.

(E) As used in this Article, “sexual predator” means any person who, after July 1, 1999, is:

(1) Convicted for an offense of federal, Uniform Code of Military Justice, sister state, or foreign country law that is substantially equivalent to any offense listed in subsection (E) or (E-5) of this Section shall constitute a conviction for the purpose of this Article. Convicted of a violation or attempted violation of any of the following Sections of the Criminal Code of 1961 or the Criminal Code of 2012:

10-5.1 (luring of a minor),

11-14.4 that involves keeping a place of juvenile prostitution, or 11-17.1 (keeping a place of juvenile prostitution),

subdivision (a)(2) or (a)(3) of Section 11-14.4, or Section 11-19.1 (juvenile pimping),

subdivision (a)(4) of Section 11-14.4, or Section 11-19.2 (exploitation of a child),

11-20.1 (child pornography),

11-20.1B or 11-20.3 (aggravated child pornography),

11-1.20 or 12-13 (criminal sexual assault),

11-1.30 or 12-14 (aggravated criminal sexual assault),

11-1.40 or 12-14.1 (predatory criminal sexual assault of a child),

11-1.60 or 12-16 (aggravated criminal sexual abuse),
12-33 (ritualized abuse of a child);

(2) (blank);

(3) declared as a sexually dangerous person pursuant to the Sexually Dangerous Persons Act or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law;

(4) found to be a sexually violent person pursuant to the Sexually Violent Persons Commitment Act or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law;

(5) convicted of a second or subsequent offense which requires registration pursuant to this Act. For purposes of this paragraph (5), “convicted” shall include a conviction under any substantially similar Illinois, federal, Uniform Code of Military Justice, sister state, or foreign country law;

(6) (blank); or

(7) if the person was convicted of an offense set forth in this subsection (E) on or before July 1, 1999, the person is a sexual predator for whom registration is required only when the person is convicted of a felony offense after July 1, 2011, and paragraph (2.1) of subsection (c) of Section 3 of this Act applies.

(E) As used in this Article, “sexual predator” also means a person convicted of a violation or attempted violation of any of the following Sections of the Criminal Code of 1961 or the Criminal Code of 2012:

(1) Section 9-1 (first degree murder, when the victim was a person under 18 years of age and the defendant was at least 17 years of age at the time of the commission of the offense, provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act);

(2) Section 11-9.5 (sexual misconduct with a person with a disability);

(3) when the victim is a person under 18 years of age, the defendant is not a parent of the victim, the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act, and the offense was committed on or after January 1, 1996: (A) Section 10-1 (kidnapping), (B) Section 10-2 (aggravated kidnapping), (C) Section 10-3 (unlawful restraint), and (D) Section 10-3.1 (aggravated unlawful restraint); and

(4) Section 10-5(b)(10) (child abduction committed by luring or attempting to lure a child under the age of 16 into a motor vehicle, building, house trailer, or dwelling place without the consent of the parent or lawful custodian of the child for other than a lawful purpose and the offense was committed on or after January 1, 1998, provided the offense
was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act).

(E-10) As used in this Article, “sexual predator” also means a person required to register in another State due to a conviction, adjudication or other action of any court triggering an obligation to register as a sex offender, sexual predator, or substantially similar status under the laws of that State.

(F) As used in this Article, “out-of-state student” means any sex offender, as defined in this Section, or sexual predator who is enrolled in Illinois, on a full-time or part-time basis, in any public or private educational institution, including, but not limited to, any secondary school, trade or professional institution, or institution of higher learning.

(G) As used in this Article, “out-of-state employee” means any sex offender, as defined in this Section, or sexual predator who works in Illinois, regardless of whether the individual receives payment for services performed, for a period of time of 10 or more days or for an aggregate period of time of 30 or more days during any calendar year. Persons who operate motor vehicles in the State accrue one day of employment time for any portion of a day spent in Illinois.

(H) As used in this Article, “school” means any public or private educational institution, including, but not limited to, any elementary or secondary school, trade or professional institution, or institution of higher education.

(I) As used in this Article, “fixed residence” means any and all places that a sex offender resides for an aggregate period of time of 5 or more days in a calendar year.

(J) As used in this Article, “Internet protocol address” means the string of numbers by which a location on the Internet is identified by routers or other computers connected to the Internet.

720 ILL. COMP. STAT. 5/11-0.1 (2014). Definitions
In this Article, unless the context clearly requires otherwise, the following terms are defined as indicated:

“Accused” means a person accused of an offense prohibited by Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60 of this Code or a person for whose conduct the accused is legally responsible under Article 5 of this Code.

“Adult obscenity or child pornography Internet site”. See Section 11-23.

“Advance prostitution” means:
(1) Soliciting for a prostitute by performing any of the following acts when acting other than as a prostitute or a patron of a prostitute:

(A) Soliciting another for the purpose of prostitution.

(B) Arranging or offering to arrange a meeting of persons for the purpose of prostitution.

(C) Directing another to a place knowing the direction is for the purpose of prostitution.

(2) Keeping a place of prostitution by controlling or exercising control over the use of any place that could offer seclusion or shelter for the practice of prostitution and performing any of the following acts when acting other than as a prostitute or a patron of a prostitute:

(A) Knowingly granting or permitting the use of the place for the purpose of prostitution.

(B) Granting or permitting the use of the place under circumstances from which he or she could reasonably know that the place is used or is to be used for purposes of prostitution.

(C) Permitting the continued use of the place after becoming aware of facts or circumstances from which he or she should reasonably know that the place is being used for purposes of prostitution.

“Agency”. See Section 11-9.5.

“Arranges”. See Section 11-6.5.

“Bodily harm” means physical harm, and includes, but is not limited to, sexually transmitted disease, pregnancy, and impotence.

“Care and custody”. See Section 11-9.5.

“Child care institution”. See Section 11-9.3.

“Child pornography”. See Section 11-20.1.

“Child sex offender”. See Section 11-9.3.

“Community agency”. See Section 11-9.5.


“Consent”. See Section 11-1.70.

“Custody”. See Section 11-9.2.
“Day care center”. See Section 11-9.3.

“Depict by computer”. See Section 11-20.1.

“Depiction by computer”. See Section 11-20.1.


“Family member” means a parent, grandparent, child, aunt, uncle, great-aunt, or great-uncle, whether by whole blood, half-blood, or adoption, and includes a step-grandparent, step-parent, or step-child. “Family member” also means, if the victim is a child under 18 years of age, an accused who has resided in the household with the child continuously for at least 6 months.

“Force or threat of force” means the use of force or violence or the threat of force or violence, including, but not limited to, the following situations:

(1) when the accused threatens to use force or violence on the victim or on any other person, and the victim under the circumstances reasonably believes that the accused has the ability to execute that threat; or

(2) when the accused overcomes the victim by use of superior strength or size, physical restraint, or physical confinement.

“Harmful to minors”. See Section 11-21.

“Loiter”. See Section 9.3.

“Material”. See Section 11-21.

“Minor”. See Section 11-21.

“Nudity”. See Section 11-21.

“Obscene”. See Section 11-20.

“Part day child care facility”. See Section 11-9.3.

“Penal system”. See Section 11-9.2.

“Person responsible for the child's welfare”. See Section 11-9.1A.
“Person with a disability”. See Section 11-9.5.

“Playground”. See Section 11-9.3.

“Probation officer”. See Section 11-9.2.

“Produce”. See Section 11-20.1.

“Profit from prostitution” means, when acting other than as a prostitute, to receive anything of value for personally rendered prostitution services or to receive anything of value from a prostitute, if the thing received is not for lawful consideration and the person knows it was earned in whole or in part from the practice of prostitution.

“Public park”. See Section 11-9.3.

“Public place”. See Section 11-30.

“Reproduce”. See Section 11-20.1.


“School”. See Section 11-9.3.

“School official”. See Section 11-9.3.

“Sexual abuse”. See Section 11-9.1A.


“Sexual conduct” means any knowing touching or fondling by the victim or the accused, either directly or through clothing, of the sex organs, anus, or breast of the victim or the accused, or any part of the body of a child under 13 years of age, or any transfer or transmission of semen by the accused upon any part of the clothed or unclothed body of the victim, for the purpose of sexual gratification or arousal of the victim or the accused.

“Sexual excitement”. See Section 11-21.

“Sexual penetration” means any contact, however slight, between the sex organ or anus of one person and an object or the sex organ, mouth, or anus of another person, or any intrusion, however slight, of any part of the body of one person or of any animal or object into the sex organ or anus of another person, including, but not limited to, cunnilingus, fellatio, or anal penetration. Evidence of emission of semen is not required to prove sexual penetration.

“Solicit”. See Section 11-6.
“State-operated facility”. See Section 11-9.5.

“Supervising officer”. See Section 11-9.2.


“Treatment and detention facility”. See Section 11-9.2.

“Victim” means a person alleging to have been subjected to an offense prohibited by Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60 of this Code.

(a) A person commits criminal sexual assault if that person commits an act of sexual penetration and:

(1) uses force or threat of force;

(2) knows that the victim is unable to understand the nature of the act or is unable to give knowing consent;

(3) is a family member of the victim, and the victim is under 18 years of age; or

(4) is 17 years of age or over and holds a position of trust, authority, or supervision in relation to the victim, and the victim is at least 13 years of age but under 18 years of age.

(b) Sentence.

(1) Criminal sexual assault is a Class 1 felony, except that:

(A) A person who is convicted of the offense of criminal sexual assault as defined in paragraph (a)(1) or (a)(2) after having previously been convicted of the offense of criminal sexual assault or the offense of exploitation of a child, or who is convicted of the offense of criminal sexual assault as defined in paragraph (a)(1) or (a)(2) after having previously been convicted under the laws of this State or any other state of an offense that is substantially equivalent to the offense of criminal sexual assault or to the offense of exploitation of a child, commits a Class X felony for which the person shall be sentenced to a term of imprisonment of not less than 30 years and not more than 60 years. The commission of the second or subsequent offense is required to have been after the initial conviction for this paragraph (A) to apply.

(B) A person who is convicted of the offense of criminal sexual assault as defined in paragraph (a)(1) or (a)(2) after having previously been convicted of the offense of aggravated criminal sexual assault or the offense of predatory criminal sexual assault of a child, or who is convicted of the offense of criminal sexual assault as defined in
paragraph (a)(1) or (a)(2) after having previously been convicted under the laws of this State or any other state of an offense that is substantially equivalent to the offense of aggravated criminal sexual assault or the offense of predatory criminal sexual assault of a child shall be sentenced to a term of natural life imprisonment. The commission of the second or subsequent offense is required to have been after the initial conviction for this paragraph (B) to apply.

(C) A second or subsequent conviction for a violation of paragraph (a)(3) or (a)(4) or under any similar statute of this State or any other state for any offense involving criminal sexual assault that is substantially equivalent to or more serious than the sexual assault prohibited under paragraph (a)(3) or (a)(4) is a Class X felony.

720 ILL. COMP. STAT. 5/11-1.30 (2014). Aggravated Criminal Sexual Assault
(a) A person commits aggravated criminal sexual assault if that person commits criminal sexual assault and any of the following aggravating circumstances exist during the commission of the offense or, for purposes of paragraph (7), occur as part of the same course of conduct as the commission of the offense:

(1) the person displays, threatens to use, or uses a dangerous weapon, other than a firearm, or any other object fashioned or used in a manner that leads the victim, under the circumstances, reasonably to believe that the object is a dangerous weapon;

(2) the person causes bodily harm to the victim, except as provided in paragraph (10);

(3) the person acts in a manner that threatens or endangers the life of the victim or any other person;

(4) the person commits the criminal sexual assault during the course of committing or attempting to commit any other felony;

(5) the victim is 60 years of age or older;

(6) the victim is a physically handicapped person;

(7) the person delivers (by injection, inhalation, ingestion, transfer of possession, or any other means) any controlled substance to the victim without the victim's consent or by threat or deception for other than medical purposes;

(8) the person is armed with a firearm;

(9) the person personally discharges a firearm during the commission of the offense; or

(10) the person personally discharges a firearm during the commission of the offense, and that discharge proximately causes great bodily harm, permanent disability, permanent disfigurement, or death to another person.
(b) A person commits aggravated criminal sexual assault if that person is under 17 years of age and: (i) commits an act of sexual penetration with a victim who is under 9 years of age; or (ii) commits an act of sexual penetration with a victim who is at least 9 years of age but under 13 years of age and the person uses force or threat of force to commit the act.

(c) A person commits aggravated criminal sexual assault if that person commits an act of sexual penetration with a victim who is a severely or profoundly intellectually disabled person.

(d) Sentence.

(1) Aggravated criminal sexual assault in violation of paragraph (2), (3), (4), (5), (6), or (7) of subsection (a) or in violation of subsection (b) or (c) is a Class X felony. A violation of subsection (a)(1) is a Class X felony for which 10 years shall be added to the term of imprisonment imposed by the court. A violation of subsection (a)(8) is a Class X felony for which 15 years shall be added to the term of imprisonment imposed by the court. A violation of subsection (a)(9) is a Class X felony for which 20 years shall be added to the term of imprisonment imposed by the court. A violation of subsection (a)(10) is a Class X felony for which 25 years or up to a term of natural life imprisonment shall be added to the term of imprisonment imposed by the court.

(2) A person who is convicted of a second or subsequent offense of aggravated criminal sexual assault, or who is convicted of the offense of aggravated criminal sexual assault after having previously been convicted of the offense of criminal sexual assault or the offense of predatory criminal sexual assault of a child, or who is convicted of the offense of aggravated criminal sexual assault after having previously been convicted under the laws of this or any other state of an offense that is substantially equivalent to the offense of criminal sexual assault, the offense of aggravated criminal sexual assault or the offense of predatory criminal sexual assault of a child, shall be sentenced to a term of natural life imprisonment. The commission of the second or subsequent offense is required to have been after the initial conviction for this paragraph (2) to apply.


(a) A person commits predatory criminal sexual assault of a child if that person commits an act of sexual penetration or an act of contact, however slight between the sex organ or anus of one person and the part of the body of another, and the accused is 17 years of age or older, and:

(1) the victim is under 13 years of age; or

(2) the victim is under 13 years of age and that person:

(A) is armed with a firearm;
(B) personally discharges a firearm during the commission of the offense;

(C) causes great bodily harm to the victim that:

(i) results in permanent disability; or

(ii) is life threatening; or

(D) delivers (by injection, inhalation, ingestion, transfer of possession, or any other means) any controlled substance to the victim without the victim's consent or by threat or deception, for other than medical purposes.

(b) Sentence.

(1) A person convicted of a violation of subsection (a)(1) commits a Class X felony, for which the person shall be sentenced to a term of imprisonment of not less than 6 years and not more than 60 years. A person convicted of a violation of subsection (a)(2)(A) commits a Class X felony for which 15 years shall be added to the term of imprisonment imposed by the court. A person convicted of a violation of subsection (a)(2)(B) commits a Class X felony for which 20 years shall be added to the term of imprisonment imposed by the court. A person convicted of a violation of subsection (a)(2)(C) commits a Class X felony for which the person shall be sentenced to a term of imprisonment of not less than 50 years or up to a term of natural life imprisonment.

(1.1) A person convicted of a violation of subsection (a)(2)(D) commits a Class X felony for which the person shall be sentenced to a term of imprisonment of not less than 50 years and not more than 60 years.

(1.2) A person convicted of predatory criminal sexual assault of a child committed against 2 or more persons regardless of whether the offenses occurred as the result of the same act or of several related or unrelated acts shall be sentenced to a term of natural life imprisonment.

(2) A person who is convicted of a second or subsequent offense of predatory criminal sexual assault of a child, or who is convicted of the offense of predatory criminal sexual assault of a child after having previously been convicted of the offense of criminal sexual assault or the offense of aggravated criminal sexual assault, or who is convicted of the offense of predatory criminal sexual assault of a child after having previously been convicted under the laws of this State or any other state of an offense that is substantially equivalent to the offense of predatory criminal sexual assault of a child, the offense of aggravated criminal sexual assault or the offense of criminal sexual assault, shall be sentenced to a term of natural life imprisonment. The commission of the second or subsequent offense is required to have been after the initial conviction for this paragraph (2) to apply.
(a) A person commits criminal sexual abuse if that person:

(1) commits an act of sexual conduct by the use of force or threat of force; or

(2) commits an act of sexual conduct and knows that the victim is unable to understand the nature of the act or is unable to give knowing consent.

(b) A person commits criminal sexual abuse if that person is under 17 years of age and commits an act of sexual penetration or sexual conduct with a victim who is at least 9 years of age but under 17 years of age.

(c) A person commits criminal sexual abuse if that person commits an act of sexual penetration or sexual conduct with a victim who is at least 13 years of age but under 17 years of age and the person is less than 5 years older than the victim.

(d) Sentence. Criminal sexual abuse for a violation of subsection (b) or (c) of this Section is a Class A misdemeanor. Criminal sexual abuse for a violation of paragraph (1) or (2) of subsection (a) of this Section is a Class 4 felony. A second or subsequent conviction for a violation of subsection (a) of this Section is a Class 2 felony. A second or subsequent conviction for a violation of paragraph (7), as part of the same course of conduct as the commission of the offense:

1. the person displays, threatens to use, or uses a dangerous weapon or any other object fashioned or used in a manner that leads the victim, under the circumstances, reasonably to believe that the object is a dangerous weapon;

2. the person causes bodily harm to the victim;

3. the victim is 60 years of age or older;

4. the victim is a physically handicapped person;

5. the person acts in a manner that threatens or endangers the life of the victim or any other person;

720 ILL. COMP. STAT. 5/11-1.60 (2014). Aggravated Criminal Sexual Abuse
(a) A person commits aggravated criminal sexual abuse if that person commits criminal sexual abuse and any of the following aggravating circumstances exist (i) during the commission of the offense or (ii) for purposes of paragraph (7), as part of the same course of conduct as the commission of the offense:

1. the person displays, threatens to use, or uses a dangerous weapon or any other object fashioned or used in a manner that leads the victim, under the circumstances, reasonably to believe that the object is a dangerous weapon;

2. the person causes bodily harm to the victim;

3. the victim is 60 years of age or older;

4. the victim is a physically handicapped person;

5. the person acts in a manner that threatens or endangers the life of the victim or any other person;
(6) the person commits the criminal sexual abuse during the course of committing or attempting to commit any other felony; or

(7) the person delivers (by injection, inhalation, ingestion, transfer of possession, or any other means) any controlled substance to the victim for other than medical purposes without the victim's consent or by threat or deception.

(b) A person commits aggravated criminal sexual abuse if that person commits an act of sexual conduct with a victim who is under 18 years of age and the person is a family member.

(c) A person commits aggravated criminal sexual abuse if:

1. that person is 17 years of age or over and: (i) commits an act of sexual conduct with a victim who is under 13 years of age; or (ii) commits an act of sexual conduct with a victim who is at least 13 years of age but under 17 years of age and the person uses force or threat of force to commit the act; or

2. that person is under 17 years of age and: (i) commits an act of sexual conduct with a victim who is under 9 years of age; or (ii) commits an act of sexual conduct with a victim who is at least 9 years of age but under 17 years of age and the person uses force or threat of force to commit the act.

(d) A person commits aggravated criminal sexual abuse if that person commits an act of sexual penetration or sexual conduct with a victim who is at least 13 years of age but under 17 years of age and the person is at least 5 years older than the victim.

(e) A person commits aggravated criminal sexual abuse if that person commits an act of sexual conduct with a victim who is a severely or profoundly intellectually disabled person.

(f) A person commits aggravated criminal sexual abuse if that person commits an act of sexual conduct with a victim who is at least 13 years of age but under 18 years of age and the person is 17 years of age or over and holds a position of trust, authority, or supervision in relation to the victim.

(g) Sentence. Aggravated criminal sexual abuse is a Class 2 felony.


(a) A person of the age of 17 years and upwards commits indecent solicitation of a child if the person, with the intent that the offense of aggravated criminal sexual assault, criminal sexual assault, predatory criminal sexual assault of a child, or aggravated criminal sexual abuse be committed, knowingly solicits a child or one whom he or she believes to be a child to perform an act of sexual penetration or sexual conduct as defined in Section 11-0.1 of this Code.
(a-5) A person of the age of 17 years and upwards commits indecent solicitation of a child if the person knowingly discusses an act of sexual conduct or sexual penetration with a child or with one whom he or she believes to be a child by means of the Internet with the intent that the offense of aggravated criminal sexual assault, predatory criminal sexual assault of a child, or aggravated criminal sexual abuse be committed.

(a-6) It is not a defense to subsection (a-5) that the person did not solicit the child to perform sexual conduct or sexual penetration with the person.

(b) Definitions. As used in this Section:

“Solicit” means to command, authorize, urge, incite, request, or advise another to perform an act by any means including, but not limited to, in person, over the phone, in writing, by computer, or by advertisement of any kind.

“Child” means a person under 17 years of age.

“Internet” has the meaning set forth in Section 16-0.1 of this Code.

“Sexual penetration” or “sexual conduct” are defined in Section 11-0.1 of this Code.

(c) Sentence. Indecent solicitation of a child under subsection (a) is:

(1) a Class 1 felony when the act, if done, would be predatory criminal sexual assault of a child or aggravated criminal sexual assault;

(2) a Class 2 felony when the act, if done, would be criminal sexual assault;

(3) a Class 3 felony when the act, if done, would be aggravated criminal sexual abuse.

Indecent solicitation of a child under subsection (a-5) is a Class 4 felony.


(a) A person commits sexual exploitation of a child if in the presence or virtual presence, or both, of a child and with knowledge that a child or one whom he or she believes to be a child would view his or her acts, that person:

(1) engages in a sexual act; or

(2) exposes his or her sex organs, anus or breast for the purpose of sexual arousal or gratification of such person or the child or one whom he or she believes to be a child.
(a-5) A person commits sexual exploitation of a child who knowingly entices, coerces, or persuades a child to remove the child’s clothing for the purpose of sexual arousal or gratification of the person or the child, or both.

(b) Definitions. As used in this Section:

“Sexual act” means masturbation, sexual conduct or sexual penetration as defined in Section 11-0.1 of this Code.

“Sex offense” means any violation of Article 11 of this Code or Section 12-5.01 of this Code.

“Child” means a person under 17 years of age.

“Virtual presence” means an environment that is created with software and presented to the user and or receiver via the Internet, in such a way that the user appears in front of the receiver on the computer monitor or screen or hand held portable electronic device, usually through a web camming program. “Virtual presence” includes primarily experiencing through sight or sound, or both, a video image that can be explored interactively at a personal computer or hand held communication device, or both.

“Webcam” means a video capturing device connected to a computer or computer network that is designed to take digital photographs or live or recorded video which allows for the live transmission to an end user over the Internet.

(c) Sentence.

(1) Sexual exploitation of a child is a Class A misdemeanor. A second or subsequent violation of this Section or a substantially similar law of another state is a Class 4 felony.

(2) Sexual exploitation of a child is a Class 4 felony if the person has been previously convicted of a sex offense.

(3) Sexual exploitation of a child is a Class 4 felony if the victim was under 13 years of age at the time of the commission of the offense.

(4) Sexual exploitation of a child is a Class 4 felony if committed by a person 18 years of age or older who is on or within 500 feet of elementary or secondary school grounds when children are present on the grounds.

(a) A person commits custodial sexual misconduct when: (1) he or she is an employee of a penal system and engages in sexual conduct or sexual penetration with a person who is in the custody of that penal system or (2) he or she is an employee of a treatment and
detention facility and engages in sexual conduct or sexual penetration with a person who is in the custody of that treatment and detention facility.

(b) A probation or supervising officer, surveillance agent, or aftercare specialist commits custodial sexual misconduct when the probation or supervising officer, surveillance agent, or aftercare specialist engages in sexual conduct or sexual penetration with a probationer, parolee, or releasee or person serving a term of conditional release who is under the supervisory, disciplinary, or custodial authority of the officer or agent or employee so engaging in the sexual conduct or sexual penetration.

(c) Custodial sexual misconduct is a Class 3 felony.

(d) Any person convicted of violating this Section immediately shall forfeit his or her employment with a penal system, treatment and detention facility, or conditional release program.

(e) For purposes of this Section, the consent of the probationer, parolee, releasee, or inmate in custody of the penal system or person detained or civilly committed under the Sexually Violent Persons Commitment Act shall not be a defense to a prosecution under this Section. A person is deemed incapable of consent, for purposes of this Section, when he or she is a probationer, parolee, releasee, or inmate in custody of a penal system or person detained or civilly committed under the Sexually Violent Persons Commitment Act.

(f) This Section does not apply to:

(1) Any employee, probation or supervising officer, surveillance agent, or aftercare specialist who is lawfully married to a person in custody if the marriage occurred before the date of custody.

(2) Any employee, probation or supervising officer, surveillance agent, or aftercare specialist who has no knowledge, and would have no reason to believe, that the person with whom he or she engaged in custodial sexual misconduct was a person in custody.

(g) In this Section:

(0.5) “Aftercare specialist” means any person employed by the Department of Juvenile Justice to supervise and facilitate services for persons placed on aftercare release.

(1) “Custody” means:

(i) pretrial incarceration or detention;

(ii) incarceration or detention under a sentence or commitment to a State or local penal institution;
(iii) parole, aftercare release, or mandatory supervised release;

(iv) electronic home detention;

(v) probation;

(vi) detention or civil commitment either in secure care or in the community under the Sexually Violent Persons Commitment Act.

(2) “Penal system” means any system which includes institutions as defined in Section 2-14 of this Code or a county shelter care or detention home established under Section 1 of the County Shelter Care and Detention Home Act.

(2.1) “Treatment and detention facility” means any Department of Human Services facility established for the detention or civil commitment of persons under the Sexually Violent Persons Commitment Act.

(2.2) “Conditional release” means a program of treatment and services, vocational services, and alcohol or other drug abuse treatment provided to any person civilly committed and conditionally released to the community under the Sexually Violent Persons Commitment Act;

(3) “Employee” means:

(i) an employee of any governmental agency of this State or any county or municipal corporation that has by statute, ordinance, or court order the responsibility for the care, control, or supervision of pretrial or sentenced persons in a penal system or persons detained or civilly committed under the Sexually Violent Persons Commitment Act;

(ii) a contractual employee of a penal system as defined in paragraph (g) (2) of this Section who works in a penal institution as defined in Section 2-14 of this Code;

(iii) a contractual employee of a “treatment and detention facility” as defined in paragraph (g)(2.1) of this Code or a contractual employee of the Department of Human Services who provides supervision of persons serving a term of conditional release as defined in paragraph (g)(2.2) of this Code.

(4) “Sexual conduct” or “sexual penetration” means any act of sexual conduct or sexual penetration as defined in Section 11-0.1 of this Code.

(5) “Probation officer” means any person employed in a probation or court services department as defined in Section 9b of the Probation and Probation Officers Act.
(6) “Supervising officer” means any person employed to supervise persons placed on parole or mandatory supervised release with the duties described in Section 3-14-2 of the Unified Code of Corrections.

(7) “Surveillance agent” means any person employed or contracted to supervise persons placed on conditional release in the community under the Sexually Violent Persons Commitment Act.


(a) Definitions. As used in this Section:

(1) “Person with a disability” means:

(i) a person diagnosed with a developmental disability as defined in Section 1-106 of the Mental Health and Developmental Disabilities Code; or

(ii) a person diagnosed with a mental illness as defined in Section 1-129 of the Mental Health and Developmental Disabilities Code.

(2) “State-operated facility” means:

(i) a developmental disability facility as defined in the Mental Health and Developmental Disabilities Code; or

(ii) a mental health facility as defined in the Mental Health and Developmental Disabilities Code.

(3) “Community agency” or “agency” means any community entity or program providing residential mental health or developmental disabilities services that is licensed, certified, or funded by the Department of Human Services and not licensed or certified by any other human service agency of the State such as the Departments of Public Health, Healthcare and Family Services, and Children and Family Services.

(4) “Care and custody” means admission to a State-operated facility.

(5) “Employee” means:

(i) any person employed by the Illinois Department of Human Services;

(ii) any person employed by a community agency providing services at the direction of the owner or operator of the agency on or off site; or

(iii) any person who is a contractual employee or contractual agent of the Department of Human Services or the community agency. This includes but is not limited to payroll.
personnel, contractors, subcontractors, and volunteers.

(6) “Sexual conduct” or “sexual penetration” means any act of sexual conduct or sexual penetration as defined in Section 11-0.1 of this Code.

(b) A person commits sexual misconduct with a person with a disability when:

(1) he or she is an employee and knowingly engages in sexual conduct or sexual penetration with a person with a disability who is under the care and custody of the Department of Human Services at a State-operated facility; or

(2) he or she is an employee of a community agency funded by the Department of Human Services and knowingly engages in sexual conduct or sexual penetration with a person with a disability who is in a residential program operated or supervised by a community agency.

c) For purposes of this Section, the consent of a person with a disability in custody of the Department of Human Services residing at a State-operated facility or receiving services from a community agency shall not be a defense to a prosecution under this Section. A person is deemed incapable of consent, for purposes of this Section, when he or she is a person with a disability and is receiving services at a State-operated facility or is a person with a disability who is in a residential program operated or supervised by a community agency.

d) This Section does not apply to:

(1) any State employee or any community agency employee who is lawfully married to a person with a disability in custody of the Department of Human Services or receiving services from a community agency if the marriage occurred before the date of custody or the initiation of services at a community agency; or

(2) any State employee or community agency employee who has no knowledge, and would have no reason to believe, that the person with whom he or she engaged in sexual misconduct was a person with a disability in custody of the Department of Human Services or was receiving services from a community agency.

e) Sentence. Sexual misconduct with a person with a disability is a Class 3 felony.

(f) Any person convicted of violating this Section shall immediately forfeit his or her employment with the State or the community agency.


(a) A person commits sexual relations within families if he or she:
(1) Commits an act of sexual penetration as defined in Section 11-0.1 of this Code; and

(2) The person knows that he or she is related to the other person as follows: (i) Brother or sister, either of the whole blood or the half blood; or (ii) Father or mother, when the child, regardless of legitimacy and regardless of whether the child was of the whole blood or half-blood or was adopted, was 18 years of age or over when the act was committed; or (iii) Stepfather or stepmother, when the stepchild was 18 years of age or over when the act was committed; or (iv) Aunt or uncle, when the niece or nephew was 18 years of age or over when the act was committed; or (v) Great-aunt or great-uncle, when the grand-niece or grand-nephew was 18 years of age or over when the act was committed; or (vi) Grandparent or step-grandparent, when the grandchild or step-grandchild was 18 years of age or over when the act was committed.

(b) Sentence. Sexual relations within families is a Class 3 felony.

(a) Any person who knowingly performs any of the following acts commits promoting juvenile prostitution:

(1) advances prostitution as defined in Section 11-0.1, where the minor engaged in prostitution, or any person engaged in prostitution in the place, is under 18 years of age or is severely or profoundly intellectually disabled at the time of the offense;

(2) profits from prostitution by any means where the prostituted person is under 18 years of age or is severely or profoundly intellectually disabled at the time of the offense;

(3) profits from prostitution by any means where the prostituted person is under 13 years of age at the time of the offense;

(4) confines a child under the age of 18 or a severely or profoundly intellectually disabled person against his or her will by the infliction or threat of imminent infliction of great bodily harm or permanent disability or disfigurement or by administering to the child or severely or profoundly intellectually disabled person, without his or her consent or by threat or deception and for other than medical purposes, any alcoholic intoxicant or a drug as defined in the Illinois Controlled Substances Act or the Cannabis Control Act or methamphetamine as defined in the Methamphetamine Control and Community Protection Act and:

(A) compels the child or severely or profoundly intellectually disabled person to engage in prostitution;

(B) arranges a situation in which the child or severely or profoundly intellectually disabled person may practice prostitution; or
(C) profits from prostitution by the child or severely or profoundly intellectually disabled person.

(b) For purposes of this Section, administering drugs, as defined in subdivision (a)(4), or an alcoholic intoxicant to a child under the age of 13 or a severely or profoundly intellectually disabled person shall be deemed to be without consent if the administering is done without the consent of the parents or legal guardian or if the administering is performed by the parents or legal guardian for other than medical purposes.

(c) If the accused did not have a reasonable opportunity to observe the prostituted person, it is an affirmative defense to a charge of promoting juvenile prostitution, except for a charge under subdivision (a)(4), that the accused reasonably believed the person was of the age of 18 years or over or was not a severely or profoundly intellectually disabled person at the time of the act giving rise to the charge.

(d) Sentence. A violation of subdivision (a)(1) is a Class 1 felony, unless committed within 1,000 feet of real property comprising a school, in which case it is a Class X felony. A violation of subdivision (a)(2) is a Class 1 felony. A violation of subdivision (a)(3) is a Class X felony. A violation of subdivision (a)(4) is a Class X felony, for which the person shall be sentenced to a term of imprisonment of not less than 6 years and not more than 60 years. A second or subsequent violation of subdivision (a)(1), (a)(2), or (a)(3), or any combination of convictions under subdivision (a)(1), (a)(2), or (a)(3) and Sections 11-14 (prostitution), 11-14.1 (solicitation of a sexual act), 11-14.3 (promoting prostitution), 11-15 (soliciting for a prostitute), 11-15.1 (soliciting for a juvenile prostitute), 11-16 (pandering), 11-17 (keeping a place of prostitution), 11-17.1 (keeping a place of juvenile prostitution), 11-18 (patronizing a prostitute), 11-18.1 (patronizing a juvenile prostitute), 11-19 (pimping), 11-19.1 (juvenile pimping or aggravated juvenile pimping), or 11-19.2 (exploitation of a child) of this Code, is a Class X felony.

(e) Forfeiture. Any person convicted of a violation of this Section that involves promoting juvenile prostitution by keeping a place of juvenile prostitution or convicted of a violation of subdivision (a)(4) is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963.

(f) For the purposes of this Section, “prostituted person” means any person who engages in, or agrees or offers to engage in, any act of sexual penetration as defined in Section 11-0.1 of this Code for any money, property, token, object, or article or anything of value, or any touching or fondling of the sex organs of one person by another person, for any money, property, token, object, or article or anything of value, for the purpose of sexual arousal or gratification.


(a) Any person who engages in an act of sexual penetration as defined in Section 11-0.1 of this Code with a person engaged in prostitution who is under 18 years of age or is a
severely or profoundly intellectually disabled person commits patronizing a minor engaged in prostitution.

(a-5) Any person who engages in any touching or fondling, with a person engaged in prostitution who either is under 18 years of age or is a severely or profoundly intellectually disabled person, of the sex organs of one person by the other person, with the intent to achieve sexual arousal or gratification, commits patronizing a minor engaged in prostitution.

(b) It is an affirmative defense to the charge of patronizing a minor engaged in prostitution that the accused reasonably believed that the person was of the age of 18 years or over or was not a severely or profoundly intellectually disabled person at the time of the act giving rise to the charge.

(c) Sentence. A person who commits patronizing a juvenile prostitute is guilty of a Class 3 felony, unless committed within 1,000 feet of real property comprising a school, in which case it is a Class 2 felony. A person convicted of a second or subsequent violation of this Section, or of any combination of such number of convictions under this Section and Sections 11-14 (prostitution), 11-14.1 (solicitation of a sexual act), 11-14.3 (promoting prostitution), 11-14.4 (promoting juvenile prostitution), 11-15 (soliciting for a prostitute), 11-15.1 (soliciting for a juvenile prostitute), 11-16 (pandering), 11-17 (keeping a place of prostitution), 11-17.1 (keeping a place of juvenile prostitution), 11-18 (patronizing a prostitute), 11-19 (pimping), 11-19.1 (juvenile pimping or aggravated juvenile pimping), or 11-19.2 (exploitation of a child) of this Code, is guilty of a Class 2 felony. The fact of such conviction is not an element of the offense and may not be disclosed to the jury during trial unless otherwise permitted by issues properly raised during such trial.

(a) A person commits child pornography who:

(1) films, videotapes, photographs, or otherwise depicts or portrays by means of any similar visual medium or reproduction or depicts by computer any child whom he or she knows or reasonably should know to be under the age of 18 or any severely or profoundly intellectually disabled person where such child or severely or profoundly intellectually disabled person is:

(i) actually or by simulation engaged in any act of sexual penetration or sexual conduct with any person or animal; or

(ii) actually or by simulation engaged in any act of sexual penetration or sexual conduct involving the sex organs of the child or severely or profoundly intellectually disabled person and the mouth, anus, or sex organs of another person or animal; or which involves the mouth, anus or sex organs of the child or severely or profoundly intellectually disabled person and the sex organs of another person or animal; or
(iii) actually or by simulation engaged in any act of masturbation; or

(iv) actually or by simulation portrayed as being the object of, or otherwise engaged in, any act of lewd fondling, touching, or caressing involving another person or animal; or

(v) actually or by simulation engaged in any act of excretion or urination within a sexual context; or

(vi) actually or by simulation portrayed or depicted as bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in any sexual context; or

(vii) depicted or portrayed in any pose, posture or setting involving a lewd exhibition of the unclothed or transparently clothed genitals, pubic area, buttocks, or, if such person is female, a fully or partially developed breast of the child or other person; or

(2) with the knowledge of the nature or content thereof, reproduces, disseminates, offers to disseminate, exhibits or possesses with intent to disseminate any film, videotape, photograph or other similar visual reproduction or depiction by computer of any child or severely or profoundly intellectually disabled person whom the person knows or reasonably should know to be under the age of 18 or to be a severely or profoundly intellectually disabled person, engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(3) with knowledge of the subject matter or theme thereof, produces any stage play, live performance, film, videotape or other similar visual portrayal or depiction by computer which includes a child whom the person knows or reasonably should know to be under the age of 18 or a severely or profoundly intellectually disabled person engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(4) solicits, uses, persuades, induces, entices, or coerces any child whom he or she knows or reasonably should know to be under the age of 18 or a severely or profoundly intellectually disabled person to appear in any stage play, live presentation, film, videotape, photograph or other similar visual reproduction or depiction by computer in which the child or severely or profoundly intellectually disabled person is or will be depicted, actually or by simulation, in any act, pose or setting described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(5) is a parent, step-parent, legal guardian or other person having care or custody of a child whom the person knows or reasonably should know to be under the age of 18 or a severely or profoundly intellectually disabled person and who knowingly permits, induces, promotes, or arranges for such child or severely or profoundly intellectually disabled person to appear in any stage play, live performance, film, videotape, photograph or other similar visual presentation, portrayal or simulation or depiction by
computer of any act or activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(6) with knowledge of the nature or content thereof, possesses any film, videotape, photograph or other similar visual reproduction or depiction by computer of any child or severely or profoundly intellectually disabled person whom the person knows or reasonably should know to be under the age of 18 or to be a severely or profoundly intellectually disabled person, engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(7) solicits, or knowingly uses, persuades, induces, entices, or coerces, a person to provide a child under the age of 18 or a severely or profoundly intellectually disabled person to appear in any videotape, photograph, film, stage play, live presentation, or other similar visual reproduction or depiction by computer in which the child or severely or profoundly intellectually disabled person will be depicted, actually or by simulation, in any act, pose, or setting described in subparagraphs (i) through (vii) of paragraph (1) of this subsection.

(a-5) The possession of each individual film, videotape, photograph, or other similar visual reproduction or depiction by computer in violation of this Section constitutes a single and separate violation. This subsection (a-5) does not apply to multiple copies of the same film, videotape, photograph, or other similar visual reproduction or depiction by computer that are identical to each other.

(b)(1) It shall be an affirmative defense to a charge of child pornography that the defendant reasonably believed, under all of the circumstances, that the child was 18 years of age or older or that the person was not a severely or profoundly intellectually disabled person but only where, prior to the act or acts giving rise to a prosecution under this Section, he or she took some affirmative action or made a bonafide inquiry designed to ascertain whether the child was 18 years of age or older or that the person was not a severely or profoundly intellectually disabled person and his or her reliance upon the information so obtained was clearly reasonable.

(1.5) Telecommunications carriers, commercial mobile service providers, and providers of information services, including, but not limited to, Internet service providers and hosting service providers, are not liable under this Section by virtue of the transmission, storage, or caching of electronic communications or messages of others or by virtue of the provision of other related telecommunications, commercial mobile services, or information services used by others in violation of this Section.

(2) (Blank).

(3) The charge of child pornography shall not apply to the performance of official duties by law enforcement or prosecuting officers or persons employed by law enforcement or prosecuting agencies, court personnel or attorneys, nor to bonafide treatment or
professional education programs conducted by licensed physicians, psychologists or social workers.

(4) If the defendant possessed more than one of the same film, videotape or visual reproduction or depiction by computer in which child pornography is depicted, then the trier of fact may infer that the defendant possessed such materials with the intent to disseminate them.

(5) The charge of child pornography does not apply to a person who does not voluntarily possess a film, videotape, or visual reproduction or depiction by computer in which child pornography is depicted. Possession is voluntary if the defendant knowingly procures or receives a film, videotape, or visual reproduction or depiction for a sufficient time to be able to terminate his or her possession.

(6) Any violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) that includes a child engaged in, solicited for, depicted in, or posed in any act of sexual penetration or bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in a sexual context shall be deemed a crime of violence.

(c) If the violation does not involve a film, videotape, or other moving depiction, a violation of paragraph (1), (4), (5), or (7) of subsection (a) is a Class 1 felony with a mandatory minimum fine of $2,000 and a maximum fine of $100,000. If the violation involves a film, videotape, or other moving depiction, a violation of paragraph (1), (4), (5), or (7) of subsection (a) is a Class X felony with a mandatory minimum fine of $2,000 and a maximum fine of $100,000. If the violation does not involve a film, videotape, or other moving depiction, a violation of paragraph (3) of subsection (a) is a Class 1 felony with a mandatory minimum fine of $1500 and a maximum fine of $100,000. If the violation involves a film, videotape, or other moving depiction, a violation of paragraph (3) of subsection (a) is a Class X felony with a mandatory minimum fine of $1500 and a maximum fine of $100,000. If the violation does not involve a film, videotape, or other moving depiction, a violation of paragraph (2) of subsection (a) is a Class 1 felony with a mandatory minimum fine of $1000 and a maximum fine of $100,000. If the violation involves a film, videotape, or other moving depiction, a violation of paragraph (2) of subsection (a) is a Class X felony with a mandatory minimum fine of $1000 and a maximum fine of $100,000. If the violation does not involve a film, videotape, or other moving depiction, a violation of paragraph (6) of subsection (a) is a Class 3 felony with a mandatory minimum fine of $1000 and a maximum fine of $100,000. If the violation involves a film, videotape, or other moving depiction, a violation of paragraph (6) of subsection (a) is a Class 2 felony with a mandatory minimum fine of $1000 and a maximum fine of $100,000.

(c-5) Where the child depicted is under the age of 13, a violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) is a Class X felony with a mandatory minimum fine of $2,000 and a maximum fine of $100,000. Where the child depicted is under the age of 13, a violation of paragraph (6) of subsection (a) is a Class 2 felony with a mandatory
minimum fine of $1,000 and a maximum fine of $100,000. Where the child depicted is under the age of 13, a person who commits a violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) where the defendant has previously been convicted under the laws of this State or any other state of the offense of child pornography, aggravated child pornography, aggravated criminal sexual abuse, aggravated criminal sexual assault, predatory criminal sexual assault of a child, or any of the offenses formerly known as rape, deviate sexual assault, indecent liberties with a child, or aggravated indecent liberties with a child where the victim was under the age of 18 years or an offense that is substantially equivalent to those offenses, is guilty of a Class X felony for which the person shall be sentenced to a term of imprisonment of not less than 9 years with a mandatory minimum fine of $2,000 and a maximum fine of $100,000. Where the child depicted is under the age of 13, a person who commits a violation of paragraph (6) of subsection (a) where the defendant has previously been convicted under the laws of this State or any other state of the offense of child pornography, aggravated child pornography, aggravated criminal sexual abuse, aggravated criminal sexual assault, predatory criminal sexual assault of a child, or any of the offenses formerly known as rape, deviate sexual assault, indecent liberties with a child, or aggravated indecent liberties with a child where the victim was under the age of 18 years or an offense that is substantially equivalent to those offenses, is guilty of a Class 1 felony with a mandatory minimum fine of $1,000 and a maximum fine of $100,000. The issue of whether the child depicted is under the age of 13 is an element of the offense to be resolved by the trier of fact.

(d) If a person is convicted of a second or subsequent violation of this Section within 10 years of a prior conviction, the court shall order a presentence psychiatric examination of the person. The examiner shall report to the court whether treatment of the person is necessary.

(e) Any film, videotape, photograph or other similar visual reproduction or depiction by computer which includes a child under the age of 18 or a severely or profoundly intellectually disabled person engaged in any activity described in subparagraphs (i) through (vii) or paragraph 1 of subsection (a), and any material or equipment used or intended for use in photographing, filming, printing, producing, reproducing, manufacturing, projecting, exhibiting, depiction by computer, or disseminating such material shall be seized and forfeited in the manner, method and procedure provided by Section 36-1 of this Code for the seizure and forfeiture of vessels, vehicles and aircraft.

In addition, any person convicted under this Section is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963.

(e-5) Upon the conclusion of a case brought under this Section, the court shall seal all evidence depicting a victim or witness that is sexually explicit. The evidence may be unsealed and viewed, on a motion of the party seeking to unseal and view the evidence, only for good cause shown and in the discretion of the court. The motion must expressly set forth the purpose for viewing the material. The State's attorney and the victim, if
possible, shall be provided reasonable notice of the hearing on the motion to unseal the
evidence. Any person entitled to notice of a hearing under this subsection (e-5) may
object to the motion.

(f) Definitions. For the purposes of this Section:

(1) “Disseminate” means (i) to sell, distribute, exchange or transfer possession, whether
with or without consideration or (ii) to make a depiction by computer available for
distribution or downloading through the facilities of any telecommunications network or
through any other means of transferring computer programs or data to a computer.

(2) “Produce” means to direct, promote, advertise, publish, manufacture, issue, present or
show.

(3) “Reproduce” means to make a duplication or copy.

(4) “Depict by computer” means to generate or create, or cause to be created or
generated, a computer program or data that, after being processed by a computer either
alone or in conjunction with one or more computer programs, results in a visual depiction
on a computer monitor, screen, or display.

(5) “Depiction by computer” means a computer program or data that, after being
processed by a computer either alone or in conjunction with one or more computer
programs, results in a visual depiction on a computer monitor, screen, or display.

(6) “Computer”, “computer program”, and “data” have the meanings ascribed to them in
Section 16D-2 of this Code.

(7) For the purposes of this Section, “child pornography” includes a film, videotape,
photograph, or other similar visual medium or reproduction or depiction by computer that
is, or appears to be, that of a person, either in part, or in total, under the age of 18 or a
severely or profoundly intellectually disabled person, regardless of the method by which
the film, videotape, photograph, or other similar visual medium or reproduction or
depiction by computer is created, adopted, or modified to appear as such. “Child
pornography” also includes a film, videotape, photograph, or other similar visual medium
or reproduction or depiction by computer that is advertised, promoted, presented,
described, or distributed in such a manner that conveys the impression that the film,
videotape, photograph, or other similar visual medium or reproduction or depiction by
computer is of a person under the age of 18 or a severely or profoundly intellectually
disabled person.

(g) Re-enactment; findings; purposes.

(1) The General Assembly finds and declares that:


(iii) On September 22, 1998, the Third District Appellate Court in People v. Dainty, 701 N.E. 2d 118, ruled that Public Act 88-680 violates the single subject clause of the Illinois Constitution (Article IV, Section 8 (d)) and was unconstitutional in its entirety. As of the time this amendatory Act of 1999 was prepared, People v. Dainty was still subject to appeal.

(iv) Child pornography is a vital concern to the people of this State and the validity of future prosecutions under the child pornography statute of the Criminal Code of 1961 is in grave doubt.

(2) It is the purpose of this amendatory Act of 1999 to prevent or minimize any problems relating to prosecutions for child pornography that may result from challenges to the constitutional validity of Public Act 88-680 by re-enacting the Section relating to child pornography that was included in Public Act 88-680.

(3) This amendatory Act of 1999 re-enacts Section 11-20.1 of the Criminal Code of 1961, as it has been amended. This re-enactment is intended to remove any question as to the validity or content of that Section; it is not intended to supersede any other Public Act that amends the text of the Section as set forth in this amendatory Act of 1999. The material is shown as existing text (i.e., without underscoring) because, as of the time this amendatory Act of 1999 was prepared, People v. Dainty was subject to appeal to the Illinois Supreme Court.
(4) The re-enactment by this amendatory Act of 1999 of Section 11-20.1 of the Criminal Code of 1961 relating to child pornography that was amended by Public Act 88-680 is not intended, and shall not be construed, to imply that Public Act 88-680 is invalid or to limit or impair any legal argument concerning whether those provisions were substantially re-enacted by other Public Acts.

**720 ILL. COMP. STAT. 5/11-25 (2014). Grooming.**
(a) A person commits the offense of grooming when he or she knowingly uses a computer on-line service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission to seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice, a child, a child's guardian, or another person believed by the person to be a child or a child's guardian, to commit any sex offense as defined in Section 2 of the Sex Offender Registration Act or to otherwise engage in any unlawful sexual conduct with a child or with another person believed by the person to be a child.

(b) Sentence. Grooming is a Class 4 felony.

**720 ILL. COMP. STAT. 5/11-26 (2014). Traveling to meet a minor.**
(a) A person commits the offense of traveling to meet a minor when he or she travels any distance either within this State, to this State, or from this State by any means, attempts to do so, or causes another to do so or attempt to do so for the purpose of engaging in any sex offense as defined in Section 2 of the Sex Offender Registration Act, or to otherwise engage in other unlawful sexual conduct with a child or with another person believed by the person to be a child after using a computer on-line service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission to seduce, solicit, lure, or entice, or to attempt to seduce, solicit, lure, or entice, a child or a child's guardian, or another person believed by the person to be a child or a child's guardian, for such purpose.

(b) Sentence. Traveling to meet a minor is a Class 3 felony.

**INDIANA**

**IND. CODE ANN. § 11-8-8-4.5 (2014). “Sex offender” defined**
(a) Except as provided in section 22 of this chapter, as used in this chapter, “sex offender” means a person convicted of any of the following offenses:

(1) Rape (IC 35-42-4-1).

(2) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).

(3) Child molesting (IC 35-42-4-3).
(4) Child exploitation (IC 35-42-4-4(b)).

(5) Vicarious sexual gratification (including performing sexual conduct in the presence of a minor) (IC 35-42-4-5).

(6) Child solicitation (IC 35-42-4-6).

(7) Child seduction (IC 35-42-4-7).

(8) Sexual misconduct with a minor (IC 35-42-4-9) as a Class A, Class B, or Class C felony (for a crime committed before July 1, 2014) or a Level 1, Level 2, Level 4, or Level 5 felony (for a crime committed after June 30, 2014), unless:

(A) the person is convicted of sexual misconduct with a minor as a Class C felony (for a crime committed before July 1, 2014) or a Level 5 felony (for a crime committed after June 30, 2014);

(B) the person is not more than:

(i) four (4) years older than the victim if the offense was committed after June 30, 2007; or

(ii) five (5) years older than the victim if the offense was committed before July 1, 2007; and

(C) the sentencing court finds that the person should not be required to register as a sex offender.

(9) Incest (IC 35-46-1-3).

(10) Sexual battery (IC 35-42-4-8).

(11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian.

(12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age, and the person who confined or removed the victim is not the victim's parent or guardian.

(13) Possession of child pornography (IC 35-42-4-4(c)).

(14) Promoting prostitution (IC 35-45-4-4) as a Class B felony (for a crime committed before July 1, 2014) or a Level 4 felony (for a crime committed after June 30, 2014).
(15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the victim is less than eighteen (18) years of age.

(16) Sexual trafficking of a minor (IC 35-42-3.5-1(c)).

(17) Human trafficking (IC 35-42-3.5-1(d)(3)) if the victim is less than eighteen (18) years of age.

(18) Sexual misconduct by a service provider with a detained or supervised child (IC 35-44.1-3-10(c)).

(19) An attempt or conspiracy to commit a crime listed in subdivisions (1) through (18).

(20) A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through (19).

(b) The term includes:

(1) a person who is required to register as a sex offender in any jurisdiction; and

(2) a child who has committed a delinquent act and who:

(A) is at least fourteen (14) years of age;

(B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and

(C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

(c) In making a determination under subsection (b)(2)(C), the court shall consider expert testimony concerning whether a child is likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

IND. CODE ANN. § 35-42-4-4 (2014). Child exploitation; possession of child pornography; violation classification; exemption; definitions; defenses
(a) The following definitions apply throughout this section:

(1) “Disseminate” means to transfer possession for free or for a consideration.

(2) “Matter” has the same meaning as in IC 35-49-1-3.
(3) “Performance” has the same meaning as in IC 35-49-1-7.

(4) “Sexual conduct” means sexual intercourse, other sexual conduct (as defined in IC 35-31.5-2-221.5), exhibition of the uncovered genitals intended to satisfy or arouse the sexual desires of any person, sadomasochistic abuse, sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) with an animal, or any fondling or touching of a child by another person or of another person by a child intended to arouse or satisfy the sexual desires of either the child or the other person.

(b) A person who:

(1) knowingly or intentionally manages, produces, sponsors, presents, exhibits, photographs, films, videotapes, or creates a digitized image of any performance or incident that includes sexual conduct by a child under eighteen (18) years of age;

(2) knowingly or intentionally disseminates, exhibits to another person, offers to disseminate or exhibit to another person, or sends or brings into Indiana for dissemination or exhibition matter that depicts or describes sexual conduct by a child under eighteen (18) years of age;

(3) knowingly or intentionally makes available to another person a computer, knowing that the computer's fixed drive or peripheral device contains matter that depicts or describes sexual conduct by a child less than eighteen (18) years of age; or

(4) with the intent to satisfy or arouse the sexual desires of any person:

(A) knowingly or intentionally:

(i) manages;

(ii) produces;

(iii) sponsors;

(iv) presents;

(v) exhibits;

(vi) photographs;

(vii) films;

(viii) videotapes; or

(ix) creates a digitized image of;
any performance or incident that includes the uncovered genitals of a child less than eighteen (18) years of age or the exhibition of the female breast with less than a fully opaque covering of any part of the nipple by a child less than eighteen (18) years of age;

(B) knowingly or intentionally:

(i) disseminates to another person;

(ii) exhibits to another person;

(iii) offers to disseminate or exhibit to another person; or

(iv) sends or brings into Indiana for dissemination or exhibition;

matter that depicts the uncovered genitals of a child less than eighteen (18) years of age or the exhibition of the female breast with less than a fully opaque covering of any part of the nipple by a child less than eighteen (18) years of age; or

(C) makes available to another person a computer, knowing that the computer's fixed drive or peripheral device contains matter that depicts the uncovered genitals of a child less than eighteen (18) years of age or the exhibition of the female breast with less than a fully opaque covering of any part of the nipple by a child less than eighteen (18) years of age;

commits child exploitation, a Level 5 felony.

(c) A person who knowingly or intentionally possesses:

(1) a picture;

(2) a drawing;

(3) a photograph;

(4) a negative image;

(5) undeveloped film;

(6) a motion picture;

(7) a videotape;

(8) a digitized image; or
(9) any pictorial representation;

that depicts or describes sexual conduct by a child who the person knows is less than eighteen (18) years of age or who appears to be less than eighteen (18) years of age, and that lacks serious literary, artistic, political, or scientific value commits possession of child pornography, a Level 6 felony.

(d) Subsections (b) and (c) do not apply to a bona fide school, museum, or public library that qualifies for certain property tax exemptions under IC 6-1.1-10, or to an employee of such a school, museum, or public library acting within the scope of the employee's employment when the possession of the listed materials is for legitimate scientific or educational purposes.

(e) It is a defense to a prosecution under this section that:

(1) the person is a school employee; and

(2) the acts constituting the elements of the offense were performed solely within the scope of the person's employment as a school employee.

(f) Except as provided in subsection (g), it is a defense to a prosecution under subsection (b) or (c) if all of the following apply:

(1) A cellular telephone, another wireless or cellular communications device, or a social networking web site was used to possess, produce, or disseminate the image.

(2) The defendant is not more than four (4) years older or younger than the person who is depicted in the image or who received the image.

(3) The relationship between the defendant and the person who received the image or who is depicted in the image was a dating relationship or an ongoing personal relationship. For purposes of this subdivision, the term “ongoing personal relationship” does not include a family relationship.

(4) The crime was committed by a person less than twenty-two (22) years of age.

(5) The person receiving the image or who is depicted in the image acquiesced in the defendant's conduct.

(g) The defense to a prosecution described in subsection (f) does not apply if:

(1) the person who receives the image disseminates it to a person other than the person:

(A) who sent the image; or
(B) who is depicted in the image;

(2) the image is of a person other than the person who sent the image or received the image; or

(3) the dissemination of the image violates:

(A) a protective order to prevent domestic or family violence issued under IC 34-26-5 (or, if the order involved a family or household member, under IC 34-26-2 or IC 34-4-5.1-5 before their repeal);

(B) an ex parte protective order issued under IC 34-26-5 (or, if the order involved a family or household member, an emergency order issued under IC 34-26-2 or IC 34-4-5.1 before their repeal);

(C) a workplace violence restraining order issued under IC 34-26-6;

(D) a no contact order in a dispositional decree issued under IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-5-6 (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order issued under IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders the person to refrain from direct or indirect contact with a child in need of services or a delinquent child;

(E) a no contact order issued as a condition of pretrial release, including release on bail or personal recognizance, or pretrial diversion, and including a no contact order issued under IC 35-33-8-3.6;

(F) a no contact order issued as a condition of probation;

(G) a protective order to prevent domestic or family violence issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2 before their repeal);

(H) a protective order to prevent domestic or family violence issued under IC 31-14-16-1 in a paternity action;

(I) a no contact order issued under IC 31-34-25 in a child in need of services proceeding or under IC 31-37-25 in a juvenile delinquency proceeding;

(J) an order issued in another state that is substantially similar to an order described in clauses (A) through (I);

(K) an order that is substantially similar to an order described in clauses (A) through (I) and is issued by an Indian:

(i) tribe;
(ii) band;

(iii) pueblo;

(iv) nation; or

(v) organized group or community, including an Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

that is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians;

(L) an order issued under IC 35-33-8-3.2; or

(M) an order issued under IC 35-38-1-30.

(h) It is a defense to a prosecution under this section that:

(1) the person was less than eighteen (18) years of age at the time the alleged offense was committed; and

(2) the circumstances described in IC 35-45-4-6(a)(2) through IC 35-45-4-6(a)(4) apply.

(i) A person is entitled to present the defense described in subsection (h) in a pretrial hearing. If a person proves by a preponderance of the evidence in a pretrial hearing that the defense described in subsection (h) applies, the court shall dismiss the charges under this section with prejudice.

**IND. CODE ANN. § 35-42-4-5 (2014). Vicarious sexual gratification; fondling in the presence of a minor**

(a) A person eighteen (18) years of age or older who knowingly or intentionally directs, aids, induces, or causes a child under the age of sixteen (16) to touch or fondle himself or herself or another child under the age of sixteen (16) with intent to arouse or satisfy the sexual desires of a child or the older person commits vicarious sexual gratification, a Level 5 felony. However, the offense is:

(1) a Level 4 felony if a child involved in the offense is under the age of fourteen (14); and

(2) a Level 3 felony if:

(A) the offense is committed by using or threatening the use of deadly force or while armed with a deadly weapon;
(B) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; or

(C) the commission of the offense results in serious bodily injury.

(b) A person eighteen (18) years of age or older who knowingly or intentionally directs, aids, induces, or causes a child under the age of sixteen (16) to:

(1) engage in sexual intercourse with another child under sixteen (16) years of age;

(2) engage in sexual conduct with an animal other than a human being; or

(3) engage in other sexual conduct (as defined in IC 35-31.5-2-221.5) with another person;

with intent to arouse or satisfy the sexual desires of a child or the older person commits vicarious sexual gratification, a Level 4 felony. However, the offense is a Level 3 felony if any child involved in the offense is less than fourteen (14) years of age, and the offense is a Level 2 felony if the offense is committed by using or threatening the use of deadly force, if the offense is committed while armed with a deadly weapon, if the offense results in serious bodily injury, or if the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(c) A person eighteen (18) years of age or older who knowingly or intentionally:

(1) engages in sexual intercourse;

(2) engages in other sexual conduct (as defined in IC 35-31.5-2-221.5); or

(3) touches or fondles the person's own body;

in the presence of a child less than fourteen (14) years of age with the intent to arouse or satisfy the sexual desires of the child or the older person commits performing sexual conduct in the presence of a minor, a Level 6 felony.

IOWA
IOWA CODE § 692A.102 (2014). Sex offense classifications

1. For purposes of this chapter, all individuals required to register shall be classified as a tier I, tier II, or tier III offender. For purposes of this chapter, sex offenses are classified into the following tiers:

a. Tier I offenses include a conviction for the following sex offenses:

(1) Sexual abuse in the second degree in violation of section 709.3, subsection 1, paragraph “b”, if committed by a person under the age of fourteen.

(2) Sexual abuse in the third degree in violation of section 709.4, subsection 1, paragraph “a”, “c”, or “d”, if committed by a person under the age of fourteen.

(3) Sexual abuse in the third degree in violation of section 709.4, subsection 1, paragraph “b”, subparagraph (1) or (2), if committed by a person under the age of fourteen.

(4) Sexual abuse in the third degree in violation of section 709.4, subsection 1, paragraph “b”, subparagraph (3).

(5) Indecent exposure in violation of section 709.9.

(6) (a) Harassment in violation of section 708.7, subsection 1, 2, or 3, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(b) Stalking in violation of section 708.11, if a determination is made that the offense was sexually motivated pursuant to section 692A.126, except a violation of section 708.11, subsection 3, paragraph “b”, subparagraph (3), shall be classified a tier II offense as provided in paragraph “b”.

(c) Any other indictable offense in violation of chapter 708 if the offense is committed against a minor and if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(7) Pimping in violation of section 725.2 if the offense was committed against a minor or otherwise involves a minor and if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(8) Pandering in violation of section 725.3, subsection 2, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(9) Any indictable offense in violation of chapter 726 if the offense is committed against a minor or otherwise involves a minor and if a determination is made that the offense was sexually motivated pursuant to section 692A.126.
(10) (a) Dissemination or exhibition of obscene material to minors in violation of section 728.2 or telephone dissemination of obscene material to minors in violation of section 728.15.

(b) Rental or sale of hard-core pornography, if delivery is to a minor, in violation of section 728.4.

(11) Admitting minors to premises where obscene material is exhibited in violation of section 728.3.


(14) Misleading domain names on the internet in violation of 18 U.S.C. § 2252B.

(15) Misleading words or digital images on the internet in violation of section 18 U.S.C. § 2252C.


(17) Transmitting information about a minor to further criminal sexual conduct in violation of 18 U.S.C. § 2425.

(18) Any sex offense specified in the laws of another jurisdiction, or any sex offense that may be prosecuted in federal, military, or foreign court, that is comparable to an offense listed in subparagraphs (1) through (17).

(19) Any sex offense under the prior laws of this state or another jurisdiction, or any sex offense under prior law that was prosecuted in a federal, military, or foreign court, that is comparable to an offense listed in subparagraphs (1) through (17).

b. Tier II offenses include a conviction for the following sex offenses:

(1) Lascivious acts with a child in violation of section 709.8, subsection 1, paragraph “d” or “e”.

(2) Solicitation of a minor to engage in an illegal sex act in violation of section 705.1.

(3) Solicitation of a minor to engage in an illegal act under section 709.8, subsection 1, paragraph “d”, in violation of section 705.1.
(4) Solicitation of a minor to engage in an illegal act under section 709.12, in violation of section 705.1.

(5) False imprisonment of a minor in violation of section 710.7, except if committed by a parent.

(6) Assault with intent to commit sexual abuse if no injury results in violation of section 709.11.

(7) Invasion of privacy-nudity in violation of section 709.21.

(8) Stalking in violation of section 708.11, subsection 3, paragraph “b”, subparagraph (3), if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(9) Indecent contact with a child in violation of section 709.12, if the child is thirteen years of age.

(10) Lascivious conduct with a minor in violation of section 709.14.

(11) Sexual exploitation by a counselor, therapist, or school employee in violation of section 709.15, if the victim is thirteen years of age or older.

(12) Sexual misconduct with offenders and juveniles in violation of section 709.16, if the victim is thirteen years of age or older.

(13) Sexual abuse of a corpse in violation of section 709.18.

(14) Kidnapping of a person who is not a minor in violation of section 710.2, 710.3, or 710.4, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(15) Pandering in violation of section 725.3.

(16) Solicitation of a minor to engage in an illegal act under section 725.3, subsection 2, in violation of section 705.1.

(17) Incest committed against a dependent adult as defined in section 235B.2 in violation of section 726.2.

(18) Incest committed against a minor in violation of section 726.2.

(19) Sexual exploitation of a minor in violation of section 728.12, subsection 2 or 3.
(20) Material involving the sexual exploitation of a minor in violation of 18 U.S.C. § 2252(a), except receipt or possession of child pornography.


(23) Coercion and enticement of a minor for illegal sexual activity in violation of 18 U.S.C. § 2222(a) or (b).


(25) Travel with the intent to engage in illegal sexual conduct with a minor in violation of 18 U.S.C. § 2423.


(28) Any sex offense specified in the laws of another jurisdiction, or any sex offense that may be prosecuted in a federal, military, or foreign court, that is comparable to an offense listed in subparagraphs (1) through (27).

(29) Any sex offense under the prior laws of this state or another jurisdiction, or any sex offense under prior law that was prosecuted in a federal, military, or foreign court, that is comparable to a sex offense listed in subparagraphs (1) through (27).

c. Tier III offenses include a conviction for the following sex offenses:

(1) Murder in violation of section 707.2 or 707.3 if sexual abuse as defined in section 709.1 is committed during the commission of the offense.

(2) Murder in violation of section 707.2 or 707.3, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(3) Voluntary manslaughter in violation of section 707.4, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(4) Involuntary manslaughter in violation of section 707.5, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.
(5) Attempt to commit murder in violation of section 707.11, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(6) Penetration of the genitalia or anus with an object in violation of section 708.2, subsection 5.

(7) Sexual abuse in the first degree in violation of section 709.2.

(8) Sexual abuse in the second degree in violation of section 709.3, subsection 1, paragraph “a” or “c”.

(9) Sexual abuse in the second degree in violation of section 709.3, subsection 1, paragraph “b”, if committed by a person fourteen years of age or older.

(10) Sexual abuse in the third degree in violation of section 709.4, subsection 1, paragraph “a”, “c”, or “d”, if committed by a person fourteen years of age or older.

(11) Sexual abuse in the third degree in violation of section 709.4, subsection 1, paragraph “b”, subparagraph (1) or (2), if committed by a person fourteen years of age or older.

(12) Lascivious acts with a child in violation of section 709.8, subsection 1, paragraph “a” or “b”.

(13) Kidnapping in violation of section 710.2 if sexual abuse as defined in section 709.1 is committed during the commission of the offense.

(14) Kidnapping of a minor in violation of section 710.2, 710.3, or 710.4, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(15) Assault with intent to commit sexual abuse resulting in serious or bodily injury in violation of section 709.11.

(16) Burglary in the first degree in violation of section 713.3, subsection 1, paragraph “d”.

(17) Any other burglary in the first degree offense in violation of section 713.3 that is not included in subparagraph (16), if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(18) Attempted burglary in the first degree in violation of section 713.4, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.
(19) Burglary in the second degree in violation of section 713.5, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(20) Attempted burglary in the second degree in violation of section 713.6, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(21) Burglary in the third degree in violation of section 713.6A, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(22) Attempted burglary in the third degree in violation of section 713.6B, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(23) [Deleted by Acts 2014 (85 G.A.) ch. 1119, S.F. 2297, § 7, eff. May 30, 2014.]

(24) Human trafficking in violation of section 710A.2 if sexual abuse or assault with intent to commit sexual abuse is committed or sexual conduct or sexual contact is an element of the offense.

(25) Purchase or sale of an individual in violation of section 710.11 if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(26) Sexual exploitation of a minor in violation of section 728.12, subsection 1.

(27) Indecent contact with a child in violation of section 709.12 if the child is under thirteen years of age.

(28) Sexual exploitation by a counselor, therapist, or school employee in violation of section 709.15, if the child is under thirteen years of age.

(29) Sexual misconduct with offenders and juveniles in violation of section 709.16, if the child is under thirteen years of age.

(30) Child stealing in violation of section 710.5, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(31) Enticing a minor in violation of section 710.10, if the violation includes an intent to commit sexual abuse, sexual exploitation, sexual contact, or sexual conduct directed towards a minor.

(32) Solicitation of commercial sexual activity in violation of section 710A.2A.


(36) Sexual abuse of a minor or ward in violation of 18 U.S.C. § 2243.


(40) Selling or buying of children in violation of 18 U.S.C. § 2251A.

(41) Any sex offense specified in the laws of another jurisdiction, or any sex offense that may be prosecuted in federal, military, or foreign court, that is comparable to an offense listed in subparagraphs (1) through (40).

(42) Any sex offense under the prior laws of this state or another jurisdiction, or any sex offense under prior law that was prosecuted in federal, military, or foreign court, that is comparable to a sex offense listed in subparagraphs (1) through (40).

2. A sex offender classified as a tier I offender shall be reclassified as a tier II offender, if it is determined the offender has one previous conviction for an offense classified as a tier I offense.

3. A sex offender classified as a tier II offender, shall be reclassified as a tier III offender, if it is determined the offender has a previous conviction for a tier II offense or has been reclassified as a tier II offender because of a previous conviction.

4. Notwithstanding the classifications of sex offenses in subsection 1, any sex offense which would qualify a sex offender as a sexually violent predator shall be classified as a tier III offense.

5. An offense classified as a tier II offense if committed against a person under thirteen years of age shall be reclassified as a tier III offense.

6. Convictions of more than one sex offense which require registration under this chapter but which are prosecuted within a single indictment shall be considered as a single offense for purposes of registration.

IOWA CODE § 728.1 (2014). Definitions
As used in this chapter, unless the context otherwise requires:

1. “Disseminate” means to transfer possession, with or without consideration.
2. “Knowingly” means being aware of the character of the matter.

3. “Material” means any book, magazine, newspaper or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation or any statue or other figure, or any recording, transcription or mechanical, chemical or electrical reproduction or any other articles, equipment, machines or materials.

4. “Minor” means any person under the age of eighteen.

5. “Obscene material” is any material depicting or describing the genitals, sex acts, masturbation, excretory functions or sadomasochistic abuse which the average person, taking the material as a whole and applying contemporary community standards with respect to what is suitable material for minors, would find appeals to the prurient interest and is patently offensive; and the material, taken as a whole, lacks serious literary, scientific, political or artistic value.

6. “Place of business” means the premises of a business required to obtain a sales tax permit pursuant to chapter 423, the premises of a nonprofit or not-for-profit organization, and the premises of an establishment which is open to the public at large or where entrance is limited by a cover charge or membership requirement.

7. Unless otherwise provided, “prohibited sexual act” means any of the following:
   a. A sex act as defined in section 702.17.
   b. An act of bestiality involving a minor.
   c. Fondling or touching the pubes or genitals of a minor.
   d. Fondling or touching the pubes or genitals of a person by a minor.
   e. Sadomasochistic abuse of a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the abuse.
   f. Sadomasochistic abuse of a person by a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the abuse.
   g. Nudity of a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the nude minor.

8. “Promote” means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmute, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise, or to offer or agree to do any of these acts.
9. “Sadomasochistic abuse” means the infliction of physical or mental pain upon a person or the condition of a person being fettered, bound or otherwise physically restrained.

10. “Sex act” means any sexual contact, actual or simulated, either natural or deviate, between two or more persons, or between a person and an animal, by penetration of the penis into the vagina or anus, or by contact between the mouth or tongue and genitalia or anus, or by contact between a finger of one person and the genitalia of another person or by use of artificial sexual organs or substitutes therefor in contact with the genitalia or anus.

11. “Visual depiction” means but is not limited to any picture, slide, photograph, digital or electronic image, negative image, undeveloped film, motion picture, videotape, digital or electronic recording, live transmission, or other pictorial or three-dimensional representation.

IOWA CODE § 728.2 (2014). Dissemination and exhibition of obscene material to minors
Any person, other than the parent or guardian of the minor, who knowingly disseminates or exhibits obscene material to a minor, including the exhibition of obscene material so that it can be observed by a minor on or off the premises where it is displayed, is guilty of a public offense and shall upon conviction be guilty of a serious misdemeanor.

IOWA CODE § 728.3 (2014). Admitting minors to premises where obscene material is exhibited
1. A person who knowingly sells, gives, delivers, or provides a minor who is not a child with a pass or admits the minor to premises where obscene material is exhibited is guilty of a public offense and upon conviction is guilty of a serious misdemeanor.

2. A person who knowingly sells, gives, delivers, or provides a child with a pass or admits a child to premises where obscene material is exhibited is guilty of a public offense and upon conviction is guilty of an aggravated misdemeanor.

IOWA CODE § 728.4 (2014). Rental or sale of hard-core pornography
A person who knowingly rents, sells, or offers for rental or sale material depicting patently offensive representations of oral, anal, or vaginal intercourse, actual or simulated, involving humans, or depicting patently offensive representations of masturbation, excretory functions, or bestiality, or lewd exhibition of the genitals, which the average adult taking the material as a whole in applying statewide contemporary community standards would find appeals to the prurient interest; and which material, taken as a whole, lacks serious literary, scientific, political, or artistic value, upon conviction is guilty of an aggravated misdemeanor. However, second and subsequent violations of this section by a person who has been previously convicted of violating this section are class “D” felonies. Charges under this section may only be brought by a county attorney or by the attorney general.
IOWA CODE § 728.12 (2014). Sexual exploitation of a minor
1. It shall be unlawful to employ, use, persuade, induce, entice, coerce, solicit, knowingly permit, or otherwise cause or attempt to cause a minor to engage in a prohibited sexual act or in the simulation of a prohibited sexual act. A person must know, or have reason to know, or intend that the act or simulated act may be photographed, filmed, or otherwise preserved in a visual depiction. A person who commits a violation of this subsection commits a class “C” felony. Notwithstanding section 902.9, the court may assess a fine of not more than fifty thousand dollars for each offense under this subsection in addition to imposing any other authorized sentence.

2. It shall be unlawful to knowingly promote any material visually depicting a live performance of a minor engaging in a prohibited sexual act or in the simulation of a prohibited sexual act. A person who commits a violation of this subsection commits a class “D” felony. Notwithstanding section 902.9, the court may assess a fine of not more than twenty-five thousand dollars for each offense under this subsection in addition to imposing any other authorized sentence.

3. It shall be unlawful to knowingly purchase or possess a visual depiction of a minor engaging in a prohibited sexual act or the simulation of a prohibited sexual act. A visual depiction containing pictorial representations of different minors shall be prosecuted and punished as separate offenses for each pictorial representation of a different minor in the visual depiction. However, violations of this subsection involving multiple visual depictions of the same minor shall be prosecuted and punished as one offense. A person who commits a violation of this subsection commits an aggravated misdemeanor for a first offense and a class “D” felony for a second or subsequent offense. For purposes of this subsection, an offense is considered a second or subsequent offense if, prior to the person's having been convicted under this subsection, any of the following apply:

a. The person has a prior conviction or deferred judgment under this subsection.

b. The person has a prior conviction, deferred judgment, or the equivalent of a deferred judgment in another jurisdiction for an offense substantially similar to the offense defined in this subsection. The court shall judicially notice the statutes of other states that define offenses substantially similar to the offense defined in this subsection and that therefore can be considered corresponding statutes.

4. This section does not apply to law enforcement officers, court personnel, licensed physicians, licensed psychologists, or attorneys in the performance of their official duties.

KANSAS

KAN. STAT. ANN. § 22-4902 (2014). Definitions
As used in the Kansas offender registration act, unless the context otherwise requires:

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(a) “Offender” means:

(1) A sex offender;

(2) a violent offender;

(3) a drug offender;

(4) any person who has been required to register under out of state law or is otherwise required to be registered; and

(5) any person required by court order to register for an offense not otherwise required as provided in the Kansas offender registration act.

(b) “Sex offender” includes any person who:

(1) On or after April 14, 1994, is convicted of any sexually violent crime;

(2) on or after July 1, 2002, is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime, unless the court, on the record, finds that the act involved non-forcible sexual conduct, the victim was at least 14 years of age and the offender was not more than four years older than the victim;

(3) has been determined to be a sexually violent predator;

(4) on or after July 1, 1997, is convicted of any of the following crimes when one of the parties involved is less than 18 years of age:

(A) Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or K.S.A. 21-5511, and amendments thereto;

(B) criminal sodomy, as defined in subsection (a)(1) of K.S.A. 21-3505, prior to its repeal, or subsection (a)(1) or (a)(2) of K.S.A. 21-5504, and amendments thereto;

(C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or K.S.A. 21-6420, prior to its amendment by section 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013;

(D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its repeal, or K.S.A. 21-6421, prior to its amendment by section 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013; or

(E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior to its repeal, or K.S.A. 21-5513, and amendments thereto;
(5) is convicted of sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or subsection (a) of K.S.A. 21-5505, and amendments thereto;

(6) is convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 21-5301, 21-5302, 21-5303, and amendments thereto, of an offense defined in this subsection; or

(7) has been convicted of an offense that is comparable to any crime defined in this subsection, or any out of state conviction for an offense that under the laws of this state would be an offense defined in this subsection.

(c) “Sexually violent crime” means:

(1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 21-5503, and amendments thereto;

(2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior to its repeal, or subsection (a) of K.S.A. 21-5506, and amendments thereto;

(3) aggravated indecent liberties with a child, as defined in K.S.A. 21-3504, prior to its repeal, or subsection (b) of K.S.A. 21-5506, and amendments thereto;

(4) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A. 21-5504, and amendments thereto;

(5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior to its repeal, or subsection (b) of K.S.A. 21-5504, and amendments thereto;

(6) indecent solicitation of a child, as defined in K.S.A. 21-3510, prior to its repeal, or subsection (a) of K.S.A. 21-5508, and amendments thereto;

(7) aggravated indecent solicitation of a child, as defined in K.S.A. 21-3511, prior to its repeal, or subsection (b) of K.S.A. 21-5508, and amendments thereto;

(8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 21-5510, and amendments thereto;

(9) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or subsection (b) of K.S.A. 21-5505, and amendments thereto;

(10) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or subsection (b) of K.S.A. 21-5604, and amendments thereto;
(11) electronic solicitation, as defined in K.S.A. 21-3523, prior to its repeal, and K.S.A. 21-5509, and amendments thereto;

(12) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to its repeal, or K.S.A. 21-5512, and amendments thereto;

(13) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or subsection (b) of K.S.A. 21-5426, and amendments thereto, if committed in whole or in part for the purpose of the sexual gratification of the defendant or another;

(14) commercial sexual exploitation of a child, as defined in K.S.A. 21-6422, and amendments thereto;

(15) any conviction or adjudication for an offense that is comparable to a sexually violent crime as defined in this subsection, or any out of state conviction or adjudication for an offense that under the laws of this state would be a sexually violent crime as defined in this subsection;

(16) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually violent crime, as defined in this subsection; or

(17) any act which has been determined beyond a reasonable doubt to have been sexually motivated, unless the court, on the record, finds that the act involved non-forcible sexual conduct, the victim was at least 14 years of age and the offender was not more than four years older than the victim. As used in this paragraph, “sexually motivated” means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

d) “Sexually violent predator” means any person who, on or after July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A. 59-29a01 et seq., and amendments thereto.

(e) “Violent offender” includes any person who:

(1) On or after July 1, 1997, is convicted of any of the following crimes:

(A) Capital murder, as defined in K.S.A. 21-3439, prior to its repeal, or K.S.A. 21-5401, and amendments thereto;

(B) murder in the first degree, as defined in K.S.A. 21-3401, prior to its repeal, or K.S.A. 21-5402, and amendments thereto;

(C) murder in the second degree, as defined in K.S.A. 21-3402, prior to its repeal, or K.S.A. 21-5403, and amendments thereto;
(D) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its repeal, or K.S.A. 21-5404, and amendments thereto;

(E) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to its repeal, or subsections (a)(1), (a)(2) or (a)(4) of K.S.A. 21-5405, and amendments thereto. The provisions of this paragraph shall not apply to violations of subsection (a)(3) of K.S.A. 21-5405, and amendments thereto, which occurred on or after July 1, 2011, through July 1, 2013;

(F) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or subsection (a) of K.S.A. 21-5408, and amendments thereto;

(G) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its repeal, or subsection (b) of K.S.A. 21-5408, and amendments thereto;

(H) criminal restraint, as defined in K.S.A. 21-3424, prior to its repeal, or K.S.A. 21-5411, and amendments thereto, except by a parent, and only when the victim is less than 18 years of age; or

(I) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or subsection (b) of K.S.A. 21-5426, and amendments thereto, if not committed in whole or in part for the purpose of the sexual gratification of the defendant or another;

(2) on or after July 1, 2006, is convicted of any person felony and the court makes a finding on the record that a deadly weapon was used in the commission of such person felony;

(3) has been convicted of an offense that is comparable to any crime defined in this subsection, any out of state conviction for an offense that under the laws of this state would be an offense defined in this subsection; or

(4) is convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

(f) “Drug offender” includes any person who, on or after July 1, 2007:

(1) Is convicted of any of the following crimes:

(A) Unlawful manufacture or attempting such of any controlled substance or controlled substance analog, as defined in K.S.A. 65-4159, prior to its repeal, K.S.A. 21-36a03, prior to its transfer, or K.S.A. 21-5703, and amendments thereto;
(B) possession of ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine, or their salts, isomers or salts of isomers with intent to use the product to manufacture a controlled substance, as defined in subsection (a) of K.S.A. 65-7006, prior to its repeal, subsection (a) of K.S.A. 21-36a09, prior to its transfer, or subsection (a) of K.S.A. 21-5709, and amendments thereto;

(C) K.S.A. 65-4161, prior to its repeal, subsection (a)(1) of K.S.A. 21-36a05, prior to its transfer, or subsection (a)(1) of K.S.A. 21-5705, and amendments thereto. The provisions of this paragraph shall not apply to violations of subsections (a)(2) through (a)(6) or (b) of K.S.A. 21-36a05 which occurred on or after July 1, 2009, through April 15, 2010;

(2) has been convicted of an offense that is comparable to any crime defined in this subsection, any out of state conviction for an offense that under the laws of this state would be an offense defined in this subsection; or

(3) is or has been convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

(g) Convictions or adjudications which result from or are connected with the same act, or result from crimes committed at the same time, shall be counted for the purpose of this section as one conviction or adjudication. Any conviction or adjudication set aside pursuant to law is not a conviction or adjudication for purposes of this section. A conviction or adjudication from any out of state court shall constitute a conviction or adjudication for purposes of this section.

(h) “School” means any public or private educational institution, including, but not limited to, postsecondary school, college, university, community college, secondary school, high school, junior high school, middle school, elementary school, trade school, vocational school or professional school providing training or education to an offender for three or more consecutive days or parts of days, or for 10 or more nonconsecutive days in a period of 30 consecutive days.

(i) “Employment” means any full-time, part-time, transient, day-labor employment or volunteer work, with or without compensation, for three or more consecutive days or parts of days, or for 10 or more non-consecutive days in a period of 30 consecutive days.

(j) “Reside” means to stay, sleep or maintain with regularity or temporarily one's person and property in a particular place other than a location where the offender is incarcerated. It shall be presumed that an offender resides at any and all locations where the offender stays, sleeps or maintains the offender's person for three or more consecutive days or parts of days, or for ten or more nonconsecutive days in a period of 30 consecutive days.
(k) “Residence” means a particular and definable place where an individual resides. Nothing in the Kansas offender registration act shall be construed to state that an offender may only have one residence for the purpose of such act.

(I) “Transient” means having no fixed or identifiable residence.

(m) “Law enforcement agency having initial jurisdiction” means the registering law enforcement agency of the county or location of jurisdiction where the offender expects to most often reside upon the offender's discharge, parole or release.

(n) “Registering law enforcement agency” means the sheriff's office or tribal police department responsible for registering an offender.

(o) “Registering entity” means any person, agency or other governmental unit, correctional facility or registering law enforcement agency responsible for obtaining the required information from, and explaining the required registration procedures to, any person required to register pursuant to the Kansas offender registration act. “Registering entity” shall include, but not be limited to, sheriff's offices, tribal police departments and correctional facilities.

(p) “Treatment facility” means any public or private facility or institution providing inpatient mental health, drug or alcohol treatment or counseling, but does not include a hospital, as defined in K.S.A. 65-425, and amendments thereto.

(q) “Correctional facility” means any public or private correctional facility, juvenile detention facility, prison or jail.

(r) “Out of state” means: the District of Columbia; any federal, military or tribal jurisdiction, including those within this state; any foreign jurisdiction; or any state or territory within the United States, other than this state.

(s) “Duration of registration” means the length of time during which an offender is required to register for a specified offense or violation.

**KAN. STAT. ANN. § 21-5504 (2014). Criminal sodomy; aggravated criminal sodomy**

(a) Criminal sodomy is:

(1) Sodomy between persons who are 16 or more years of age and members of the same sex;

(2) sodomy between a person and an animal;

(3) sodomy with a child who is 14 or more years of age but less than 16 years of age; or
(4) causing a child 14 or more years of age but less than 16 years of age to engage in sodomy with any person or animal.

(b) Aggravated criminal sodomy is:

(1) Sodomy with a child who is under 14 years of age;

(2) causing a child under 14 years of age to engage in sodomy with any person or an animal; or

(3) sodomy with a victim who does not consent to the sodomy or causing a victim, without the victim's consent, to engage in sodomy with any person or an animal under any of the following circumstances:

(A) When the victim is overcome by force or fear;

(B) when the victim is unconscious or physically powerless; or

(C) when the victim is incapable of giving consent because of mental deficiency or disease, or when the victim is incapable of giving consent because of the effect of any alcoholic liquor, narcotic, drug or other substance, which condition was known by, or was reasonably apparent to, the offender.

(c)(1) Criminal sodomy as defined in:

(A) Subsection (a)(1) or (a)(2) is a class B nonperson misdemeanor; and

(B) subsection (a)(3) or (a)(4) is a severity level 3, person felony.

(2) Aggravated criminal sodomy as defined in:

(A) Subsection (b)(3) is a severity level 1, person felony; and

(B) subsection (b)(1) or (b)(2) is a severity level 1, person felony, except as provided in subsection (c)(3).

(3) Aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2) or attempt, conspiracy or criminal solicitation to commit aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2) is an off-grid person felony, when the offender is 18 years of age or older.

(d) If the offender is 18 years of age or older, the provisions of:
(1) Subsection (c) of K.S.A. 21-5301, and amendments thereto, shall not apply to a violation of attempting to commit the crime of aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2);

(2) subsection (c) of K.S.A. 21-5302, and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2); and

(3) subsection (d) of K.S.A. 21-5303, and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2).

(e) It shall be a defense to a prosecution of criminal sodomy, as defined in subsection (a)(3), and aggravated criminal sodomy, as defined in subsection (b)(1), that the child was married to the accused at the time of the offense.

(f) Except as provided in subsection (b)(3)(C), it shall not be a defense that the offender did not know or have reason to know that the victim did not consent to the sodomy, that the victim was overcome by force or fear, or that the victim was unconscious or physically powerless.

KAN. STAT. ANN. § 21-5509 (2014). Electronic solicitation
(a) Electronic solicitation is, by means of communication conducted through the telephone, internet or by other electronic means, enticing or soliciting a person, whom the offender believes to be a child, to commit or submit to an unlawful sexual act.

(b) Electronic solicitation is a:

(1) Severity level 3, person felony if the offender believes the person to be a child 14 or more years of age but less than 16 years of age; and

(2) severity level 1, person felony if the offender believes the person to be a child under 14 years of age.

(c) As used in this section, “communication conducted through the internet or by other electronic means” includes, but is not limited to, e-mail, chatroom chats and text messaging.

KAN. STAT. ANN. § 21-5510 (2014). Sexual exploitation of a child
(a) Sexual exploitation of a child is:

(1) Employing, using, persuading, inducing, enticing or coercing a child under 18 years of age, or a person whom the offender believes to be a child under 18 years of age, to engage in sexually explicit conduct with the intent to promote any performance;
(2) possessing any visual depiction of a child under 18 years of age shown or heard engaging in sexually explicit conduct with intent to arouse or satisfy the sexual desires or appeal to the prurient interest of the offender or any other person;

(3) being a parent, guardian or other person having custody or control of a child under 18 years of age and knowingly permitting such child to engage in, or assist another to engage in, sexually explicit conduct for any purpose described in subsection (a)(1) or (2); or

(4) promoting any performance that includes sexually explicit conduct by a child under 18 years of age, or a person whom the offender believes to be a child under 18 years of age, knowing the character and content of the performance.

(b)(1) Sexual exploitation of a child as defined in:

(A) Subsection (a)(2) or (a)(3) is a severity level 5, person felony; and

(B) subsection (a)(1) or (a)(4) is a severity level 5, person felony, except as provided in subsection (b)(2).

(2) Sexual exploitation of a child as defined in subsection (a)(1) or (a)(4) or attempt, conspiracy or criminal solicitation to commit sexual exploitation of a child as defined in subsection (a)(1) or (a)(4) is an off-grid person felony, when the offender is 18 years of age or older and the child is under 14 years of age.

(c) If the offender is 18 years of age or older and the child is under 14 years of age, the provisions of:

(1) Subsection (c) of K.S.A. 21-5301, and amendments thereto, shall not apply to a violation of attempting to commit the crime of sexual exploitation of a child as defined in subsection (a)(1) or (a)(4);

(2) subsection (c) of K.S.A. 21-5302, and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of sexual exploitation of a child as defined in subsection (a)(1) or (a)(4); and

(3) subsection (d) of K.S.A. 21-5303, and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of sexual exploitation of a child as defined in subsection (a)(1) or (a)(4).

(d) As used in this section:

(1) “Sexually explicit conduct” means actual or simulated: Exhibition in the nude; sexual intercourse or sodomy, including genital-genital, oral-genital, anal-genital or oral-anal contact, whether between persons of the same or opposite sex; masturbation; sado-
masochistic abuse with the intent of sexual stimulation; or lewd exhibition of the genitals, female breasts or pubic area of any person;

(2) “promoting” means procuring, transmitting, distributing, circulating, presenting, producing, directing, manufacturing, issuing, publishing, displaying, exhibiting or advertising:

(A) For pecuniary profit; or

(B) with intent to arouse or gratify the sexual desire or appeal to the prurient interest of the offender or any other person;

(3) “performance” means any film, photograph, negative, slide, book, magazine or other printed or visual medium, any audio tape recording or any photocopy, video tape, video laser disk, computer hardware, software, floppy disk or any other computer related equipment or computer generated image that contains or incorporates in any manner any film, photograph, negative, photocopy, video tape or video laser disk or any play or other live presentation;

(4) “nude” means any state of undress in which the human genitals, pubic region, buttock or female breast, at a point below the top of the areola, is less than completely and opaquely covered; and

(5) “visual depiction” means any photograph, film, video picture, digital or computer-generated image or picture, whether made or produced by electronic, mechanical or other means.

KENTUCKY

KY. REV. STAT. ANN. § 17.500 (2014). Definitions for KRS 17.500 to 17.580
As used in KRS 17.500 to 17.580:

(1) “Approved provider” means a mental health professional licensed or certified in Kentucky whose scope of practice includes providing mental health treatment services and who is approved by the Sex Offender Risk Assessment Advisory Board, under administrative regulations promulgated by the board, to provide comprehensive sex offender presentence evaluations or treatment to adults and youthful offenders, as defined in KRS 600.020;

(2) “Cabinet” means the Justice and Public Safety Cabinet;

(3) (a) Except as provided in paragraph (b) of this subsection, “criminal offense against a victim who is a minor” means any of the following offenses if the victim is under the age of eighteen (18) at the time of the commission of the offense:
1. Kidnapping, as set forth in KRS 509.040, except by a parent;

2. Unlawful imprisonment, as set forth in KRS 509.020, except by a parent;

3. Sex crime;

4. Promoting a sexual performance of a minor, as set forth in KRS 531.320;

5. Human trafficking involving commercial sexual activity, as set forth in KRS 529.100;

6. Promoting prostitution, as set forth in KRS 529.040, when the defendant advances or profits from the prostitution of a person under the age of eighteen (18);

7. Use of a minor in a sexual performance, as set forth in KRS 531.310;

8. Sexual abuse, as set forth in KRS 510.120 and 510.130;

9. Unlawful transaction with a minor in the first degree, as set forth in KRS 530.064(1)(a);

10. Any offense involving a minor or depictions of a minor, as set forth in KRS Chapter 531;

11. Any attempt to commit any of the offenses described in subparagraphs 1. to 10. of this paragraph; and

12. Solicitation to commit any of the offenses described in subparagraphs 1. to 10. of this paragraph.

(b) Conduct which is criminal only because of the age of the victim shall not be considered a criminal offense against a victim who is a minor if the perpetrator was under the age of eighteen (18) at the time of the commission of the offense;

(4) “Law enforcement agency” means any lawfully organized investigative agency, sheriff’s office, police unit, or police force of federal, state, county, urban-county government, charter county, city, consolidated local government, or a combination of these, responsible for the detection of crime and the enforcement of the general criminal federal or state laws;

(5) “Registrant” means:

(a) Any person eighteen (18) years of age or older at the time of the offense or any youthful offender, as defined in KRS 600.020, who has committed:
1. A sex crime; or

2. A criminal offense against a victim who is a minor; or

(b) Any person required to register under KRS 17.510; or

(c) Any sexually violent predator; or

(d) Any person whose sexual offense has been diverted pursuant to KRS 533.250, until the diversionary period is successfully completed;

(6) “Registrant information” means the name, including any lawful name change together with the previous name, Social Security number, age, race, sex, date of birth, height, weight, hair and eye color, fingerprints, DNA sample, a photograph, aliases used, residence, electronic mail address and any instant messaging, chat, or other Internet communication name identities, a brief description of the crime or crimes committed, and other information the cabinet determines, by administrative regulation, may be useful in the identification of registrants;

(7) “Residence” means any place where a person sleeps. For the purposes of this statute, a registrant may have more than one (1) residence. A registrant is required to register each residence address;

(8) “Sex crime” means:

(a) A felony offense defined in KRS Chapter 510, or KRS 530.020, 530.064(1)(a), 531.310, 531.320, or 531.335;

(b) A felony attempt to commit a felony offense specified in paragraph (a) of this subsection; or

(c) A federal felony offense, a felony offense subject to a court-martial of the United States Armed Forces, or a felony offense from another state or a territory where the felony offense is similar to a felony offense specified in paragraph (a) of this subsection;

(9) “Sexual offender” means any person convicted of, pleading guilty to, or entering an Alford plea to a sex crime as defined in this section, as of the date the verdict is entered by the court;

(10) “Sexually violent predator” means any person who has been subjected to involuntary civil commitment as a sexually violent predator, or a similar designation, under a state, territory, or federal statutory scheme;

(11) “The board” means the Sex Offender Risk Assessment Advisory Board created under KRS 17.554;
(12) “Victim” has the same meaning as in KRS 421.500;

(13) “DNA sample” or “deoxyribonucleic acid sample” means a blood or swab specimen from a person, as prescribed by administrative regulation, that is required to provide a DNA sample pursuant to KRS 17.170 or 17.510, that shall be submitted to the Department of Kentucky State Police forensic laboratory for law enforcement identification purposes and inclusion in law enforcement identification databases; and

(14) “Authorized personnel” means an agent of state government who is properly trained in DNA sample collection pursuant to administrative regulation.

KY. REV. STAT. ANN. § 531.300 (2014). Definitions for KRS 531.080 and 531.310 to 531.370
As used in KRS 531.080 and 531.310 to 531.370:

(1) “Distribute” means to transfer possession of, whether with or without consideration;

(2) “Matter” means any book, magazine, newspaper, or other printed or written material or any picture, drawing, photograph, motion picture, live image transmitted over the Internet or other electronic network, or other pictorial representation or any statue or other figure, or any recording transcription or mechanical, chemical or electrical reproduction or any other articles, equipment, machines, or materials;

(3) “Obscene” means the predominate appeal of the matter taken as a whole is to a prurient interest in sexual conduct involving minors;

(4) “Sexual conduct by a minor” means:

(a) Acts of masturbation, homosexuality, lesbianism, bestiality, sexual intercourse, or deviant sexual intercourse, actual or simulated;

(b) Physical contact with, or willful or intentional exhibition of the genitals;

(c) Flagellation or excretion for the purpose of sexual stimulation or gratification; or

(d) The exposure, in an obscene manner, of the unclothed or apparently unclothed human male or female genitals, pubic area or buttocks, or the female breast, whether or not subsequently obscured by a mark placed thereon, or otherwise altered, in any resulting motion picture, photograph or other visual representation, exclusive of exposure portrayed in matter of a private, family nature not intended for distribution outside the family;

(5) “Performance” means any play, motion picture, photograph or dance. Performance also means any other visual representation exhibited before an audience;
(6) “Sexual performance” means any performance or part thereof which includes sexual conduct by a minor; and

(7) “Promote” means to prepare, publish, print, procure or manufacture, or to offer or agree to do the same.

(1) A person is guilty of the use of a minor in a sexual performance if he employs, consents to, authorizes or induces a minor to engage in a sexual performance.

(2) Use of a minor in a sexual performance is:

(a) A Class C felony if the minor so used is less than eighteen (18) years old at the time the minor engages in the prohibited activity;

(b) A Class B felony if the minor so used is less than sixteen (16) years old at the time the minor engages in the prohibited activity; and

(c) A Class A felony if the minor so used incurs physical injury thereby.

KY. REV. STAT. ANN. § 531.320 (2014). Promoting a sexual performance by a minor
(1) A person is guilty of promoting a sexual performance by a minor when, knowing the character and content thereof, he produces, directs or promotes any performance which includes sexual conduct by a minor.

(2) Promoting a sexual performance by a minor is:

(a) A Class C felony if the minor involved in the sexual performance is less than eighteen (18) years old at the time the minor engages in the prohibited activity;

(b) A Class B felony if the minor involved in the sexual performance is less than sixteen (16) years old at the time the minor engages in the prohibited activity; and

(c) A Class A felony if the minor involved in the sexual performance incurs physical injury thereby.

KY. REV. STAT. ANN. § 531.335 (2014) Possession of matter portraying a sexual performance by a minor
(1) A person is guilty of possession or viewing of matter portraying a sexual performance by a minor when, having knowledge of its content, character, and that the sexual performance is by a minor, he or she:

(a) Knowingly has in his or her possession or control any matter which visually depicts an actual sexual performance by a minor person; or
(b) Intentionally views any matter which visually depicts an actual sexual performance by a minor person.

(2) The provisions of subsection (1)(b) of this section:

(a) Shall only apply to the deliberate, purposeful, and voluntary viewing of matter depicting sexual conduct by a minor person and not to the accidental or inadvertent viewing of such matter;

(b) Shall not apply to persons viewing the matter in the course of a law enforcement investigation or criminal or civil litigation involving the matter; and

(c) Shall not apply to viewing the matter by a minor or the minor's parents or guardians, or to school administrators investigating violations of subsection (1)(b) of this section.

(3) Possession or viewing of matter portraying a sexual performance by a minor is a Class D felony.

**KY. REV. STAT. ANN. § 531.340 (2014). Distribution of matter portraying a sexual performance by a minor**

(1) A person is guilty of distribution of matter portraying a sexual performance by a minor when, having knowledge of its content and character, he or she:

(a) Sends or causes to be sent into this state for sale or distribution; or

(b) Brings or causes to be brought into this state for sale or distribution; or

(c) In this state, he or she:

1. Exhibits for profit or gain; or

2. Distributes; or

3. Offers to distribute; or

4. Has in his or her possession with intent to distribute, exhibit for profit or gain or offer to distribute, any matter portraying a sexual performance by a minor.

(2) Any person who has in his or her possession more than one (1) unit of material coming within the provision of KRS 531.300(2) shall be rebuttably presumed to have such material in his or her possession with the intent to distribute it.

(3) Distribution of matter portraying a sexual performance by a minor is a Class D felony for the first offense and a Class C felony for each subsequent offense.
KY. REV. STAT. ANN. § 531.350 (2014). Promoting sale of material portraying a sexual performance by a minor
(1) A person is guilty of promoting sale of material portraying a sexual performance by a minor when he knowingly, as a condition to a sale, allocation, consignment, or delivery for resale of any paper, magazine, book, periodical, publication or other merchandise, requires that the purchaser or consignee receive any matter portraying a sexual performance by a minor, or he denies or threatens to deny a franchise, revokes or threatens to revoke, or imposes any penalty, financial or otherwise, by reason of the failure of any person to accept such matter, or by reason of the return of such matter.

(2) Promoting sale of matter portraying a sexual performance by a minor is a Class A misdemeanor for the first offense, a Class D felony for the second offense, and a Class C felony for each subsequent offense.

KY. REV. STAT. ANN. § 531.360 (2014). Advertising material portraying a sexual performance by a minor
(1) A person is guilty of advertising material portraying a sexual performance by a minor when, having knowledge of its content and character thereof, he or she writes or creates advertising or solicits anyone to publish such advertising or otherwise promotes the sale or distribution of matter portraying a sexual performance by a minor.

(2) Advertising material portraying a sexual performance by a minor is a Class D felony for the first offense and a Class C felony for each subsequent offense.

KY. REV. STAT. ANN. § 531.370 (2014). Using minors to distribute material portraying a sexual performance by a minor
(1) A person is guilty of using minors to distribute material portraying a sexual performance by a minor when knowing a person to be a minor, or having possession of such facts that he should reasonably know such person is a minor, and knowing of the content and character of the material, he knowingly:

(a) Hires; or

(b) Employs; or

(c) Uses,

a minor to do or assist in doing any of the acts prohibited by KRS 531.340.

(2) Using minors to distribute material portraying a sexual performance by a minor is a Class D felony unless the defendant has previously been convicted of violation of this section or KRS 531.030, in which case it shall be a Class C felony.
LOUISIANA

LA. REV. STAT. ANN. § 15:536 (2014). Definitions
A. For purposes of this Chapter, “sexual offender” means a person who has violated R.S. 14:78 (incest), R.S. 14:78.1 (aggravated incest), R.S. 14:89 (crime against nature), R.S. 14:89.1 (aggravated crime against nature), R.S. 14:93.5 (sexual battery of the infirm) or any provision of Subpart C of Part II, or Subpart A(1) of Part V, of Chapter 1 of Title 14 of the Louisiana Revised Statutes of 1950.

B. For purposes of this Chapter, “serial sexual offender” means a person who has on two or more occasions previously pleaded guilty, nolo contendere, or has been found guilty of violating R.S. 14:42, 42.1, 43, 43.1, 43.2, 43.3, 43.4, 43.5, 78, 78.1, 80, 81, 81.1, 81.2, 89.1, or 107.1(C)(2).

LA. REV. STAT. ANN. § 14:89 (2014). Crime against nature
A. Crime against nature is the unnatural carnal copulation by a human being with another of the same sex or opposite sex or with an animal, except that anal sexual intercourse between two human beings shall not be deemed as a crime against nature when done under any of the circumstances described in R.S. 14:41, 14:42, 14:42.1 or 14:43. Emission is not necessary; and, when committed by a human being with another, the use of the genital organ of one of the offenders of whatever sex is sufficient to constitute the crime.

B. (1) Whoever violates the provisions of this Section shall be fined not more than two thousand dollars, imprisoned, with or without hard labor, for not more than five years, or both.

(2) Whoever violates the provisions of this Section with a person under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both.

(3) Whoever violates the provisions of this Section with a person under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both.

C. It shall be an affirmative defense to prosecution for a violation of this Section that, during the time of the alleged commission of the offense, the defendant was a victim of trafficking of children for sexual purposes as provided in R.S. 14:46.3(E).

MAINE
ME. REV. STAT. ANN. tit. 34-A, § 11203 (2014). Definitions
As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.


1-A. Conditional release. “Conditional release” means supervised release of a registrant or an offender from institutional confinement for placement on probation, parole, supervised release for sex offenders, supervised community confinement, home release monitoring or release under Title 15, section 104-A or Title 17-A, chapter 54-G.

1-B. Discharge. “Discharge” means unconditional release and discharge of a registrant from institutional confinement upon the expiration of a sentence or upon discharge under Title 15, section 104-A.

1-C. Another state. “Another state” means each of the several states except Maine, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa and the Northern Mariana Islands.

2. Domicile. “Domicile” means the place where a person has that person's established, fixed, permanent or ordinary dwelling place or legal residence to which, whenever the person is absent, the person has the intention of returning. A person may have more than one residence but only one domicile.

3. FBI. “FBI” means the Federal Bureau of Investigation.

3-A. Jurisdiction. “Jurisdiction” means the Federal Government, including the military, this State or another state or tribe.

4. Law enforcement agency having jurisdiction. “Law enforcement agency having jurisdiction” means the chief of police in the municipality where a registrant or an offender expects to be or is domiciled. If the municipality does not have a chief of police, “law enforcement agency having jurisdiction” means the sheriff of the county where the municipality is located. “Law enforcement agency having jurisdiction” also means the sheriff of the county in an unorganized territory.

4-A. Risk assessment instrument. “Risk assessment instrument” means an instrument created and modified as necessary by reviewing and analyzing precursors to a sex offense, victim populations of a registrant or an offender, living conditions and environment of a registrant or an offender and other factors predisposing a person to become a registrant or an offender, for the ongoing purpose of identifying risk factors.

4-B. Sentence. “Sentence,” in addition to any punishment alternatives, includes an involuntary commitment under Title 15, section 103, or similar statute from another
jurisdiction, following a verdict of not criminally responsible by reason of mental disease or defect or similar verdict in another jurisdiction.

4-C. Registrant. “Registrant” means a 10-year registrant or a lifetime registrant or, when appropriate, both a 10-year registrant and a lifetime registrant.

4-D. Residence. “Residence” means that place or those places, other than a domicile, in which a person may spend time living, residing or dwelling. Proof that an offender has lived in the State for 14 days continuously or an aggregate of 30 days within a period of one year gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person has established a residence for the purposes of registration requirements imposed by this chapter.

4-E. Offender. “Offender” means a person to whom this chapter applies pursuant to section 11202.

5. Ten-year registrant. “Ten-year registrant” means a person who has complied with the initial duty to register under this chapter as an adult convicted and sentenced or a juvenile convicted and sentenced as an adult of a sex offense.

6. Sex offense. “Sex offense” means a conviction for one of the following offenses or for an attempt or solicitation of one of the following offenses if the victim was less than 18 years of age at the time of the criminal conduct:


B. A violation under former Title 17, section 2922; former Title 17, section 2923; former Title 17, section 2924; Title 17-A, section 253, subsection 2, paragraph E, F, G, H, I or J; Title 17-A, section 254; former Title 17-A, section 255, subsection 1, paragraph A, E, F, G, I or J; former Title 17-A, section 255, subsection 1, paragraph B or D if the crime was not elevated a class under former Title 17-A, section 255, subsection 3; Title 17-A, section 255-A, subsection 1, paragraph A, B, C, F-2, G, I, J, K, L, M, N, Q, R, S or T; Title 17-A, section 256; Title 17-A, section 258; former Title 17-A, section 259; Title 17-A, section 282; Title 17-A, section 283; Title 17-A, section 284; Title 17-A, section 301, subsection 1, paragraph A, subparagraph (3), unless the actor is a parent of the victim; Title 17-A, section 511, subsection 1, paragraph D; Title 17-A, section 556; Title 17-A, section 852, subsection 1, paragraph B; or Title 17-A, section 855;

C. A violation in another jurisdiction that includes the essential elements of an offense listed in paragraph B; or

D. A conviction for a military, tribal or federal offense requiring registration pursuant to:
The Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, also known as the Jacob Wetterling Act, Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322, as amended; or


6-A. Sex offense; after October 1, 2011. For persons convicted and sentenced on or after October 1, 2011, “sex offense” means, in addition to the offenses listed in subsection 6, a conviction for one of the following offenses or for an attempt or solicitation of one of the following offenses, without regard to the age of the victim:

A. Title 17-A, section 253, subsection 2, paragraphs J, K and L and Title 17-A, section 255-A, subsection 1, paragraphs C, G, Q, R, R-1, R-2, W and X;

B. A violation in another jurisdiction that includes the essential elements of an offense listed in paragraph A; or

C. A conviction for a military, tribal or federal offense requiring registration pursuant to:

(1) The Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, also known as the Jacob Wetterling Act, Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322, as amended; or


6-B. Sex offense; after October 1, 2012. For persons convicted and sentenced on or after October 1, 2012, “sex offense” means, in addition to the offenses listed in subsections 6 and 6-A:

A. A conviction for an offense under Title 17-A, section 259-A or for an attempt or conspiracy to commit an offense under Title 17-A, section 259-A;

B. A violation in another jurisdiction that includes the essential elements of an offense listed under Title 17-A, section 259-A; or

C. A conviction for a military, tribal or federal offense requiring registration pursuant to:

(1) The Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, also known as the Jacob Wetterling Act, Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322, as amended; or


7. Sexually violent offense. “Sexually violent offense” means:
A. A conviction for one of the offenses or for an attempt to commit one of the offenses under former Title 17-A, section 252; under Title 17-A, section 253, subsection 1; Title 17-A, section 253, subsection 2, paragraph A, B, C or D; former Title 17-A, section 255, subsection 1, paragraph C or H; former Title 17-A, section 255, subsection 1, paragraph B or D, if the crime was elevated a class under former Title 17-A, section 255, subsection 3; Title 17-A, section 255-A, subsection 1, paragraph D, E, E-1, F, F-1, H, O or P;

B. A conviction for an offense or for an attempt to commit an offense of the law in another jurisdiction that includes the essential elements of an offense listed in paragraph A; or

C. A conviction for a military, tribal or federal offense requiring registration pursuant to:

(1) The Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, also known as the Jacob Wetterling Act, Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322, as amended; or


8. Lifetime registrant. “Lifetime registrant” means a person who has complied with the initial duty to register under this chapter as an adult convicted and sentenced or a juvenile convicted and sentenced as an adult of a:

A. Sexually violent offense; or

B. Sex offense when the person has another conviction for or an attempt to commit an offense that includes the essential elements of a sex offense or sexually violent offense. For purposes of this paragraph, “another conviction” means:

(1) For persons convicted and sentenced before September 17, 2005, a conviction for an offense for which sentence was imposed prior to the occurrence of the new offense; and

(2) For persons convicted and sentenced on or after September 17, 2005, a conviction that occurred at any time. Convictions that occur on the same day may be counted as other offenses for the purposes of classifying a person as a lifetime registrant if:

(a) There is more than one victim; or

(b) The convictions are for offenses based on different conduct or arising from different criminal episodes.


ME. REV. STAT. ANN. tit. 17-A, § 258 (2014). Sexual misconduct with a child under 14 years of age
1. A person is guilty of sexual misconduct with a child under 14 years of age if that person, having in fact attained 18 years of age, knowingly displays any sexually explicit materials to another person, not the actor's spouse, who has not in fact attained the age of 14 years, with the intent to encourage the other person to engage in a sexual act or sexual contact. Violation of this subsection is a Class D crime.

1-A. A person is guilty of sexual misconduct with a child under 12 years of age if that person, having in fact attained 18 years of age, knowingly displays any sexually explicit materials to another person, not the actor's spouse, who has not in fact attained 12 years of age, with the intent to encourage the other person to engage in a sexual act or sexual contact. Violation of this subsection is a Class C crime.

2. As used in this section, “sexually explicit materials” means any book, magazine, print, negative, slide, motion picture, videotape or other mechanically reproduced visual material that the person knows or should know depicts a person, minor or adult, engaging in sexually explicit conduct, as that term is defined in section 281.


ME. REV. STAT. ANN. tit. 17-A, § 281 (2014). Definitions
As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. “Disseminate” means to manufacture, publish, send, promulgate, distribute, exhibit, issue, furnish, sell or transfer or to offer or agree to do any of these acts.

2. “Minor” means a person who has not attained 18 years of age.

3. “Photograph” means to make, capture, generate or save a print, negative, slide, motion picture, computer data file, videotape or other mechanically, electronically or chemically reproduced visual image or material.

4. “Sexually explicit conduct” means any of the following acts:

A. A sexual act;

B. Bestiality;

C. Masturbation;

D. Sadomasochistic abuse for the purpose of sexual stimulation;

E. Lewd exhibition of the genitals, anus or pubic area of a person. An exhibition is considered lewd if the exhibition is designed for the purpose of eliciting or attempting to
elicit a sexual response in the intended viewer; or

F. Conduct that creates the appearance of the acts in paragraphs A to D and also exhibits any uncovered or covered portions of the genitals, anus or pubic area.


1. A person is guilty of sexual exploitation of a minor if:

   A. Knowing or intending that the conduct will be photographed, the person intentionally or knowingly employs, solicits, entices, persuades, uses or compels another person, not that person's spouse, who is in fact a minor, to engage in sexually explicit conduct. Violation of this paragraph is a Class B crime;

   B. The person violates paragraph A and, at the time of the offense, the person has one or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Violation of this paragraph is a Class A crime;

   C. The person violates paragraph A and the minor has not in fact attained 12 years of age. Violation of this paragraph is a Class A crime;

   D. Being a parent, legal guardian or other person having care or custody of another person who is in fact a minor, that person knowingly or intentionally permits that minor to engage in sexually explicit conduct, knowing or intending that the conduct will be photographed. Violation of this paragraph is a Class B crime;

   E. The person violates paragraph D and, at the time of the offense, the person has one or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Violation of this paragraph is a Class A crime; or

   F. The person violates paragraph D and the minor has not in fact attained 12 years of age. Violation of this paragraph is a Class A crime.

2. The following mandatory minimum terms of imprisonment apply to sexual exploitation of a minor.

   A. A court shall impose upon a person convicted under subsection 1, paragraph A or D a sentencing alternative involving a term of imprisonment of at least 5 years.

   B. A court shall impose upon a person convicted under subsection 1, paragraph B or E a sentencing alternative involving a term of imprisonment of at least 10 years.

   The court may not suspend a minimum term of imprisonment imposed under this section unless it sets forth in detail, in writing, the reasons for suspending the sentence. The court
shall consider the nature and circumstances of the crime, the physical and mental well-being of the minor and the history and character of the defendant and may only suspend the minimum term if the court is of the opinion that the exceptional features of the case justify the imposition of another sentence. Section 9-A governs the use of prior convictions when determining a sentence.

**ME. REV. STAT. ANN. tit. 17-A, § 283 (2014). Dissemination of sexually explicit material**

1. A person is guilty of dissemination of sexually explicit material if:

   A. The person intentionally or knowingly disseminates or possesses with intent to disseminate any book, magazine, newspaper, print, negative, slide, motion picture, videotape, computer data file or other mechanically, electronically or chemically reproduced visual image or material that depicts any minor who the person knows or has reason to know is a minor engaging in sexually explicit conduct. Violation of this paragraph is a Class C crime;

   B. The person violates paragraph A and, at the time of the offense, has one or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Violation of this paragraph is a Class B crime;

   C. The person intentionally or knowingly disseminates or possesses with intent to disseminate any book, magazine, newspaper, print, negative, slide, motion picture, videotape, computer data file or other mechanically, electronically or chemically reproduced visual image or material that depicts any minor who is less than 12 years of age who the person knows or has reason to know is a minor less than 12 years of age engaging in sexually explicit conduct. Violation of this paragraph is a Class B crime; or

   D. The person violates paragraph C and, at the time of the offense, has one or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Violation of this paragraph is a Class A crime.

Section 9-A governs the use of prior convictions when determining a sentence.

2. For the purposes of this section, possession of 10 or more copies of any of the materials as described in subsection 1 gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person possesses those items with intent to disseminate.

3. For purposes of this section, any element of age of the person depicted means the age of the person at the time the sexually explicit conduct occurred, not the age of the person depicted at the time of dissemination or possession of the sexually explicit visual image or material.

1. A person is guilty of possession of sexually explicit material if that person:

   A. Intentionally or knowingly transports, exhibits, purchases, possesses or accesses with intent to view any book, magazine, newspaper, print, negative, slide, motion picture, computer data file, videotape or other mechanically, electronically or chemically reproduced visual image or material that the person knows or should know depicts another person engaging in sexually explicit conduct, and:

      (1) The other person has not in fact attained 16 years of age; or

      (2) The person knows or has reason to know that the other person has not attained 16 years of age.

   Violation of this paragraph is a Class D crime;

   B. Violates paragraph A and, at the time of the offense, has one or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Violation of this paragraph is a Class C crime;

   C. Intentionally or knowingly transports, exhibits, purchases, possesses or accesses with intent to view any book, magazine, newspaper, print, negative, slide, motion picture, computer data file, videotape or other mechanically, electronically or chemically reproduced visual image or material that the person knows or should know depicts another person engaging in sexually explicit conduct, and:

      (1) The other person has not in fact attained 12 years of age; or

      (2) The person knows or has reason to know that the other person has not attained 12 years of age.

   Violation of this paragraph is a Class C crime; or

   D. Violates paragraph C and, at the time of the offense, has one or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Violation of this paragraph is a Class B crime.

   Section 9-A governs the use of prior convictions when determining a sentence.

2. It is a defense to a prosecution under this section that the person depicted was the spouse of the person possessing the sexually explicit material at the time the material was produced.
3. The age of the person depicted and that the person depicted is an actual person may be reasonably inferred from the depiction. Competent medical evidence or other expert testimony may be used to establish the age and authenticity of the person depicted.

4. Any material that depicts a person who has not attained 16 years of age engaging in sexually explicit conduct is declared to be contraband and may be seized by the State.

5. For purposes of this section, any element of age of the person depicted means the age of the person at the time the sexually explicit conduct occurred, not the age of the person depicted at the time of the transporting, exhibiting, purchasing, possession or accessing of the sexually explicit visual image or material.

MARYLAND

MD. CODE ANN., CRIM. PROC. § 11-701 (2014). Definitions
In general

(a) In this subtitle the following words have the meanings indicated.

Board

(b) “Board” means the Sexual Offender Advisory Board.

Employment

(c) “Employment” means an occupation, job, or vocation that is full time or part time for a period exceeding 14 days or for an aggregate period exceeding 30 days during a calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

Habitually lives

(d)(1) “Habitually lives” means any place where a person lives, sleeps, or visits with any regularity, including where a homeless person is stationed during the day or sleeps at night.

(2) “Habitually lives” includes any place where a person visits for longer than 5 hours per visit more than 5 times within a 30-day period.

Homeless

(e) “Homeless” means having no fixed residence.

Imprisonment
(f) “Imprisonment” means incarceration pursuant to a conviction, regardless of the nature of the institution in which the offender serves the sentence.

Jurisdiction

(g) “Jurisdiction” means a state or a Native American tribe that elects to function as a registration jurisdiction under federal law.

Local law enforcement unit

(h) “Local law enforcement unit” means the law enforcement unit in a county that has been designated by resolution of the county governing body as the primary law enforcement unit in the county.

Release

(i)(1) Except as otherwise provided in this subsection, “release” means any type of release from the custody of a supervising authority.

(2) “Release” means:

(i) release on parole;

(ii) mandatory supervision release;

(iii) release from a correctional facility with no required period of supervision;

(iv) work release;

(v) placement on home detention; and

(vi) the first instance of entry into the community that is part of a supervising authority's graduated release program.

(3) “Release” does not include:

(i) an escape; or

(ii) leave that is granted on an emergency basis.

Sexually violent offense

(j) “Sexually violent offense” means:
(1) a violation of §§ 3-303 through 3-307 or §§ 3-309 through 3-312 of the Criminal Law Article;

(2) assault with intent to commit rape in the first or second degree or a sexual offense in the first or second degree as prohibited on or before September 30, 1996, under former Article 27, § 12 of the Code; or

(3) a crime committed in another jurisdiction, federal or military court, or foreign country that, if committed in this State, would constitute one of the crimes listed in item (1) or (2) of this subsection.

**Sexually violent predator**

(k) “Sexually violent predator” means a person who:

(1) is convicted of a sexually violent offense; and

(2) has been determined in accordance with this subtitle to be at risk of committing another sexually violent offense.

**Sex offender**

(l) “Sex offender” means a person who has been convicted of:

(1) an offense that would require the person to be classified as a tier I sex offender, tier II sex offender, or tier III sex offender;

(2) an offense committed in another state or in a federal, military, or tribal jurisdiction that, if committed in this State, would require the person to be classified as a tier I sex offender, tier II sex offender, or tier III sex offender; or

(3) an offense in a court of Canada, Great Britain, Australia, New Zealand, or any other foreign country where the United States Department of State has determined in its Country Reports on Human Rights Practices that an independent judiciary generally or vigorously enforced the right to a fair trial during the year in which the conviction occurred that, if committed in this State, would require the person to be classified as a tier I sex offender, tier II sex offender, or tier III sex offender.

**Student**

(m) “Student” means an individual who is enrolled in or attends an education institution, including a public or private secondary school, trade or professional school, or an institution of higher education.

**Supervising authority**
(n) “Supervising authority” means an agency or person that is responsible for collecting the information for the initial registration of a sex offender and is:

(1) the Secretary, if the registrant is in the custody of a correctional facility operated by the Department;

(2) the administrator of a local correctional facility, if the registrant, including a participant in a home detention program, is in the custody of the local correctional facility;

(3) the court that granted the probation or suspended sentence, except as provided in item (9) of this subsection, if the registrant is granted probation before judgment, probation after judgment, or a suspended sentence;

(4) the Director of the Patuxent Institution, if the registrant is in the custody of the Patuxent Institution;

(5) the Secretary of Health and Mental Hygiene, if the registrant is in the custody of a facility operated by the Department of Health and Mental Hygiene;

(6) the court in which the registrant was convicted, if the registrant's sentence does not include a term of imprisonment or if the sentence is modified to time served;

(7) the Secretary, if the registrant is in the State under terms and conditions of the Interstate Compact for Adult Offender Supervision, set forth in Title 6, Subtitle 2 of the Correctional Services Article, or the Interstate Corrections Compact, set forth in Title 8, Subtitle 6 of the Correctional Services Article;

(8) the local law enforcement unit where the sex offender is a resident, is a transient, or habitually lives on moving from another jurisdiction or foreign country that requires registration if the sex offender is not under the supervision, custody, or control of another supervising authority;

(9) the Director of Parole and Probation, if the registrant is under the supervision of the Division of Parole and Probation; or

(10) the Secretary of Juvenile Services, if the registrant was a minor at the time the act was committed for which registration is required.

Tier I sex offender

(o) “Tier I sex offender” means a person who has been convicted of:
(1) conspiring to commit, attempting to commit, or committing a violation of § 3-308 of the Criminal Law Article;

(2) conspiring to commit, attempting to commit, or committing a violation of § 3-902 or § 11-208 of the Criminal Law Article, if the victim is a minor;

(3) a crime committed in a federal, military, tribal, or other jurisdiction that, if committed in this State, would constitute one of the crimes listed in item (1) or (2) of this subsection;

(4) any of the following federal offenses:

   (i) misleading domain names on the Internet under 18 U.S.C. § 2252B;

   (ii) misleading words or digital images on the Internet under 18 U.S.C. § 2252C;

   (iii) engaging in illicit conduct in foreign places under 18 U.S.C. § 2423(c);

   (iv) failure to file a factual statement about an alien individual under 18 U.S.C. § 2424;

   (v) transmitting information about a minor to further criminal sexual conduct under 18 U.S.C. § 2425;

   (vi) sex trafficking by force, fraud, or coercion under 18 U.S.C. § 1591; or

   (vii) travel with intent to engage in illicit conduct under 18 U.S.C. § 2423(b);

(5) any military offense specified by the Secretary of Defense under Section 115(A)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. § 951 Note) that is similar to those offenses listed in item (4) of this subsection; or

(6) a crime in a court of Canada, Great Britain, Australia, New Zealand, or any other foreign country where the United States Department of State has determined in its Country Reports on Human Rights Practices that an independent judiciary generally or vigorously enforced the right to a fair trial during the year in which the conviction occurred that, if the crime were committed in this State, would constitute one of the crimes listed in items (1) through (5) of this subsection.

Tier II sex offender

(p) “Tier II sex offender” means a person who has been convicted of:

(1) conspiring to commit, attempting to commit, or committing a violation of § 3-307(a)(4) or (5), § 3-324, § 11-207, or § 11-209 of the Criminal Law Article;
(2) conspiring to commit, attempting to commit, or committing a violation of § 11-303, § 11-305, or § 11-306 of the Criminal Law Article, if the intended prostitute or victim is a minor;

(3) conspiring to commit, attempting to commit, or committing a violation of § 3-314 or § 3-603 of the Criminal Law Article, if the victim is a minor who is at least 14 years old;

(4) conspiring to commit, attempting to commit, or committing an offense that would require the person to register as a tier I sex offender after the person was already registered as a tier I sex offender;

(5) a crime that was committed in a federal, military, tribal, or other jurisdiction that, if committed in this State, would constitute one of the crimes listed in items (1) through (3) of this subsection; or

(6) a crime in a court of Canada, Great Britain, Australia, New Zealand, or any other foreign country where the United States Department of State has determined in its Country Reports on Human Rights Practices that an independent judiciary generally or vigorously enforced the right to a fair trial during the year in which the conviction occurred that, if the crime were committed in this State, would constitute one of the crimes listed in items (1) through (3) of this subsection.

Tier III sex offender

(q) “Tier III sex offender” means a person who has been convicted of:

(1) conspiring to commit, attempting to commit, or committing a violation of:

(i) § 2-201(a)(4)(viii), (x), or (xi) of the Criminal Law Article;

(ii) § 3-303, § 3-304, § 3-305, § 3-306, § 3-307(a)(1) or (2), § 3-309, § 3-310, § 3-311, § 3-312, § 3-315, § 3-323, or § 3-602 of the Criminal Law Article;

(iii) § 3-502 of the Criminal Law Article, if the victim is a minor;

(iv) § 3-502 of the Criminal Law Article, if the victim is an adult, and the person has been ordered by the court to register under this subtitle; or

(v) the common law offense of sodomy or § 3-322 of the Criminal Law Article if the offense was committed with force or threat of force;

(2) conspiring to commit, attempting to commit, or committing a violation of § 3-307(a)(3), § 3-314, § 3-503, or § 3-603 of the Criminal Law Article, if the victim is under the age of 14 years;
(3) conspiring to commit, attempting to commit, or committing the common law offense of false imprisonment, if the victim is a minor;

(4) conspiring to commit, attempting to commit, or committing an offense that would require the person to register as a tier I or tier II sex offender after the person was already registered as a tier II sex offender;

(5) a crime committed in a federal, military, tribal, or other jurisdiction that, if committed in this State, would constitute one of the crimes listed in items (1) through (3) of this subsection; or

(6) a crime in a court of Canada, Great Britain, Australia, New Zealand, or any other foreign country where the United States Department of State has determined in its Country Reports on Human Rights Practices that an independent judiciary generally or vigorously enforced the right to a fair trial during the year in which the conviction occurred that, if the crime were committed in this State, would constitute one of the crimes listed in items (1) through (3) of this subsection.

Transient

(r) “Transient” means a nonresident registrant who enters a county of this State with the intent to be in the State or is in the State for a period exceeding 14 days or for an aggregate period exceeding 30 days during a calendar year for a purpose other than employment or to attend an educational institution.

**MD. CODE ANN., CRIM. LAW § 3-322 (2014). UNNATURAL OR PERVERTED SEXUAL PRACTICE**

Prohibited

(a) A person may not:

(1) take the sexual organ of another or of an animal in the person's mouth;

(2) place the person's sexual organ in the mouth of another or of an animal; or

(3) commit another unnatural or perverted sexual practice with another or with an animal.

Penalty

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding $1,000 or both.

Statute of limitations and in banc review
(c) A person who violates this section is subject to § 5-106(b) of the Courts Article.

Charging document

(d) An indictment for a violation of this section:

(1) is sufficient if it states that the defendant committed an unnatural and perverted sexual practice with a person or animal as applicable; but

(2) need not state the particular:

(i) unnatural or perverted sexual practice with which the defendant is charged; or

(ii) manner in which the defendant committed the unnatural or perverted sexual practice.


In general

(a) In this subtitle the following words have the meanings indicated.

Advertising purposes

(b) “Advertising purposes” means the purpose of propagandizing in connection with the commercial:

(1) sale of a product;

(2) offering of a service; or

(3) exhibition of entertainment.

Sadomasochistic abuse

(c) “Sadomasochistic abuse” means:

(1) flagellation or torture committed by or inflicted on an individual who is:

(i) nude;

(ii) wearing only undergarments; or

(iii) wearing a revealing or bizarre costume; or

(2) binding, fettering, or otherwise physically restraining an individual who is:
(i) nude;
(ii) wearing only undergarments; or
(iii) wearing a revealing or bizarre costume.

Sexual conduct

d) “Sexual conduct” means:
(1) human masturbation;
(2) sexual intercourse; or
(3) whether alone or with another individual or animal, any touching of or contact with:
(i) the genitals, buttocks, or pubic areas of an individual; or
(ii) breasts of a female individual.

Sexual excitement

e) “Sexual excitement” means:
(1) the condition of the human genitals when in a state of sexual stimulation;
(2) the condition of the human female breasts when in a state of sexual stimulation; or
(3) the sensual experiences of individuals engaging in or witnessing sexual conduct or nudity.

**MD. CODE ANN., CRIM. LAW § 11-201 (2014). DEFINITIONS**

In general

(a) In this subtitle the following words have the meanings indicated.

Distribute

(b) “Distribute” means to transfer possession.

Knowingly

(c) “Knowingly” means having knowledge of the character and content of the matter.

Matter
(d) “Matter” means:

(1) a book, magazine, newspaper, or other printed or written material;

(2) a picture, drawing, photograph, motion picture, or other pictorial representation;

(3) a statue or other figure;

(4) a recording, transcription, or mechanical, chemical, or electrical reproduction; or

(5) any other article, equipment, machine, or material.

Sadomasochistic abuse

(e) “Sadomasochistic abuse” has the meaning stated in § 11-101 of this title.

Sexual conduct

(f) “Sexual conduct” has the meaning stated in § 11-101 of this title.

Sexual excitement

(g) “Sexual excitement” has the meaning stated in § 11-101 of this title.

**MD. CODE ANN., CRIM. LAW § 11-207 (2014). CHILD PORNOGRAPHY**

Prohibited

(a) A person may not:

(1) cause, induce, solicit, or knowingly allow a minor to engage as a subject in the production of obscene matter or a visual representation or performance that depicts a minor engaged as a subject in sadomasochistic abuse or sexual conduct;

(2) photograph or film a minor engaging in an obscene act, sadomasochistic abuse, or sexual conduct;

(3) use a computer to depict or describe a minor engaging in an obscene act, sadomasochistic abuse, or sexual conduct;

(4) knowingly promote, advertise, solicit, distribute, or possess with the intent to distribute any matter, visual representation, or performance:

(i) that depicts a minor engaged as a subject in sadomasochistic abuse or sexual conduct; or
(ii) in a manner that reflects the belief, or that is intended to cause another to believe, that the matter, visual representation, or performance depicts a minor engaged as a subject of sadomasochistic abuse or sexual conduct; or

(5) use a computer to knowingly compile, enter, transmit, make, print, publish, reproduce, cause, allow, buy, sell, receive, exchange, or disseminate any notice, statement, advertisement, or minor's name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information for the purpose of engaging in, facilitating, encouraging, offering, or soliciting unlawful sadomasochistic abuse or sexual conduct of or with a minor.

Penalty

(b) A person who violates this section is guilty of a felony and on conviction is subject to:

(1) for a first violation, imprisonment not exceeding 10 years or a fine not exceeding $25,000 or both; and

(2) for each subsequent violation, imprisonment not exceeding 20 years or a fine not exceeding $50,000 or both.

Evidence

(c)(1)(i) This paragraph applies only if the minor's identity is unknown or the minor is outside the jurisdiction of the State.

(ii) In an action brought under this section, the State is not required to identify or produce testimony from the minor who is depicted in the obscene matter or in any visual representation or performance that depicts the minor engaged as a subject in sadomasochistic abuse or sexual conduct.

(2) The trier of fact may determine whether an individual who is depicted in an obscene matter, or any visual representation or performance as the subject in sadomasochistic abuse or sexual conduct, was a minor by:

(i) observation of the matter depicting the individual;

(ii) oral testimony by a witness to the production of the matter, representation, or performance;

(iii) expert medical testimony; or

(iv) any other method authorized by an applicable provision of law or rule of evidence.
MD. CODE ANN., CRIM. LAW § 11-208 (2014). POSSESSION OF VISUAL REPRESENTATION OF CHILD UNDER 16 ENGAGED IN CERTAIN SEXUAL ACTS
Prohibited

(a) A person may not knowingly possess and intentionally retain a film, videotape, photograph, or other visual representation showing an actual child under the age of 16 years:

(1) engaged as a subject of sadomasochistic abuse;

(2) engaged in sexual conduct; or

(3) in a state of sexual excitement.

Penalty

(b)(1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding $2,500 or both.

(2) A person who violates this section, having previously been convicted under this section, is guilty of a felony and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding $10,000 or both.

Exemption

(c) Nothing in this section may be construed to prohibit a parent from possessing visual representations of the parent’s own child in the nude unless the visual representations show the child engaged:

(1) as a subject of sadomasochistic abuse; or

(2) in sexual conduct and in a state of sexual excitement.

Affirmative defense

(d) It is an affirmative defense to a charge of violating this section that the person promptly and in good faith:

(1) took reasonable steps to destroy each visual representation; or

(2) reported the matter to a law enforcement agency.
**MD. CODE ANN., CRIM. LAW § 11-209 (2014). HIRING A MINOR FOR PROHIBITED PURPOSE**

Prohibited

(a) A person may not hire, employ, or use an individual, if the person knows, or possesses facts under which the person should reasonably know, that the individual is a minor, to do or assist in doing an act described in § 11-203 of this subtitle.

Penalty

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to:

(1) for a first violation, imprisonment not exceeding 1 year or a fine not exceeding $1,000 or both; and

(2) for each subsequent violation, imprisonment not exceeding 3 years or a fine not exceeding $5,000 or both.

**MASSACHUSETTS**

**MASS. ANN. LAWS ch. 6, § 178C (2014). Definitions applicable to Secs. 178C to 178P**

As used in sections 178C to 178P, inclusive, the following words shall have the following meanings:--

“Agency”, an agency, department, board, commission or entity within the executive or judicial branch, excluding the committee for public counsel services, which has custody of, supervision of or responsibility for a sex offender as defined in accordance with this chapter, including an individual participating in a program of any such agency, whether such program is conducted under a contract with a private entity or otherwise. Each agency shall be responsible for the identification of such individuals within its custody, supervision or responsibility. Notwithstanding any general or special law to the contrary, each such agency shall be certified to receive criminal offender record information maintained by the department for the purpose of identifying such individuals.

“Employment”, includes employment that is full-time or part-time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether compensated or uncompensated.

“Institution of higher learning”, a post secondary institution.

“Mental abnormality”, a congenital or acquired condition of a person that affects the emotional or volitional capacity of such person in a manner that predisposes that person
to the commission of criminal sexual acts to a degree that makes such person a menace to the health and safety of other persons.

“Predatory”, an act directed at a stranger or person with whom a relationship has been established, promoted or utilized for the primary purpose of victimization.

“Secondary addresses”, the addresses of all places where a sex offender lives, abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year and which is not a sex offender's primary address; or a place where a sex offender routinely lives, abides, lodges, or resides for a period of 4 or more consecutive or nonconsecutive days in any month and which is not a sex offender's permanent address, including any out-of-state address.

“Sentencing court”, the court that sentenced a sex offender for the most recent sexually violent offense or sex offense or the superior court if such sentencing occurred in another jurisdiction or the sex offender registry board to the extent permitted by federal law and established by the board's regulations.

“Sex offender”, a person who resides, has secondary addresses, works or attends an institution of higher learning in the commonwealth and who has been convicted of a sex offense or who has been adjudicated as a youthful offender or as a delinquent juvenile by reason of a sex offense or a person released from incarceration or parole or probation supervision or custody with the department of youth services for such a conviction or adjudication or a person who has been adjudicated a sexually dangerous person under section 14 of chapter 123A, as in force at the time of adjudication, or a person released from civil commitment pursuant to section 9 of said chapter 123A, whichever last occurs, on or after August 1, 1981.

“Sex offender registry”, the collected information and data that is received by the department pursuant to sections 178C to 178P, inclusive, as such information and data is modified or amended by the sex offender registry board or a court of competent jurisdiction pursuant to said sections 178C to 178P, inclusive.

“Sex offense”, an indecent assault and battery on a child under 14 under section 13B of chapter 265; aggravated indecent assault and battery on a child under the age of 14 under section 13B 1/2 of said chapter 265; a repeat offense under section 13B 3/4 of said chapter 265; indecent assault and battery on a mentally retarded person under section 13F of said chapter 265; indecent assault and battery on a person age 14 or over under section 13H of said chapter 265; rape under section 22 of said chapter 265; rape of a child under 16 with force under section 22A of said chapter 265; aggravated rape of a child under 16 with force under section 22B of said chapter 265; a repeat offense under section 22C of said chapter 265; rape and abuse of a child under section 23 of said chapter 265; aggravated rape and abuse of a child under section 23A of said chapter 265; a repeat offense under section 23B of said chapter 265; assault with intent to commit rape under section 24 of said chapter 265; assault of a child with intent to commit rape under section

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24B of said chapter 265; kidnapping of a child under section 26 of said chapter 265; enticing a child under the age of 16 for the purposes of committing a crime under section 26C of said chapter 265; enticing a child under 18 via electronic communication to engage in prostitution, human trafficking or commercial sexual activity under section 26D of said chapter 265; trafficking of persons for sexual servitude under section 50 of said chapter 265; a second or subsequent violation of human trafficking for sexual servitude under section 52 of chapter 265; enticling away a person for prostitution or sexual intercourse under section 2 of chapter 272; drugging persons for sexual intercourse under section 3 of said chapter 272; inducing a minor into prostitution under section 4A of said chapter 272; living off or sharing earnings of a minor prostitute under section 4B of said chapter 272; second and subsequent adjudication or conviction for open and gross lewdness and lascivious behavior under section 16 of said chapter 272, but excluding a first or single adjudication as a delinquent juvenile before August 1, 1992; incestuous marriage or intercourse under section 17 of said chapter 272; disseminating to a minor matter harmful to a minor under section 28 of said chapter 272; posing or exhibiting a child in a state of nudity under section 29A of said chapter 272; dissemination of visual material of a child in a state of nudity or sexual conduct under section 29B of said chapter 272; possession of child pornography under section 29C of said chapter 272; unnatural and lascivious acts with a child under 16 under section 35A of said chapter 272; aggravated rape under section 39 of chapter 277; and any attempt to commit a violation of any of the aforementioned sections pursuant to section 6 of chapter 274 or a like violation of the laws of another state, the United States or a military, territorial or Indian tribal authority.

“Sex offense involving a child”, an indecent assault and battery on a child under 14 under section 13B of chapter 265; aggravated indecent assault and battery on a child under the age of 14 under section 13B 1/2 of said chapter 265; a repeat offense under section 13B 3/4 of said chapter 265; rape of a child under 16 with force under section 22A of said chapter 265; aggravated rape of a child under 16 with force under section 22B of said chapter 265; a repeat offense under section 22C of said chapter 265; rape and abuse of a child under section 23 of said chapter 265; aggravated rape and abuse of a child under section 23A of said chapter 265; a repeat offense under section 23B of said chapter 265; assault of a child with intent to commit rape under section 24B of said chapter 265; kidnapping of a child under the age of 16 under section 26 of said chapter 265; enticing a child under the age of 16 for the purposes of committing a crime under section 26C of said chapter 265; enticing a child under 18 via electronic communication to engage in prostitution, human trafficking or commercial sexual activity under section 26D of said chapter 265; trafficking of persons for sexual servitude upon a person under 18 years of age under subsection (b) of section 50 of said chapter 265; inducing a minor into prostitution under section 4A of chapter 272; living off or sharing earnings of a minor prostitute under section 4B of said chapter 272; disseminating to a minor matter harmful to a minor under section 28 of said chapter 272; posing or exhibiting a child in a state of nudity under section 29A of said chapter 272; dissemination of visual material of a child in a state of nudity or sexual conduct under section 29B of said chapter 272; unnatural and lascivious acts with a child under 16 under section 35A of said chapter 272;
aggravated rape under section 39 of chapter 277; and any attempt to commit a violation of any of the aforementioned sections pursuant to section 6 of chapter 274 or a like violation of the laws of another state, the United States or a military, territorial or Indian tribal authority.

“Sexually violent offense”, indecent assault and battery on a child under 14 under section 13B of chapter 265; aggravated indecent assault and battery on a child under the age of 14 under section 13B 1/2 of said chapter 265; a repeat offense under section 13B 3/4 of said chapter 265; indecent assault and battery on a mentally retarded person under section 13F of said chapter 265; rape under section 22 of said chapter 265; rape of a child under 16 with force under section 22A of said chapter 265; aggravated rape of a child under 16 with force under section 22B of said chapter 265; a repeat offense under section 22C of said chapter 265; assault with intent to commit rape under section 24 of said chapter 265; assault of a child with intent to commit rape under section 24B of said chapter 265; enticing a child under 18 via electronic communication to engage in prostitution, human trafficking or commercial sexual activity under section 26D of said chapter 265; trafficking of persons for sexual servitude under section 50 of chapter 265; a second or subsequent violation of human trafficking for sexual servitude under section 52 of chapter 265; drugging persons for sexual intercourse under section 3 of chapter 272; unnatural and lascivious acts with a child under 16 under section 35A of said chapter 272; aggravated rape under section 39 of chapter 277; and any attempt to commit a violation of any of the aforementioned sections pursuant to section 6 of chapter 274 or a like violation of the law of another state, the United States or a military, territorial or Indian tribal authority, or any other offense that the sex offender registry board determines to be a sexually violent offense pursuant to the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, 42 U.S.C. section 14071.

“Sexually violent predator”, a person who has been convicted of a sexually violent offense or who has been adjudicated as a youthful offender or as a delinquent juvenile by reason of a sexually violent offense, or a person released from incarceration, parole, probation supervision or commitment under chapter 123A or custody with the department of youth services for such a conviction or adjudication, whichever last occurs, on or after August 1, 1981, and who suffers from a mental abnormality or personality disorder that makes such person likely to engage in predatory sexually violent offenses.

MASS. ANN. LAWS ch. 272, § 28 (2014). Matter harmful to minors, dissemination; possession; defenses
Whoever purposefully disseminates to a person he knows or believes to be a minor any matter harmful to minors, as defined in section 31, knowing it to be harmful to minors, or has in his possession any such matter with the intent to disseminate the same to a person he knows or believes to be a minor, shall be punished by imprisonment in the state prison for not more than 5 years or in a jail or house of correction for not more than 2 1/2 years, or by a fine of not less than $1000 nor more than $10,000 for the first offense, not less than $5000 nor more than $20,000 for the second offense, or not less than $10,000 nor
more than $30,000 for a third or subsequent offenses, or by both such fine and imprisonment. A person who disseminates an electronic communication or possesses an electronic communication with the intent to disseminate it shall not be found to have violated this section unless he specifically intends to direct the communication to a person he knows or believes to be a minor. A prosecution commenced under this section shall not be continued without a finding or placed on file. It shall be a defense in a prosecution under this section that the defendant was in a parental or guardianship relationship with the minor. It shall also be a defense in a prosecution under this section if the evidence proves that the defendant was a bona fide school, museum or library, or was acting in the course of his employment as an employee of such organization or of a retail outlet affiliated with and serving the educational purpose of such organization.

**MASS. ANN. LAWS ch. 272, § 29A (2014). Posing or exhibiting child in state of nudity or sexual conduct; punishment**

(a) Whoever, either with knowledge that a person is a child under eighteen years of age or while in possession of such facts that he should have reason to know that such person is a child under eighteen years of age, and with lascivious intent, hires, coerces, solicits or entices, employs, procures, uses, causes, encourages, or knowingly permits such child to pose or be exhibited in a state of nudity, for the purpose of representation or reproduction in any visual material, shall be punished by imprisonment in the state prison for a term of not less than ten nor more than twenty years, or by a fine of not less than ten thousand nor more than fifty thousand dollars, or by both such fine and imprisonment.

(b) Whoever, either with knowledge that a person is a child under eighteen years of age or while in possession of such facts that he should have reason to know that such person is a child under eighteen years of age, hires, coerces, solicits or entices, employs, procures, uses, causes, encourages, or knowingly permits such child to participate or engage in any act that depicts, describes, or represents sexual conduct for the purpose of representation or reproduction in any visual material, or to engage in any live performance involving sexual conduct, shall be punished by imprisonment in the state prison for a term of not less than ten nor more than twenty years, or by a fine of not less than ten thousand nor more than fifty thousand dollars, or by both such fine and imprisonment.

(c) In a prosecution under this section, a minor shall be deemed incapable of consenting to any conduct of the defendant for which said defendant is being prosecuted.

(d) For the purposes of this section, the determination whether the person in any visual material prohibited hereunder is under eighteen years of age may be made by the personal testimony of such person, by the testimony of a person who produced, processed, published, printed or manufactured such visual material that the child therein was known to him to be under eighteen years of age, or by expert medical testimony as to the age of the person based upon the person's physical appearance, by inspection of the visual material, or by any other method authorized by any general or special law or by any applicable rule of evidence.
MASS. ANN. LAWS ch. 272, § 29B (2014). Dissemination of visual material of child in state of nudity or sexual conduct; punishment

(a) Whoever, with lascivious intent, disseminates any visual material that contains a representation or reproduction of any posture or exhibition in a state of nudity involving the use of a child who is under eighteen years of age, knowing the contents of such visual material or having sufficient facts in his possession to have knowledge of the contents thereof, or has in his possession any such visual material knowing the contents or having sufficient facts in his possession to have knowledge of the contents thereof, with the intent to disseminate the same, shall be punished in the state prison for a term of not less than ten nor more than twenty years or by a fine of not less than ten thousand nor more than fifty thousand dollars or three times the monetary value of any economic gain derived from said dissemination, whichever is greater, or by both such fine and imprisonment.

(b) Whoever with lascivious intent disseminates any visual material that contains a representation or reproduction of any act that depicts, describes, or represents sexual conduct participated or engaged in by a child who is under eighteen years of age, knowing the contents of such visual material or having sufficient facts in his possession to have knowledge of the contents thereof, or whoever has in his possession any such visual material knowing the contents or having sufficient facts in his possession to have knowledge of the contents thereof, with the intent to disseminate the same, shall be punished in the state prison for a term of not less than ten nor more than twenty years or by a fine of not less than ten thousand nor more than fifty thousand dollars or three times the monetary value of any economic gain derived from said dissemination, whichever is greater, or by both such fine and imprisonment.

(c) For the purposes of this section, the determination whether the child in any visual material prohibited hereunder is under eighteen years of age may be made by the personal testimony of such child, by the testimony of a person who produced, processed, published, printed or manufactured such visual material that the child therein was known to him to be under eighteen years of age, by testimony of a person who observed the visual material, or by expert medical testimony as to the age of the child based upon the child's physical appearance, by inspection of the visual material, or by any other method authorized by any general or special law or by any applicable rule of evidence.

(d) In a prosecution under this section, a minor shall be deemed incapable of consenting to any conduct of the defendant for which said defendant is being prosecuted.

(e) Pursuant to this section, proof that dissemination of any visual material that contains a representation or reproduction of sexual conduct or of any posture or exhibition in a state of nudity involving the use of a child who is under eighteen years of age was for a bona fide scientific, medical, or educational purpose for a bona fide school, museum, or library may be considered as evidence of a lack of lascivious intent.
MASS. ANN. LAWS ch. 272, § 29C (2014). Knowing purchase or possession of visual material of child depicted in sexual conduct; punishment

Whoever knowingly purchases or possesses a negative, slide, book, magazine, film, videotape, photograph or other similar visual reproduction, or depiction by computer, of any child whom the person knows or reasonably should know to be under the age of 18 years of age and such child is:

(i) actually or by simulation engaged in any act of sexual intercourse with any person or animal;

(ii) actually or by simulation engaged in any act of sexual contact involving the sex organs of the child and the mouth, anus or sex organs of the child and the sex organs of another person or animal;

(iii) actually or by simulation engaged in any act of masturbation;

(iv) actually or by simulation portrayed as being the object of, or otherwise engaged in, any act of lewd fondling, touching, or caressing involving another person or animal;

(v) actually or by simulation engaged in any act of excretion or urination within a sexual context;

(vi) actually or by simulation portrayed or depicted as bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in any sexual context; or

(vii) depicted or portrayed in any pose, posture or setting involving a lewd exhibition of the unclothed genitals, pubic area, buttocks or, if such person is female, a fully or partially developed breast of the child; with knowledge of the nature or content thereof shall be punished by imprisonment in the state prison for not more than five years or in a jail or house of correction for not more than two and one-half years or by a fine of not less than $1,000 nor more than $10,000, or by both such fine and imprisonment for the first offense, not less than five years in a state prison or by a fine of not less than $5,000 nor more than $20,000, or by both such fine and imprisonment for the second offense, not less than 10 years in a state prison or by a fine of not less than $10,000 nor more than $30,000, or by both such fine and imprisonment for the third and subsequent offenses.

A prosecution commenced under this section shall not be continued without a finding nor placed on file.

The provisions of this section shall not apply to a law enforcement officer, licensed physician, licensed psychologist, attorney or officer of the court who is in possession of such materials in the lawful performance of his official duty. Nor shall the provisions of this section apply to an employee of a bona fide enterprise, the purpose of which enterprise is to filter or otherwise restrict access to such materials, who possesses
examples of computer depictions of such material for the purposes of furthering the legitimate goals of such enterprise.

**MASS. ANN. LAWS ch. 272, § 31 (2014). Knowing purchase or possession of visual material of child depicted in sexual conduct; punishment**

As used in sections twenty-eight, twenty-eight C, twenty-eight D, twenty-eight E, twenty-nine, twenty-nine A, twenty-nine B, thirty and thirty D, the following words shall, unless the context requires otherwise, have the following meanings:--

“Disseminate”, to import, publish, produce, print, manufacture, distribute, sell, lease, exhibit or display.

“Harmful to minors”, matter is harmful to minors if it is obscene or, if taken as a whole, it (1) describes or represents nudity, sexual conduct or sexual excitement, so as to appeal predominantly to the prurient interest of minors; (2) is patently contrary to prevailing standards of adults in the county where the offense was committed as to suitable material for such minors; and (3) lacks serious literary, artistic, political or scientific value for minors.

“Knowing”, a general awareness of the character of the matter.

“Lascivious intent”, a state of mind in which the sexual gratification or arousal of any person is an objective. For the purposes of prosecution under this chapter, proof of lascivious intent may include, but shall not be limited to, the following:

(1) whether the circumstances include sexual behavior, sexual relations, infamous conduct of a lustful or obscene nature, deviation from accepted customs and manners, or sexually oriented displays;

(2) whether the focal point of a visual depiction is the child's genitalia, pubic area, or breast area of a female child;

(3) whether the setting or pose of a visual depiction is generally associated with sexual activity;

(4) whether the child is depicted in an unnatural pose or inappropriate attire, considering the child's age;

(5) whether the depiction denotes sexual suggestiveness or a willingness to engage in sexual activity;

(6) whether the depiction is of a child engaging in or being engaged in sexual conduct, including, but not limited to, sexual intercourse, unnatural sexual intercourse, bestiality, masturbation, sado-masochistic behavior, or lewd exhibition of the genitals.
“Minor”, a person under eighteen years of age.

“Nudity”, uncovered or less than opaquely covered human genitals, pubic areas, the human female breast below a point immediately above the top of the areola, or the covered male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple or areola only are covered.

“Matter”, any handwritten or printed material, visual representation, live performance or sound recording including, but not limited to, books, magazines, motion picture films, pamphlets, phonographic records, pictures, photographs, figures, statues, plays, dances, or any electronic communication including, but not limited to, electronic mail, instant messages, text messages, and any other communication created by means of use of the Internet or wireless network, whether by computer, telephone, or any other device or by any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic or photo-optical system.

“Performance”, any play, dance, exhibit, or such similar activity performed before one or more persons.

“Obscene”, matter is obscene if taken as a whole it

(1) appeals to the prurient interest of the average person applying the contemporary standards of the county where the offense was committed;

(2) depicts or describes sexual conduct in a patently offensive way; and

(3) lacks serious literary, artistic, political or scientific value.

“Sexual conduct”, human masturbation, sexual intercourse, actual or simulated, normal or perverted, any lewd exhibitions of the genitals, flagellation or torture in the context of a sexual relationship, any lewd touching of the genitals, pubic areas, or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals, and any depiction or representation of excretory functions in the context of a sexual relationship. Sexual intercourse is simulated when it depicts explicit sexual intercourse which gives the appearance of the consummation of sexual intercourse, normal or perverted.

“Sexual excitement”, the condition of human male or female genitals or the breasts of the female while in a state of sexual stimulation or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.

“Visual material”, any motion picture film, picture, photograph, videotape, book, magazine, pamphlet that contains pictures, photographs or similar visual representations or reproductions, or depiction by computer, telephone or any other device capable of
electronic data storage or transmission. Undeveloped photographs, pictures, motion picture films, videotapes and similar visual representations or reproductions may be visual materials notwithstanding that processing, development or similar acts may be required to make the contents thereof apparent.

**MICHIGAN**

**MICH. COMP. LAWS § 28.722 (2014). Definitions**

As used in this act:

(a) “Aircraft” means that term as defined in section 2 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.2.

(b) “Convicted” means 1 of the following:

(i) Having a judgment of conviction or a probation order entered in any court having jurisdiction over criminal offenses, including, but not limited to, a tribal court or a military court, and including a conviction subsequently set aside under 1965 PA 213, MCL 780.621 to 780.624.

(ii) Either of the following:

(A) Being assigned to youthful trainee status under sections 11 to 15 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11 to 762.15, before October 1, 2004. This sub-subparagraph does not apply if a petition was granted under section 8c at any time allowing the individual to discontinue registration under this act, including a reduced registration period that extends to or past July 1, 2011, regardless of the tier designation that would apply on and after that date.

(B) Being assigned to youthful trainee status under sections 11 to 15 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11 to 762.15, before October 1, 2004 if the individual is convicted of any other felony on or after July 1, 2011.

(iii) Having an order of disposition entered under section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18, that is open to the general public under section 28 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.28, if both of the following apply:

(A) The individual was 14 years of age or older at the time of the offense.

(B) The order of disposition is for the commission of an offense that would classify the individual as a tier III offender.
Having an order of disposition or other adjudication in a juvenile matter in another state or country if both of the following apply:

(A) The individual is 14 years of age or older at the time of the offense.

(B) The order of disposition or other adjudication is for the commission of an offense that would classify the individual as a tier III offender.

(c) “Custodial authority” means 1 or more of the following apply:

(i) The actor was a member of the same household as the victim.

(ii) The actor was related to the victim by blood or affinity to the fourth degree.

(iii) The actor was in a position of authority over the victim and used this authority to coerce the victim to submit.

(iv) The actor was a teacher, substitute teacher, or administrator of the public school, nonpublic school, school district, or intermediate school district in which that other person was enrolled.

(v) The actor was an employee or a contractual service provider of the public school, nonpublic school, school district, or intermediate school district in which that other person was enrolled, or was a volunteer who was not a student in any public school or nonpublic school, or was an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor used his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person.

(vi) That other person was under the jurisdiction of the department of corrections and the actor was an employee or a contractual employee of, or a volunteer with, the department of corrections who knew that the other person was under the jurisdiction of the department of corrections and used his or her position of authority over the victim to gain access to or to coerce or otherwise encourage the victim to engage in sexual contact.

(vii) That other person was under the jurisdiction of the department of corrections and the actor was an employee or a contractual employee of, or a volunteer with, a private vendor that operated a youth correctional facility under section 20g of the corrections code of 1953, 1953 PA 232, MCL 791.220g, who knew that the other person was under the jurisdiction of the department of corrections.

(viii) That other person was a prisoner or probationer under the jurisdiction of a county for purposes of imprisonment or a work program or other probationary program and the actor was an employee or a contractual employee of, or a volunteer with, the county or
the department of corrections who knew that the other person was under the county's jurisdiction and used his or her position of authority over the victim to gain access to or to coerce or otherwise encourage the victim to engage in sexual contact.

(ix) The actor knew or had reason to know that a court had detained the victim in a facility while the victim was awaiting a trial or hearing, or committed the victim to a facility as a result of the victim having been found responsible for committing an act that would be a crime if committed by an adult, and the actor was an employee or contractual employee of, or a volunteer with, the facility in which the victim was detained or to which the victim was committed.

(d) “Department” means the department of state police.

(e) “Employee” means an individual who is self-employed or works for any other entity as a full-time or part-time employee, contractual provider, or volunteer, regardless of whether he or she is financially compensated.

(f) “Felony” means that term as defined in section 1 of chapter I of the code of criminal procedure, 1927 PA 174, MCL 761.1.

(g) “Immediately” means within 3 business days.

(h) “Indigent” means an individual to whom 1 or more of the following apply:

(i) He or she has been found by a court to be indigent within the last 6 months.

(ii) He or she qualifies for and receives assistance from the department of human services food assistance program.

(iii) He or she demonstrates an annual income below the current federal poverty guidelines.

(i) “Institution of higher education” means 1 or more of the following:

(i) A public or private community college, college, or university.

(ii) A public or private trade, vocational, or occupational school.

(j) “Local law enforcement agency” means the police department of a municipality.

(k) “Listed offense” means a tier I, tier II, or tier III offense.

(l) “Minor” means a victim of a listed offense who was less than 18 years of age at the time the offense was committed.
(m) “Municipality” means a city, village, or township of this state.

(n) “Registering authority” means the local law enforcement agency or sheriff's office having jurisdiction over the individual's residence, place of employment, or institution of higher learning, or the nearest department post designated to receive or enter sex offender registration information within a registration jurisdiction.

(o) “Registration jurisdiction” means each of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, the United States Virgin Islands, American Samoa, and the Indian tribes within the United States that elect to function as a registration jurisdiction.

(p) “Residence”, as used in this act, for registration and voting purposes means that place at which a person habitually sleeps, keeps his or her personal effects, and has a regular place of lodging. If a person has more than 1 residence, or if a wife has a residence separate from that of the husband, that place at which the person resides the greater part of the time shall be his or her official residence for the purposes of this act. If a person is homeless or otherwise lacks a fixed or temporary residence, residence means the village, city, or township where the person spends a majority of his or her time. This section shall not be construed to affect existing judicial interpretation of the term residence for purposes other than the purposes of this act.

(q) “Student” means an individual enrolled on a full- or part-time basis in a public or private educational institution, including, but not limited to, a secondary school, trade school, professional institution, or institution of higher education.

(r) “Tier I offender” means an individual convicted of a tier I offense who is not a tier II or tier III offender.

(s) “Tier I offense” means 1 or more of the following:

(i) A violation of section 145c(4) of the Michigan penal code, 1931 PA 328, MCL 750.145c.

(ii) A violation of section 335a(2)(b) of the Michigan penal code, 1931 PA 328, MCL 750.335a, if a victim is a minor.

(iii) A violation of section 349b of the Michigan penal code, 1931 PA 328, MCL 750.349b, if the victim is a minor.

(iv) A violation of section 520e or 520g(2) of the Michigan penal code, 1931 PA 328, MCL 750.520e and 750.520g, if the victim is 18 years or older.

(v) A violation of section 539j of the Michigan penal code, 1931 PA 328, MCL 750.539j, if a victim is a minor.
(vi) Any other violation of a law of this state or a local ordinance of a municipality, other than a tier II or tier III offense, that by its nature constitutes a sexual offense against an individual who is a minor.

(vii) An offense committed by a person who was, at the time of the offense, a sexually delinquent person as defined in section 10a of the Michigan penal code, 1931 PA 328, MCL 750.10a.

(viii) An attempt or conspiracy to commit an offense described in subparagraphs (i) to (vii).

(ix) An offense substantially similar to an offense described in subparagraphs (i) to (viii) under a law of the United States that is specifically enumerated in 42 USC 16911, under a law of any state or any country, or under tribal or military law.

(t) “Tier II offender” means either of the following:

(i) A tier I offender who is subsequently convicted of another offense that is a tier I offense.

(ii) An individual convicted of a tier II offense who is not a tier III offender.

(u) “Tier II offense” means 1 or more of the following:

(i) A violation of section 145a of the Michigan penal code, 1931 PA 328, MCL 750.145a.

(ii) A violation of section 145b of the Michigan penal code, 1931 PA 328, MCL 750.145b.

(iii) A violation of section 145c(2) or (3) of the Michigan penal code, 1931 PA 328, MCL 750.145c.

(iv) A violation of section 145d(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.145d, except for a violation arising out of a violation of section 157c of the Michigan penal code, 1931 PA 328, MCL 750.157c.

(v) A violation of section 158 of the Michigan penal code, 1931 PA 328, MCL 750.158, committed against a minor unless either of the following applies:

(A) All of the following:

(I) The victim consented to the conduct constituting the violation.
(II) The victim was at least 13 years of age but less than 16 years of age at the time of the violation.

(III) The individual is not more than 4 years older than the victim.

(B) All of the following:

(I) The victim consented to the conduct constituting the violation.

(II) The victim was 16 or 17 years of age at the time of the violation.

(III) The victim was not under the custodial authority of the individual at the time of the violation.

(vi) A violation of section 338, 338a, or 338b of the Michigan penal code, 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, committed against an individual 13 years of age or older but less than 18 years of age. This subparagraph does not apply if the court determines that either of the following applies:

(A) All of the following:

(I) The victim consented to the conduct constituting the violation.

(II) The victim was at least 13 years of age but less than 16 years of age at the time of the violation.

(III) The individual is not more than 4 years older than the victim.

(B) All of the following:

(I) The victim consented to the conduct constituting the violation.

(II) The victim was 16 or 17 years of age at the time of the violation.

(III) The victim was not under the custodial authority of the individual at the time of the violation.

(vii) A violation of section 448 of the Michigan penal code, 1931 PA 328, MCL 750.448, if the victim is a minor.

(viii) A violation of section 455 of the Michigan penal code, 1931 PA 328, MCL 750.455.
(ix) A violation of section 520c, 520e, or 520g(2) of the Michigan penal code, 1931 PA 328, MCL 750.520c, 750.520e, and 750.520g, committed against an individual 13 years of age or older but less than 18 years of age.

(x) A violation of section 520c committed against an individual 18 years of age or older.

(xi) An attempt or conspiracy to commit an offense described in subparagraphs (i) to (x).

(xii) An offense substantially similar to an offense described in subparagraphs (i) to (x) under a law of the United States that is specifically enumerated in 42 USC 16911, under a law of any state or any country, or under tribal or military law.

(v) “Tier III offender” means either of the following:

(i) A tier II offender subsequently convicted of a tier I or II offense.

(ii) An individual convicted of a tier III offense.

(w) “Tier III offense” means 1 or more of the following:

(i) A violation of section 338, 338a, or 338b of the Michigan penal code, 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, committed against an individual less than 13 years of age.

(ii) A violation of section 349 of the Michigan penal code, 1931 PA 328, MCL 750.349, committed against a minor.

(iii) A violation of section 350 of the Michigan penal code, 1931 PA 328, MCL 750.350.

(iv) A violation of section 520b, 520d, or 520g(1) of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520d, and 750.520g. This subparagraph does not apply if the court determines that the victim consented to the conduct constituting the violation, that the victim was at least 13 years of age but less than 16 years of age at the time of the offense, and that the individual is not more than 4 years older than the victim.

(v) A violation of section 520c or 520g(2) of the Michigan penal code, 1931 PA 328, MCL 750.520c and 750.520g, committed against an individual less than 13 years of age.

(vi) A violation of section 520e of the Michigan penal code, 1931 PA 328, MCL 750.520e, committed by an individual 17 years of age or older against an individual less than 13 years of age.

(vii) An attempt or conspiracy to commit an offense described in subparagraphs (i) to (vi).
(viii) An offense substantially similar to an offense described in subparagraphs (i) to (vii) under a law of the United States that is specifically enumerated in 42 USC 16911, under a law of any state or any country, or under tribal or military law.

(x) “Vehicle” means that term as defined in section 79 of the Michigan vehicle code, 1949 PA 300, MCL 257.79.

(y) “Vessel” means that term as defined in section 44501 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.44501.

**MICH. COMP. LAWS § 750.145a (2014). Accosting, enticing or soliciting child for immoral purposes**

A person who accosts, entices, or solicits a child less than 16 years of age, regardless of whether the person knows the individual is a child or knows the actual age of the child, or an individual whom he or she believes is a child less than 16 years of age with the intent to induce or force that child or individual to commit an immoral act, to submit to an act of sexual intercourse or an act of gross indecency, or to any other act of depravity or delinquency, or who encourages a child less than 16 years of age, regardless of whether the person knows the individual is a child or knows the actual age of the child, or an individual whom he or she believes is a child less than 16 years of age to engage in any of those acts is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $4,000.00, or both.

**MICH. COMP. LAWS § 750.145c (2014). Child sexually abusive activity or material; offenses; penalties; application of section; affirmative defense; expert testimony; reporting by commercial film or photographic print processors; local ordinances**

(1) As used in this section:

(a) “Access” means to intentionally cause to be viewed by or transmitted to a person.

(b) “Appears to include a child” means that the depiction appears to include, or conveys the impression that it includes, a person who is less than 18 years of age, and the depiction meets either of the following conditions:

(i) It was created using a depiction of any part of an actual person under the age of 18.

(ii) It was not created using a depiction of any part of an actual person under the age of 18, but all of the following apply to that depiction:

(A) The average individual, applying contemporary community standards, would find the depiction, taken as a whole, appeals to the prurient interest.

(B) The reasonable person would find the depiction, taken as a whole, lacks serious literary, artistic, political, or scientific value.
(C) The depiction depicts or describes a listed sexual act in a patently offensive way.

(c) “Child” means a person who is less than 18 years of age, subject to the affirmative defense created in subsection (6) regarding persons emancipated by operation of law.

(d) “Commercial film or photographic print processor” means a person or his or her employee who, for compensation, develops exposed photographic film into movie films, negatives, slides, or prints; makes prints from negatives or slides; or duplicates movie films or videotapes.

(e) “Computer technician” means a person who installs, maintains, troubleshoots, upgrades, or repairs computer hardware, software, personal computer networks, or peripheral equipment.

(f) “Contemporary community standards” means the customary limits of candor and decency in this state at or near the time of the alleged violation of this section.

(g) “Erotic fondling” means touching a person's clothed or unclothed genitals, pubic area, buttocks, or, if the person is female, breasts, or if the person is a child, the developing or undeveloped breast area, for the purpose of real or simulated overt sexual gratification or stimulation of 1 or more of the persons involved. Erotic fondling does not include physical contact, even if affectionate, that is not for the purpose of real or simulated overt sexual gratification or stimulation of 1 or more of the persons involved.

(h) “Erotic nudity” means the lascivious exhibition of the genital, pubic, or rectal area of any person. As used in this subdivision, “lascivious” means wanton, lewd, and lustful and tending to produce voluptuous or lewd emotions.

(i) “Listed sexual act” means sexual intercourse, erotic fondling, sadomasochistic abuse, masturbation, passive sexual involvement, sexual excitement, or erotic nudity.

(j) “Make” means to bring into existence by copying, shaping, changing, or combining material, and specifically includes, but is not limited to, intentionally creating a reproduction, copy, or print of child sexually abusive material, in whole or part. Make does not include the creation of an identical reproduction or copy of child sexually abusive material within the same digital storage device or the same piece of digital storage media.

(k) “Masturbation” means the real or simulated touching, rubbing, or otherwise stimulating of a person's own clothed or unclothed genitals, pubic area, buttocks, or, if the person is female, breasts, or if the person is a child, the developing or undeveloped breast area, either by manual manipulation or self-induced or with an artificial instrument, for the purpose of real or simulated overt sexual gratification or arousal of the person.
(l) “Passive sexual involvement” means an act, real or simulated, that exposes another person to or draws another person's attention to an act of sexual intercourse, erotic fondling, sadomasochistic abuse, masturbation, sexual excitement, or erotic nudity because of viewing any of these acts or because of the proximity of the act to that person, for the purpose of real or simulated overt sexual gratification or stimulation of 1 or more of the persons involved.

(m) “Prurient interest” means a shameful or morbid interest in nudity, sex, or excretion.

(n) “Child sexually abusive activity” means a child engaging in a listed sexual act.

(o) “Child sexually abusive material” means any depiction, whether made or produced by electronic, mechanical, or other means, including a developed or undeveloped photograph, picture, film, slide, video, electronic visual image, computer diskette, computer or computer-generated image, or picture, or sound recording which is of a child or appears to include a child engaging in a listed sexual act; a book, magazine, computer, computer storage device, or other visual or print or printable medium containing such a photograph, picture, film, slide, video, electronic visual image, computer, or computer-generated image, or picture, or sound recording; or any reproduction, copy, or print of such a photograph, picture, film, slide, video, electronic visual image, book, magazine, computer, or computer-generated image, or picture, other visual or print or printable medium, or sound recording.

(p) “Sadomasochistic abuse” means either of the following:

(i) Flagellation or torture, real or simulated, for the purpose of real or simulated sexual stimulation or gratification, by or upon a person.

(ii) The condition, real or simulated, of being fettered, bound, or otherwise physically restrained for sexual stimulation or gratification of a person.

(q) “Sexual excitement” means the condition, real or simulated, of human male or female genitals in a state of real or simulated overt sexual stimulation or arousal.

(r) “Sexual intercourse” means intercourse, real or simulated, whether genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between a human and an animal, or with an artificial genital.

(2) A person who persuades, induces, entices, coerces, causes, or knowingly allows a child to engage in a child sexually abusive activity for the purpose of producing any child sexually abusive material, or a person who arranges for, produces, makes, copies, reproduces, or finances, or a person who attempts or prepares or conspires to arrange for, produce, make, copy, reproduce, or finance any child sexually abusive activity or child sexually abusive material for personal, distributional, or other purposes is guilty of a felony, punishable by imprisonment for not more than 20 years, or a fine of not more than
$100,000.00, or both, if that person knows, has reason to know, or should reasonably be expected to know that the child is a child or that the child sexually abusive material includes a child or that the depiction constituting the child sexually abusive material appears to include a child, or that person has not taken reasonable precautions to determine the age of the child.

(3) A person who distributes or promotes, or finances the distribution or promotion of, or receives for the purpose of distributing or promoting, or conspires, attempts, or prepares to distribute, receive, finance, or promote any child sexually abusive material or child sexually abusive activity is guilty of a felony, punishable by imprisonment for not more than 7 years, or a fine of not more than $50,000.00, or both, if that person knows, has reason to know, or should reasonably be expected to know that the child is a child or that the child sexually abusive material includes a child or that the depiction constituting the child sexually abusive material appears to include a child, or that person has not taken reasonable precautions to determine the age of the child. This subsection does not apply to the persons described in section 7 of 1984 PA 343, MCL 752.367.

(4) A person who knowingly possesses or knowingly seeks and accesses any child sexually abusive material is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $10,000.00, or both, if that person knows, has reason to know, or should reasonably be expected to know that the child is a child or that the child sexually abusive material includes a child or that the depiction constituting the child sexually abusive material appears to include a child, or that person has not taken reasonable precautions to determine the age of the child. This subsection does not apply to any of the following:

(a) A person described in section 7 of 1984 PA 343, MCL 752.367, a commercial film or photographic print processor acting under subsection (8), or a computer technician acting under subsection (9).

(b) A police officer acting within the scope of his or her duties as a police officer.

(c) An employee or contract agent of the department of social services acting within the scope of his or her duties as an employee or contract agent.

(d) A judicial officer or judicial employee acting within the scope of his or her duties as a judicial officer or judicial employee.

(e) A party or witness in a criminal or civil proceeding acting within the scope of that criminal or civil proceeding.

(f) A physician, psychologist, limited license psychologist, professional counselor, or registered nurse licensed under the public health code, 1978 PA 368, MCL 333.1101 to 333.25211, acting within the scope of practice for which he or she is licensed.
(g) A social worker registered in this state under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, acting within the scope of practice for which he or she is registered.

(5) Expert testimony as to the age of the child used in a child sexually abusive material or a child sexually abusive activity is admissible as evidence in court and may be a legitimate basis for determining age, if age is not otherwise proven.

(6) It is an affirmative defense to a prosecution under this section that the alleged child is a person who is emancipated by operation of law under section 4(2) of 1968 PA 293, MCL 722.4, as proven by a preponderance of the evidence.

(7) If a defendant in a prosecution under this section proposes to offer in his or her defense evidence to establish that a depiction that appears to include a child was not, in fact, created using a depiction of any part of an actual person under the age of 18, the defendant shall at the time of the arraignment on the information or within 15 days after arraignment but not less than 10 days before the trial of the case, or at such other time as the court directs, file and serve upon the prosecuting attorney of record a notice in writing of his or her intention to offer that defense. The notice shall contain, as particularly as is known to the defendant or the defendant's attorney, the names of witnesses to be called in behalf of the defendant to establish that defense. The defendant's notice shall include specific information as to the facts that establish that the depiction was not, in fact, created using a depiction of any part of an actual person under the age of 18. Failure to file a timely notice in conformance with this subsection precludes a defendant from offering this defense.

(8) If a commercial film or photographic print processor reports to a law enforcement agency having jurisdiction his or her knowledge or observation, within the scope of his or her professional capacity or employment, of a film, photograph, movie film, videotape, negative, or slide depicting a person that the processor has reason to know or reason to believe is a child engaged in a listed sexual act; furnishes a copy of the film, photograph, movie film, videotape, negative, or slide to a law enforcement agency having jurisdiction; or keeps the film, photograph, movie film, videotape, negative, or slide according to the law enforcement agency's instructions, both of the following shall apply:

(a) The identity of the processor shall be confidential, subject to disclosure only with his or her consent or by judicial process.

(b) If the processor acted in good faith, he or she shall be immune from civil liability that might otherwise be incurred by his or her actions. This immunity extends only to acts described in this subsection.

(9) If a computer technician reports to a law enforcement agency having jurisdiction his or her knowledge or observation, within the scope of his or her professional capacity or employment, of an electronic visual image, computer-generated image or picture or
sound recording depicting a person that the computer technician has reason to know or reason to believe is a child engaged in a listed sexual act; furnishes a copy of that image, picture, or sound recording to the law enforcement agency; or keeps the image, picture, or sound recording according to the law enforcement agency’s instructions, both of the following apply:

(a) The identity of the computer technician shall be confidential, subject to disclosure only with his or her consent or by judicial process.

(b) If the computer technician acted in good faith, he or she is immune from civil liability that might otherwise be incurred by his or her actions. This immunity extends only to acts described in this subsection.

(10) In any criminal proceeding regarding an alleged violation or attempted violation of this section, the court shall deny any request by the defendant to copy, photograph, duplicate, or otherwise reproduce any photographic or other pictorial evidence of a child engaging in a listed sexual act if the prosecuting attorney makes that evidence reasonably available to the defendant. Evidence is considered to be reasonably available to the defendant under this subsection if the prosecuting attorney provides an opportunity to the defendant and his or her attorney, and any person the defendant may seek to qualify as an expert witness at trial, to inspect, view, and examine that evidence at a facility approved by the prosecuting attorney.

(11) This section applies uniformly throughout the state and all political subdivisions and municipalities in the state.

(12) A local municipality or political subdivision shall not enact any ordinance or enforce any existing ordinance, rule, or regulation governing child sexually abusive activity or child sexually abusive material as defined by this section.

**MICH. COMP. LAWS § 750.145d (2014). Internet use; restrictions, purpose of committing crime against minor**

(1) A person shall not use the internet or a computer, computer program, computer network, or computer system to communicate with any person for the purpose of doing any of the following:

(a) Committing, attempting to commit, conspiring to commit, or soliciting another person to commit conduct proscribed under section 145a, 145c, 157c, 349, 350, 520b, 520c, 520d, 520e, or 520g, or section 5 of 1978 PA 33, MCL 722.675, in which the victim or intended victim is a minor or is believed by that person to be a minor.

(b) Committing, attempting to commit, conspiring to commit, or soliciting another person to commit conduct proscribed under section 411h or 411i.
(c) Committing, attempting to commit, conspiring to commit, or soliciting another person to commit conduct proscribed under chapter XXXIII or section 327, 327a, 328, or 411a(2).

(2) A person who violates this section is guilty of a crime as follows:

(a) If the underlying crime is a misdemeanor or a felony with a maximum term of imprisonment of less than 1 year, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $5,000.00, or both.

(b) If the underlying crime is a misdemeanor or a felony with a maximum term of imprisonment of 1 year or more but less than 2 years, the person is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $5,000.00, or both.

(c) If the underlying crime is a misdemeanor or a felony with a maximum term of imprisonment of 2 years or more but less than 4 years, the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $5,000.00, or both.

(d) If the underlying crime is a felony with a maximum term of imprisonment of 4 years or more but less than 10 years, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $5,000.00, or both.

(e) If the underlying crime is a felony punishable by a maximum term of imprisonment of 10 years or more but less than 15 years, the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than $10,000.00, or both.

(f) If the underlying crime is a felony punishable by a maximum term of imprisonment of 15 years or more or for life, the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $20,000.00, or both.

(3) The court may order that a term of imprisonment imposed under this section be served consecutively to any term of imprisonment imposed for conviction of the underlying offense.

(4) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law committed by that person while violating or attempting to violate this section, including the underlying offense.

(5) This section applies regardless of whether the person is convicted of committing, attempting to commit, conspiring to commit, or soliciting another person to commit the underlying offense.
(6) A violation or attempted violation of this section occurs if the communication originates in this state, is intended to terminate in this state, or is intended to terminate with a person who is in this state.

(7) A violation or attempted violation of this section may be prosecuted in any jurisdiction in which the communication originated or terminated.

(8) The court may order a person convicted of violating this section to reimburse this state or a local unit of government of this state for expenses incurred in relation to the violation in the same manner that expenses may be ordered to be reimbursed under section 1f of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1f.

(9) As used in this section:

(a) “Computer” means any connected, directly interoperable or interactive device, equipment, or facility that uses a computer program or other instructions to perform specific operations including logical, arithmetic, or memory functions with or on computer data or a computer program and that can store, retrieve, alter, or communicate the results of the operations to a person, computer program, computer, computer system, or computer network. Computer includes a computer game device or a cellular telephone, personal digital assistant (PDA), or other handheld device.

(b) “Computer network” means the interconnection of hardwire or wireless communication lines with a computer through remote terminals, or a complex consisting of 2 or more interconnected computers.

(c) “Computer program” means a series of internal or external instructions communicated in a form acceptable to a computer that directs the functioning of a computer, computer system, or computer network in a manner designed to provide or produce products or results from the computer, computer system, or computer network.

(d) “Computer system” means a set of related, connected or unconnected, computer equipment, devices, software, or hardware.

(e) “Device” includes, but is not limited to, an electronic, magnetic, electrochemical, biochemical, hydraulic, optical, or organic object that performs input, output, or storage functions by the manipulation of electronic, magnetic, or other impulses.

(f) “Internet” means that term as defined in section 230 of the communications act of 1934, 47 USC 230.

(g) “Minor” means an individual who is less than 18 years of age.

**Mich. Comp. Laws § 750.158 (2014). Crime against nature or sodomy; penalty**

Any person who shall commit the abominable and detestable crime against nature either
with mankind or with any animal shall be guilty of a felony, punishable by imprisonment in the state prison not more than 15 years, or if such person was at the time of the said offense a sexually delinquent person, may be punishable by imprisonment in the state prison for an indeterminate term, the minimum of which shall be 1 day and the maximum of which shall be life.

MINNESOTA

MINN. STAT. § 243.166 (2014). Registration of predatory offenders

Subd. 1a. Definitions. (a) As used in this section, unless the context clearly indicates otherwise, the following terms have the meanings given them.

(b) “Bureau” means the Bureau of Criminal Apprehension.

(c) “Dwelling” means the building where the person lives under a formal or informal agreement to do so. However, dwelling does not include a supervised publicly or privately operated shelter or facility designed to provide temporary living accommodations for homeless individuals as defined in section 116L.361, subdivision 5.

(d) “Incarceration” and “confinement” do not include electronic home monitoring.

(e) “Law enforcement authority” or “authority” means, with respect to a home rule charter or statutory city, the chief of police, and with respect to an unincorporated area, the county sheriff.

(f) “Motor vehicle” has the meaning given in section 169.011, subdivision 92.

(g) “Primary address” means the mailing address of the person's dwelling. If the mailing address is different from the actual location of the dwelling, primary address also includes the physical location of the dwelling described with as much specificity as possible.

(h) “School” includes any public or private educational institution, including any secondary school, trade, or professional institution, or institution of higher education, that the person is enrolled in on a full-time or part-time basis.

(i) “Secondary address” means the mailing address of any place where the person regularly or occasionally stays overnight when not staying at the person's primary address. If the mailing address is different from the actual location of the place, secondary address also includes the physical location of the place described with as much specificity as possible. However, the location of a supervised publicly or privately operated shelter or facility designated to provide temporary living accommodations for
homeless individuals as defined in section 116L.361, subdivision 5, does not constitute a secondary address.

(j) “Treatment facility” means a residential facility, as defined in section 244.052, subdivision 1, and residential chemical dependency treatment programs and halfway houses licensed under chapter 245A, including, but not limited to, those facilities directly or indirectly assisted by any department or agency of the United States.

(k) “Work” includes employment that is full time or part time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

**Subd. 1b. Registration required.** (a) A person shall register under this section if:

(1) the person was charged with or petitioned for a felony violation of or attempt to violate, or aiding, abetting, or conspiracy to commit, any of the following, and convicted of or adjudicated delinquent for that offense or another offense arising out of the same set of circumstances:

   (i) murder under section 609.185, paragraph (a), clause (2);

   (ii) kidnapping under section 609.25;

   (iii) criminal sexual conduct under section 609.342; 609.343; 609.344; 609.345; 609.3451, subdivision 3; or 609.3453; or

   (iv) indecent exposure under section 617.23, subdivision 3;

(2) the person was charged with or petitioned for a violation of, or attempt to violate, or aiding, abetting, or conspiring to commit criminal abuse in violation of section 609.2325, subdivision 1, paragraph (b); false imprisonment in violation of section 609.255, subdivision 2; solicitation, inducement, or promotion of the prostitution of a minor or engaging in the sex trafficking of a minor in violation of section 609.322; a prostitution offense involving a minor under the age of 13 years in violation of section 609.324, subdivision 1, paragraph (a); soliciting a minor to engage in sexual conduct in violation of section 609.352, subdivision 2 or 2a, clause (1); using a minor in a sexual performance in violation of section 617.246; or possessing pornographic work involving a minor in violation of section 617.247, and convicted of or adjudicated delinquent for that offense or another offense arising out of the same set of circumstances;

(3) the person was sentenced as a patterned sex offender under section 609.3455, subdivision 3a; or
(4) the person was charged with or petitioned for, including pursuant to a court martial, violating a law of the United States, including the Uniform Code of Military Justice, similar to the offenses described in clause (1), (2), or (3), and convicted of or adjudicated delinquent for that offense or another offense arising out of the same set of circumstances.

(b) A person also shall register under this section if:

(1) the person was charged with or petitioned for an offense in another state that would be a violation of a law described in paragraph (a) if committed in this state and convicted of or adjudicated delinquent for that offense or another offense arising out of the same set of circumstances;

(2) the person enters this state to reside, work, or attend school, or enters this state and remains for 14 days or longer; and

(3) ten years have not elapsed since the person was released from confinement or, if the person was not confined, since the person was convicted of or adjudicated delinquent for the offense that triggers registration, unless the person is subject to a longer registration period under the laws of another state in which the person has been convicted or adjudicated, or is subject to lifetime registration.

If a person described in this paragraph is subject to a longer registration period in another state or is subject to lifetime registration, the person shall register for that time period regardless of when the person was released from confinement, convicted, or adjudicated delinquent.

(c) A person also shall register under this section if the person was committed pursuant to a court commitment order under Minnesota Statutes 2012, section 253B.185, chapter 253D, Minnesota Statutes 1992, section 526.10, or a similar law of another state or the United States, regardless of whether the person was convicted of any offense.

(d) A person also shall register under this section if:

(1) the person was charged with or petitioned for a felony violation or attempt to violate any of the offenses listed in paragraph (a), clause (1), or a similar law of another state or the United States, or the person was charged with or petitioned for a violation of any of the offenses listed in paragraph (a), clause (2), or a similar law of another state or the United States;

(2) the person was found not guilty by reason of mental illness or mental deficiency after a trial for that offense, or found guilty but mentally ill after a trial for that offense, in states with a guilty but mentally ill verdict; and
(3) the person was committed pursuant to a court commitment order under section 253B.18 or a similar law of another state or the United States.

**Subd. 2. Notice.** When a person who is required to register under subdivision 1b, paragraph (a), is sentenced or becomes subject to a juvenile court disposition order, the court shall tell the person of the duty to register under this section and that, if the person fails to comply with the registration requirements, information about the offender may be made available to the public through electronic, computerized, or other accessible means. The court may not modify the person's duty to register in the pronounced sentence or disposition order. The court shall require the person to read and sign a form stating that the duty of the person to register under this section has been explained. The court shall forward the signed sex offender registration form, the complaint, and sentencing documents to the bureau. If a person required to register under subdivision 1b, paragraph (a), was not notified by the court of the registration requirement at the time of sentencing or disposition, the assigned corrections agent shall notify the person of the requirements of this section. When a person who is required to register under subdivision 1b, paragraph (c) or (d), is released from commitment, the treatment facility shall notify the person of the requirements of this section. The treatment facility shall also obtain the registration information required under this section and forward it to the bureau.

**Subd. 3. Registration procedure.** (a) Except as provided in subdivision 3a, a person required to register under this section shall register with the corrections agent as soon as the agent is assigned to the person. If the person does not have an assigned corrections agent or is unable to locate the assigned corrections agent, the person shall register with the law enforcement authority that has jurisdiction in the area of the person's primary address.

(b) Except as provided in subdivision 3a, at least five days before the person starts living at a new primary address, including living in another state, the person shall give written notice of the new primary address to the assigned corrections agent or to the law enforcement authority with which the person currently is registered. If the person will be living in a new state and that state has a registration requirement, the person shall also give written notice of the new address to the designated registration agency in the new state. A person required to register under this section shall also give written notice to the assigned corrections agent or to the law enforcement authority that has jurisdiction in the area of the person's primary address that the person is no longer living or staying at an address, immediately after the person is no longer living or staying at that address. The written notice required by this paragraph must be provided in person. The corrections agent or law enforcement authority shall, within two business days after receipt of this information, forward it to the bureau. The bureau shall, if it has not already been done, notify the law enforcement authority having primary jurisdiction in the community where the person will live of the new address. If the person is leaving the state, the bureau shall notify the registration authority in the new state of the new address. The person's registration requirements under this section are suspended after the person begins living in the new state and the bureau has confirmed the address in the other state through the
annual verification process on at least one occasion. The person's registration requirements under this section are reactivated if the person resumes living in Minnesota and the registration time period described in subdivision 6 has not expired.

(c) A person required to register under subdivision 1b, paragraph (b), because the person is working or attending school in Minnesota shall register with the law enforcement authority that has jurisdiction in the area where the person works or attends school. In addition to other information required by this section, the person shall provide the address of the school or of the location where the person is employed. A person shall comply with this paragraph within five days of beginning employment or school. A person's obligation to register under this paragraph terminates when the person is no longer working or attending school in Minnesota.

(d) A person required to register under this section who works or attends school outside of Minnesota shall register as a predatory offender in the state where the person works or attends school. The person's corrections agent, or if the person does not have an assigned corrections agent, the law enforcement authority that has jurisdiction in the area of the person's primary address shall notify the person of this requirement.

Subd. 3a. Registration procedure when person lacks primary address. (a) If a person leaves a primary address and does not have a new primary address, the person shall register with the law enforcement authority that has jurisdiction in the area where the person is staying within 24 hours of the time the person no longer has a primary address.

(b) Notwithstanding the time period for registration in paragraphs (a) and (c), a person with a primary address of a correctional facility who is scheduled to be released from the facility and who does not have a new primary address shall register with the law enforcement authority that has jurisdiction in the area where the person will be staying at least three days before the person is released from the correctional facility.

(c) A person who lacks a primary address shall register with the law enforcement authority that has jurisdiction in the area where the person is staying within 24 hours after entering the jurisdiction. Each time a person who lacks a primary address moves to a new jurisdiction without acquiring a new primary address, the person shall register with the law enforcement authority that has jurisdiction in the area where the person is staying within 24 hours after entering the jurisdiction.

(d) Upon registering under this subdivision, the person shall provide the law enforcement authority with all of the information the individual is required to provide under subdivision 4a. However, instead of reporting the person's primary address, the person shall describe the location of where the person is staying with as much specificity as possible.

(e) Except as otherwise provided in paragraph (f), if a person continues to lack a primary address, the person shall report in person on a weekly basis to the law enforcement authority.
authority with jurisdiction in the area where the person is staying. This weekly report shall occur between the hours of 9:00 a.m. and 5:00 p.m. The person is not required to provide the registration information required under subdivision 4a each time the offender reports to an authority, but the person shall inform the authority of changes to any information provided under this subdivision or subdivision 4a and shall otherwise comply with this subdivision.

(f) If the law enforcement authority determines that it is impractical, due to the person's unique circumstances, to require a person lacking a primary address to report weekly and in person as required under paragraph (e), the authority may authorize the person to follow an alternative reporting procedure. The authority shall consult with the person's corrections agent, if the person has one, in establishing the specific criteria of this alternative procedure, subject to the following requirements:

(1) the authority shall document, in the person's registration record, the specific reasons why the weekly in-person reporting process is impractical for the person to follow;

(2) the authority shall explain how the alternative reporting procedure furthers the public safety objectives of this section;

(3) the authority shall require the person lacking a primary address to report in person at least monthly to the authority or the person's corrections agent and shall specify the location where the person shall report. If the authority determines it would be more practical and would further public safety for the person to report to another law enforcement authority with jurisdiction where the person is staying, it may, after consulting with the other law enforcement authority, include this requirement in the person's alternative reporting process;

(4) the authority shall require the person to comply with the weekly, in-person reporting process required under paragraph (e), if the person moves to a new area where this process would be practical;

(5) the authority shall require the person to report any changes to the registration information provided under subdivision 4a and to comply with the periodic registration requirements specified under paragraph (g); and

(6) the authority shall require the person to comply with the requirements of subdivision 3, paragraphs (b) and (c), if the person moves to a primary address.

(g) If a person continues to lack a primary address and continues to report to the same law enforcement authority, the person shall provide the authority with all of the information the individual is required to provide under this subdivision and subdivision 4a at least annually, unless the person is required to register under subdivision 1b, paragraph (c), following commitment pursuant to a court commitment under Minnesota Statutes 2012, section 253B.185, chapter 253D, Minnesota Statutes 1992, section 526.10,
or a similar law of another state or the United States. If the person is required to register under subdivision 1b, paragraph (c), the person shall provide the law enforcement authority with all of the information the individual is required to report under this subdivision and subdivision 4a at least once every three months.

(h) A law enforcement authority receiving information under this subdivision shall forward registration information and changes to that information to the bureau within two business days of receipt of the information.

(i) For purposes of this subdivision, a person who fails to report a primary address will be deemed to be a person who lacks a primary address, and the person shall comply with the requirements for a person who lacks a primary address.

Subd. 4. Contents of registration. (a) The registration provided to the corrections agent or law enforcement authority, must consist of a statement in writing signed by the person, giving information required by the bureau, fingerprints, and photograph of the person taken at the time of the person's release from incarceration or, if the person was not incarcerated, at the time the person initially registered under this section. The registration information also must include a written consent form signed by the person allowing a treatment facility or residential housing unit or shelter to release information to a law enforcement officer about the person's admission to, or residence in, a treatment facility or residential housing unit or shelter. Registration information on adults and juveniles may be maintained together notwithstanding section 260B.171, subdivision 3.

(b) For persons required to register under subdivision 1b, paragraph (c), following commitment pursuant to a court commitment under Minnesota Statutes 2012, section 253B.185, chapter 253D, Minnesota Statutes 1992, section 526.10, or a similar law of another state or the United States, in addition to other information required by this section, the registration provided to the corrections agent or law enforcement authority must include the person's offense history and documentation of treatment received during the person's commitment. This documentation is limited to a statement of how far the person progressed in treatment during commitment.

(c) Within three days of receipt, the corrections agent or law enforcement authority shall forward the registration information to the bureau. The bureau shall ascertain whether the person has registered with the law enforcement authority in the area of the person's primary address, if any, or if the person lacks a primary address, where the person is staying, as required by subdivision 3a. If the person has not registered with the law enforcement authority, the bureau shall send one copy to that authority.

(d) The corrections agent or law enforcement authority may require that a person required to register under this section appear before the agent or authority to be photographed. The agent or authority shall forward the photograph to the bureau.
(1) Except as provided in clause (2), the agent or authority may photograph any offender at a time and frequency chosen by the agent or authority.

(2) The requirements of this paragraph shall not apply during any period where the person to be photographed is: (i) committed to the commissioner of corrections and incarcerated, (ii) incarcerated in a regional jail or county jail, or (iii) committed to the commissioner of human services and receiving treatment in a secure treatment facility.

(e) During the period a person is required to register under this section, the following provisions apply:

(1) Except for persons registering under subdivision 3a, the bureau shall mail a verification form to the person's last reported primary address. This verification form must provide notice to the offender that, if the offender does not return the verification form as required, information about the offender may be made available to the public through electronic, computerized, or other accessible means. For persons who are registered under subdivision 3a, the bureau shall mail an annual verification form to the law enforcement authority where the offender most recently reported. The authority shall provide the verification form to the person at the next weekly meeting and ensure that the person completes and signs the form and returns it to the bureau. Notice is sufficient under this paragraph, if the verification form is sent by first class mail to the person's last reported primary address, or for persons registered under subdivision 3a, to the law enforcement authority where the offender most recently reported.

(2) The person shall mail the signed verification form back to the bureau within ten days after receipt of the form, stating on the form the current and last address of the person's residence and the other information required under subdivision 4a.

(3) In addition to the requirements listed in this section, an offender who is no longer under correctional supervision for a registration offense, or a failure to register offense, but who resides, works, or attends school in Minnesota, shall have an in-person contact with a law enforcement authority as provided in this section. If the person resides in Minnesota, the in-person contact shall be with the law enforcement authority that has jurisdiction over the person's primary address or, if the person has no address, the location where the person is staying. If the person does not reside in Minnesota but works or attends school in this state, the person shall have an in-person contact with the law enforcement authority or authorities with jurisdiction over the person's school or workplace. During the month of the person's birth date, the person shall report to the authority to verify the accuracy of the registration information and to be photographed. Within three days of this contact, the authority shall enter information as required by the bureau into the predatory offender registration database and submit an updated photograph of the person to the bureau's predatory offender registration unit.

(4) If the person fails to mail the completed and signed verification form to the bureau within ten days after receipt of the form, or if the person fails to report to the law enforcement authority
enforcement authority during the month of the person's birth date, the person is in violation of this section.

(5) For any person who fails to mail the completed and signed verification form to the bureau within ten days after receipt of the form and who has been determined to be a risk level III offender under section 244.052, the bureau shall immediately investigate and notify local law enforcement authorities to investigate the person's location and to ensure compliance with this section. The bureau also shall immediately give notice of the person's violation of this section to the law enforcement authority having jurisdiction over the person's last registered address or addresses.

For persons required to register under subdivision 1b, paragraph (c), following commitment pursuant to a court commitment under Minnesota Statutes 2012, section 253B.185, chapter 253D, Minnesota Statutes 1992, section 526.10, or a similar law of another state or the United States, the bureau shall comply with clause (1) at least four times each year. For persons who, under section 244.052, are assigned to risk level III and who are no longer under correctional supervision for a registration offense or a failure to register offense, the bureau shall comply with clause (1) at least two times each year. For all other persons required to register under this section, the bureau shall comply with clause (1) each year within 30 days of the anniversary date of the person's initial registration.

(f) When sending out a verification form, the bureau shall determine whether the person to whom the verification form is being sent has signed a written consent form as provided for in paragraph (a). If the person has not signed such a consent form, the bureau shall send a written consent form to the person along with the verification form. A person who receives this written consent form shall sign and return it to the bureau at the same time as the verification form.

**Subd. 4a. Information required to be provided.** (a) A person required to register under this section shall provide to the corrections agent or law enforcement authority the following information:

(1) the person's primary address;

(2) all of the person's secondary addresses in Minnesota, including all addresses used for residential or recreational purposes;

(3) the addresses of all Minnesota property owned, leased, or rented by the person;

(4) the addresses of all locations where the person is employed;

(5) the addresses of all schools where the person is enrolled; and
(6) the year, model, make, license plate number, and color of all motor vehicles owned or regularly driven by the person.

(b) The person shall report to the agent or authority the information required to be provided under paragraph (a), clauses (2) to (6), within five days of the date the clause becomes applicable. If because of a change in circumstances any information reported under paragraph (a), clauses (1) to (6), no longer applies, the person shall immediately inform the agent or authority that the information is no longer valid. If the person leaves a primary address and does not have a new primary address, the person shall register as provided in subdivision 3a.

Subd. 4b. Health care facility; notice of status. (a) For the purposes of this subdivision, “health care facility” means a facility:

(1) licensed by the commissioner of health as a hospital, boarding care home or supervised living facility under sections 144.50 to 144.58, or a nursing home under chapter 144A;

(2) registered by the commissioner of health as a housing with services establishment as defined in section 144D.01; or

(3) licensed by the commissioner of human services as a residential facility under chapter 245A to provide adult foster care, adult mental health treatment, chemical dependency treatment to adults, or residential services to persons with disabilities.

(b) Prior to admission to a health care facility, a person required to register under this section shall disclose to:

(1) the health care facility employee processing the admission the person’s status as a registered predatory offender under this section; and

(2) the person’s corrections agent, or if the person does not have an assigned corrections agent, the law enforcement authority with whom the person is currently required to register, that inpatient admission will occur.

(c) A law enforcement authority or corrections agent who receives notice under paragraph (b) or who knows that a person required to register under this section is planning to be admitted and receive, or has been admitted and is receiving health care at a health care facility shall notify the administrator of the facility and deliver a fact sheet to the administrator containing the following information: (1) name and physical description of the offender; (2) the offender’s conviction history, including the dates of conviction; (3) the risk level classification assigned to the offender under section 244.052, if any; and (4) the profile of likely victims.
(d) Except for a hospital licensed under sections 144.50 to 144.58, if a health care facility receives a fact sheet under paragraph (c) that includes a risk level classification for the offender, and if the facility admits the offender, the facility shall distribute the fact sheet to all residents at the facility. If the facility determines that distribution to a resident is not appropriate given the resident's medical, emotional, or mental status, the facility shall distribute the fact sheet to the patient's next of kin or emergency contact.

**Subd. 5. Criminal penalty.** (a) A person required to register under this section who knowingly violates any of its provisions or intentionally provides false information to a corrections agent, law enforcement authority, or the bureau is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

(b) Except as provided in paragraph (c), a person convicted of violating paragraph (a) shall be committed to the custody of the commissioner of corrections for not less than a year and a day, nor more than five years.

(c) A person convicted of violating paragraph (a), who has previously been convicted of or adjudicated delinquent for violating this section or a similar statute of another state or the United States, shall be committed to the custody of the commissioner of corrections for not less than two years, nor more than five years.

(d) Prior to the time of sentencing, the prosecutor may file a motion to have the person sentenced without regard to the mandatory minimum sentence established by this subdivision. The motion must be accompanied by a statement on the record of the reasons for it. When presented with the motion, or on its own motion, the court may sentence the person without regard to the mandatory minimum sentence if the court finds substantial and compelling reasons to do so. Sentencing a person in the manner described in this paragraph is a departure from the Sentencing Guidelines.

(e) A person convicted and sentenced as required by this subdivision is not eligible for probation, parole, discharge, work release, conditional release, or supervised release, until that person has served the full term of imprisonment as provided by law, notwithstanding the provisions of sections 241.26, 242.19, 243.05, 244.04, 609.12, and 609.135.

**Subd. 5a. Ten-year conditional release for violations committed by level III offenders.** Notwithstanding the statutory maximum sentence otherwise applicable to the offense or any provision of the sentencing guidelines, when a court commits a person to the custody of the commissioner of corrections for violating subdivision 5 and, at the time of the violation, the person was assigned to risk level III under section 244.052, the court shall provide that after the person has been released from prison, the commissioner shall place the person on conditional release for ten years. The terms of conditional release are governed by section 609.3455, subdivision 8.
Subd. 6. Registration period. (a) Notwithstanding the provisions of section 609.165, subdivision 1, and except as provided in paragraphs (b), (c), and (d), a person required to register under this section shall continue to comply with this section until ten years have elapsed since the person initially registered in connection with the offense, or until the probation, supervised release, or conditional release period expires, whichever occurs later. For a person required to register under this section who is committed under section 253B.18, Minnesota Statutes 2012, section 253B.185, or chapter 253D, the ten-year registration period does not include the period of commitment.

(b) If a person required to register under this section fails to provide the person's primary address as required by subdivision 3, paragraph (b), fails to comply with the requirements of subdivision 3a, fails to provide information as required by subdivision 4a, or fails to return the verification form referenced in subdivision 4 within ten days, the commissioner of public safety shall require the person to continue to register for an additional period of five years. This five-year period is added to the end of the offender's registration period.

(c) If a person required to register under this section is incarcerated due to a conviction for a new offense or following a revocation of probation, supervised release, or conditional release for any offense, the person shall continue to register until ten years have elapsed since the person was last released from incarceration or until the person's probation, supervised release, or conditional release period expires, whichever occurs later.

(d) A person shall continue to comply with this section for the life of that person:

(1) if the person is convicted of or adjudicated delinquent for any offense for which registration is required under subdivision 1b, or any offense from another state or any federal offense similar to the offenses described in subdivision 1b, and the person has a prior conviction or adjudication for an offense for which registration was or would have been required under subdivision 1b, or an offense from another state or a federal offense similar to an offense described in subdivision 1b;

(2) if the person is required to register based upon a conviction or delinquency adjudication for an offense under section 609.185, paragraph (a), clause (2), or a similar statute from another state or the United States;

(3) if the person is required to register based upon a conviction for an offense under section 609.342, subdivision 1, paragraph (a), (c), (d), (e), (f), or (h); 609.343, subdivision 1, paragraph (a), (c), (d), (e), (f), or (h); 609.344, subdivision 1, paragraph (a), (c), or (g); or 609.345, subdivision 1, paragraph (a), (c), or (g); or a statute from another state or the United States similar to the offenses described in this clause; or

(4) if the person is required to register under subdivision 1b, paragraph (c), following commitment pursuant to a court commitment under Minnesota Statutes 2012, section
253B.185, chapter 253D, Minnesota Statutes 1992, section 526.10, or a similar law of another state or the United States.

(e) A person described in subdivision 1b, paragraph (b), who is required to register under the laws of a state in which the person has been previously convicted or adjudicated delinquent, shall register under this section for the time period required by the state of conviction or adjudication unless a longer time period is required elsewhere in this section.

Subd. 7. Use of data. (a) Except as otherwise provided in subdivision 7a or sections 244.052 and 299C.093, the data provided under this section is private data on individuals under section 13.02, subdivision 12.

(b) The data may be used only by law enforcement and corrections agencies for law enforcement and corrections purposes.

(c) The commissioner of human services is authorized to have access to the data for:

(1) state-operated services, as defined in section 246.014, for the purposes described in section 246.13, subdivision 2, paragraph (b); and

(2) purposes of completing background studies under chapter 245C.

Subd. 7a. Availability of information on offenders who are out of compliance with registration law. (a) The bureau may make information available to the public about offenders who are 16 years of age or older and who are out of compliance with this section for 30 days or longer for failure to provide the offenders' primary or secondary addresses. This information may be made available to the public through electronic, computerized, or other accessible means. The amount and type of information made available is limited to the information necessary for the public to assist law enforcement in locating the offender.

(b) An offender who comes into compliance with this section after the bureau discloses information about the offender to the public may send a written request to the bureau requesting the bureau to treat information about the offender as private data, consistent with subdivision 7. The bureau shall review the request and promptly take reasonable action to treat the data as private, if the offender has complied with the requirement that the offender provide the offender's primary and secondary addresses, or promptly notify the offender that the information will continue to be treated as public information and the reasons for the bureau's decision.

(c) If an offender believes the information made public about the offender is inaccurate or incomplete, the offender may challenge the data under section 13.04, subdivision 4.
(d) The bureau is immune from any civil or criminal liability that might otherwise arise, based on the accuracy or completeness of any information made public under this subdivision, if the bureau acts in good faith.


Subd. 9. Offenders from other states. (a) When the state accepts an offender from another state under a reciprocal agreement under the interstate compact authorized by section 243.1605, or under any authorized interstate agreement, the acceptance is conditional on the offender agreeing to register under this section when the offender is living in Minnesota.

(b) The Bureau of Criminal Apprehension shall notify the commissioner of corrections:

(1) when the bureau receives notice from a local law enforcement authority that a person from another state who is subject to this section has registered with the authority, unless the bureau previously received information about the offender from the commissioner of corrections;

(2) when a registration authority, corrections agent, or law enforcement agency in another state notifies the bureau that a person from another state who is subject to this section is moving to Minnesota; and

(3) when the bureau learns that a person from another state is in Minnesota and allegedly in violation of subdivision 5 for failure to register.

(c) When a local law enforcement agency notifies the bureau of an out-of-state offender's registration, the agency shall provide the bureau with information on whether the person is subject to community notification in another state and the risk level the person was assigned, if any.

(d) The bureau must forward all information it receives regarding offenders covered under this subdivision from sources other than the commissioner of corrections to the commissioner.

(e) When the bureau receives information directly from a registration authority, corrections agent, or law enforcement agency in another state that a person who may be subject to this section is moving to Minnesota, the bureau must ask whether the person entering the state is subject to community notification in another state and the risk level the person has been assigned, if any.

(f) When the bureau learns that a person subject to this section intends to move into Minnesota from another state or has moved into Minnesota from another state, the bureau shall notify the law enforcement authority with jurisdiction in the area of the person's
primary address and provide all information concerning the person that is available to the
bureau.

(g) The commissioner of corrections must determine the parole, supervised release, or
conditional release status of persons who are referred to the commissioner under this
subdivision. If the commissioner determines that a person is subject to parole, supervised
release, or conditional release in another state and is not registered in Minnesota under
the applicable interstate compact, the commissioner shall inform the local law
enforcement agency that the person is in violation of section 243.161. If the person is not
subject to supervised release, the commissioner shall notify the bureau and the local law
enforcement agency of the person's status.

Subd. 10. Venue; aggregation. (a) A violation of this section may be prosecuted in any
jurisdiction where an offense takes place. However, the prosecutorial agency in the
jurisdiction where the person last registered a primary address is initially responsible to
review the case for prosecution.

(b) When a person commits two or more offenses in two or more counties, the accused
may be prosecuted for all of the offenses in any county in which one of the offenses was
committed.

Subd. 11. Certified copies as evidence. Certified copies of predatory offender
registration records are admissible as substantive evidence when necessary to prove the
commission of a violation of this section.

MINN. STAT. § 617.246 (2014). Use of minors in sexual performance prohibited
Subdivision 1. Definitions. (a) For the purpose of this section, the terms defined in this
subdivision have the meanings given them.

(b) “Minor” means any person under the age of 18.

(c) “Promote” means to produce, direct, publish, manufacture, issue, or advertise.

(d) “Sexual performance” means any play, dance or other exhibition presented before an
audience or for purposes of visual or mechanical reproduction that uses a minor to depict
actual or simulated sexual conduct as defined by clause (e).

(e) “Sexual conduct” means any of the following:

(1) an act of sexual intercourse, normal or perverted, including genital-genital, anal-
genital, or oral-genital intercourse, whether between human beings or between a human
being and an animal;

(2) sadomasochistic abuse, meaning flagellation, torture, or similar demeaning acts
inflicted by or upon a person who is nude or clad in undergarments or in a revealing
costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed;

(3) masturbation;

(4) lewd exhibitions of the genitals; or

(5) physical contact with the clothed or unclothed pubic areas or buttocks of a human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

(f) “Pornographic work” means:

(1) an original or reproduction of a picture, film, photograph, negative, slide, videotape, videodisc, or drawing of a sexual performance involving a minor; or

(2) any visual depiction, including any photograph, film, video, picture, drawing, negative, slide, or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means that:

(i) uses a minor to depict actual or simulated sexual conduct;

(ii) has been created, adapted, or modified to appear that an identifiable minor is engaging in sexual conduct; or

(iii) is advertised, promoted, presented, described, or distributed in such a manner that conveys the impression that the material is or contains a visual depiction of a minor engaging in sexual conduct.

For the purposes of this paragraph, an identifiable minor is a person who was a minor at the time the depiction was created or altered, whose image is used to create the visual depiction.

Subd. 2. Use of minor. It is unlawful for a person to promote, employ, use or permit a minor to engage in or assist others to engage minors in posing or modeling alone or with others in any sexual performance or pornographic work if the person knows or has reason to know that the conduct intended is a sexual performance or a pornographic work.

Any person who violates this subdivision is guilty of a felony and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000 for the first offense and $40,000 for a second or subsequent offense, or both.

Subd. 3. Operation or ownership of business. A person who owns or operates a business in which a pornographic work, as defined in this section, is disseminated to an
adult or a minor or is reproduced, and who knows the content and character of the pornographic work disseminated or reproduced, is guilty of a felony and may be sentenced to imprisonment for not more than ten years, or to payment of a fine of not more than $20,000 for the first offense and $40,000 for a second or subsequent offense, or both.

**Subd. 4. Dissemination.** A person who, knowing or with reason to know its content and character, disseminates for profit to an adult or a minor a pornographic work, as defined in this section, is guilty of a felony and may be sentenced to imprisonment for not more than ten years, or to payment of a fine of not more than $20,000 for the first offense and $40,000 for a second or subsequent offense, or both.

**Subd. 5. Consent; mistake.** Neither consent to sexual performance by a minor or the minor's parent, guardian, or custodian nor mistake as to the minor's age is a defense to a charge of violation of this section.

**Subd. 6. Affirmative defense.** It shall be an affirmative defense to a charge of violating this section that the sexual performance or pornographic work was produced using only persons who were 18 years or older.

**Subd. 7. Conditional release term.** Notwithstanding the statutory maximum sentence otherwise applicable to the offense or any provision of the sentencing guidelines, when a court commits a person to the custody of the commissioner of corrections for violating this section, the court shall provide that after the person has been released from prison, the commissioner shall place the person on conditional release for five years. If the person has previously been convicted of a violation of this section, section 609.342, 609.343, 609.344, 609.345, 609.3451, 609.3453, or 617.247, or any similar statute of the United States, this state, or any state, the commissioner shall place the person on conditional release for ten years. The terms of conditional release are governed by section 609.3455, subdivision 8.

**MINN. STAT. § 617.247 (2014). Possession of pornographic work involving minors**

**Subdivision 1. Policy; purpose.** It is the policy of the legislature in enacting this section to protect minors from the physical and psychological damage caused by their being used in pornographic work depicting sexual conduct which involves minors. It is therefore the intent of the legislature to penalize possession of pornographic work depicting sexual conduct which involve minors or appears to involve minors in order to protect the identity of minors who are victimized by involvement in the pornographic work, and to protect minors from future involvement in pornographic work depicting sexual conduct.

**Subd. 2. Definitions.** For purposes of this section, the following terms have the meanings given them:

(a) “Pornographic work” has the meaning given to it in section 617.246.
(b) “Sexual conduct” has the meaning given to it in section 617.246.

Subd. 3. Dissemination prohibited. (a) A person who disseminates pornographic work to an adult or a minor, knowing or with reason to know its content and character, is guilty of a felony and may be sentenced to imprisonment for not more than seven years and a fine of not more than $10,000 for a first offense and for not more than 15 years and a fine of not more than $20,000 for a second or subsequent offense.

(b) A person who violates paragraph (a) is guilty of a felony and may be sentenced to imprisonment for not more than 15 years if the violation occurs when the person is a registered predatory offender under section 243.166.

Subd. 4. Possession prohibited. (a) A person who possesses a pornographic work or a computer disk or computer or other electronic, magnetic, or optical storage system or a storage system of any other type, containing a pornographic work, knowing or with reason to know its content and character, is guilty of a felony and may be sentenced to imprisonment for not more than five years and a fine of not more than $5,000 for a first offense and for not more than ten years and a fine of not more than $10,000 for a second or subsequent offense.

(b) A person who violates paragraph (a) is guilty of a felony and may be sentenced to imprisonment for not more than ten years if the violation occurs when the person is a registered predatory offender under section 243.166.

Subd. 5. Exception. This section does not apply to the performance of official duties by peace officers, court personnel, or attorneys, nor to licensed physicians, psychologists, or social workers or persons acting at the direction of a licensed physician, psychologist, or social worker in the course of a bona fide treatment or professional education program.

Subd. 6. Consent. Consent to sexual performance by a minor or the minor's parent, guardian, or custodian is not a defense to a charge of violation of this section.

Subd. 7. Second offense. If a person is convicted of a second or subsequent violation of this section within 15 years of the prior conviction, the court shall order a mental examination of the person. The examiner shall report to the court whether treatment of the person is necessary.

Subd. 8. Affirmative defense. It shall be an affirmative defense to a charge of violating this section that the pornographic work was produced using only persons who were 18 years or older.

Subd. 9. Conditional release term. Notwithstanding the statutory maximum sentence otherwise applicable to the offense or any provision of the sentencing guidelines, when a court commits a person to the custody of the commissioner of corrections for violating this section, the court shall provide that after the person has been released from prison,
the commissioner shall place the person on conditional release for five years. If the person has previously been convicted of a violation of this section, section 609.342, 609.343, 609.344, 609.345, 609.3451, 609.3453, or 617.246, or any similar statute of the United States, this state, or any state, the commissioner shall place the person on conditional release for ten years. The terms of conditional release are governed by section 609.3455, subdivision 8.

MISSISSIPPI

Miss. Code Ann. § 45-33-23 (2014). Definitions
For the purposes of this chapter, the following words shall have the meanings ascribed herein unless the context clearly requires otherwise:

(a) “Conviction” means that, regarding the person's offense, there has been a determination or judgment of guilt as a result of a trial or the entry of a plea of guilty or nolo contendere regardless of whether adjudication is withheld. “Conviction of similar offenses” includes, but is not limited to, a conviction by a federal or military tribunal, including a court-martial conducted by the Armed Forces of the United States, a conviction for an offense committed on an Indian Reservation or other federal property, a conviction in any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Marianna Islands or the United States Virgin Islands, and a conviction in a foreign country if the foreign country's judicial system is such that it satisfies minimum due process set forth in the guidelines under Section 111(5)(B) Public Law 109-248.

(b) “Department” means the Mississippi Department of Public Safety unless otherwise specified.

(c) “Jurisdiction” means any court or locality including any state court, federal court, military court, Indian tribal or foreign court, the fifty (50) states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Marianna Islands or the United States Virgin Islands, and Indian tribes that elect to function as registration jurisdictions under Title 1, SORNA Section 127 of the Adam Walsh Child Safety Act.

(d) “Permanent residence” means a place where the person abides, lodges, or resides for a period of fourteen (14) or more consecutive days.

(e) “Registration” means providing information to the appropriate agency within the time frame specified as required by this chapter.

(f) “Registration duties” means obtaining the registration information required on the form specified by the department as well as the photograph, fingerprints and biological sample of the registrant. Biological samples are to be forwarded to the State Crime...
Laboratory pursuant to Section 45-33-37; the photograph, fingerprints and other registration information are to be forwarded to the Department of Public Safety immediately.

(g) “Responsible agency” is defined as the person or government entity whose duty it is to obtain information from a criminal sex offender upon conviction and to transmit that information to the Mississippi Department of Public Safety.

(i) For a criminal sex offender being released from the custody of the Department of Corrections, the responsible agency is the Department of Corrections.

(ii) For a criminal sex offender being released from a county jail, the responsible agency is the sheriff of that county.

(iii) For a criminal sex offender being released from a municipal jail, the responsible agency is the police department of that municipality.

(iv) For a sex offender in the custody of the youth court, the responsible agency is the youth court.

(v) For a criminal sex offender who is being placed on probation, including conditional discharge or unconditional discharge, without any sentence of incarceration, the responsible agency is the sentencing court.

(vi) For an offender who has been committed to a mental institution following an acquittal by reason of insanity, the responsible agency is the facility from which the offender is released. Specifically, the director of the facility shall notify the Department of Public Safety before the offender's release.

(vii) For a criminal sex offender who is being released from a jurisdiction outside this state or who has a prior conviction in another jurisdiction and who is to reside, work or attend school in this state, the responsible agency is both the sheriff of the proposed county of residence and the department.

(h) “Sex offense” or “registrable offense” means any of the following offenses:

(i) Section 97-3-53 relating to kidnapping, if the victim was below the age of eighteen (18);

(ii) Section 97-3-65 relating to rape; however, conviction or adjudication under Section 97-3-65(1)(a) when the offender was eighteen (18) years of age or younger at the time of the alleged offense, shall not be a registrable sex offense;

(iii) Section 97-3-71 relating to rape and assault with intent to ravish;
(iv) Section 97-3-95 relating to sexual battery; however, conviction or adjudication under Section 97-3-95(1)(c) when the offender was eighteen (18) years of age or younger at the time of the alleged offense, shall not be a registrable sex offense;

(v) Section 97-5-5 relating to enticing a child for concealment, prostitution or marriage;

(vi) Section 97-5-23 relating to the touching of a child, mentally defective or incapacitated person or physically helpless person for lustful purposes;

(vii) Section 97-5-27 relating to the dissemination of sexually oriented material to children;

(viii) Section 97-5-33 relating to the exploitation of children;

(ix) Section 97-5-41 relating to the carnal knowledge of a stepchild, adopted child or child of a cohabiting partner;

(x) Section 97-29-3 relating to sexual intercourse between teacher and student;

(xi) Section 97-29-59 relating to unnatural intercourse;

(xii) Section 43-47-18 relating to sexual abuse of a vulnerable person;

(xiii) Section 97-3-54.1(1)(c) relating to procuring sexual servitude of a minor and Section 97-3-54.3 relating to aiding, abetting or conspiring to violate Section 97-3-54.1(1)(c);

(xiv) Section 97-29-61(2) relating to voyeurism when the victim is a child under sixteen (16) years of age;

(xv) Section 97-29-63 relating to filming another without permission where there is an expectation of privacy;

(xvi) Section 97-29-45(1)(a) relating to obscene electronic communication;

(xvii) Section 97-3-104 relating to the crime of sexual activity between law enforcement, correctional or custodial personnel and prisoners;

(xviii) Section 97-5-39(1)(c) relating to contributing to the neglect or delinquency of a child, felonious abuse or battery of a child, if the victim was sexually abused;

(xix) Section 97-1-7 relating to attempt to commit any of the above-referenced offenses;
(xx) Any other offense resulting in a conviction in another jurisdiction which, if committed in this state, would be deemed to be such a crime without regard to its designation elsewhere;

(xxi) Any offense resulting in a conviction in another jurisdiction for which registration is required in the jurisdiction where the conviction was had;

(xxii) Any conviction of conspiracy to commit, accessory to commission, or attempt to commit any offense listed in this section;

(xxiii) Capital murder when one (1) of the above-described offenses is the underlying crime.

(i) “Temporary residence” is defined as any place where the person abides, lodges, or resides for a period of seven (7) or more consecutive days which is not the person's permanent residence.

**MISS. CODE ANN. § 97-5-27 (2014). Disseminating sexual material to children; computer luring**

(1) Any person who intentionally and knowingly disseminates sexually oriented material to any person under eighteen (18) years of age shall be guilty of a misdemeanor and, upon conviction, shall be fined for each offense not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00) or be imprisoned for not more than one (1) year in the county jail, or be punished by both such fine and imprisonment. A person disseminates sexually oriented material within the meaning of this section if he:

(a) Sells, delivers or provides, or offers or agrees to sell, deliver or provide, any sexually oriented writing, picture, record or other representation or embodiment that is sexually oriented; or

(b) Presents or directs a sexually oriented play, dance or other performance or participates directly in that portion thereof which makes it sexually oriented; or

(c) Exhibits, presents, rents, sells, delivers or provides, or offers or agrees to exhibit, present, rent or to provide any sexually oriented still or motion picture, film, filmstrip or projection slide, or sound recording, sound tape or sound track or any matter or material of whatever form which is a representation, embodiment, performance or publication that is sexually oriented.

(2) For purposes of this section, any material is sexually oriented if the material contains representations or descriptions, actual or simulated, of masturbation, sodomy, excretory functions, lewd exhibition of the genitals or female breasts, sadomasochistic abuse (for the purpose of sexual stimulation or gratification), homosexuality, lesbianism, bestiality, sexual intercourse, or physical contact with a person's clothed or unclothed genitals,
pubic area, buttocks, or the breast or breasts of a female for the purpose of sexual stimulation, gratification or perversion.

(3)(a) A person is guilty of computer luring when:

(i) Knowing the character and content of any communication of sexually oriented material, he intentionally uses any computer communication system allowing the input, output, examination or transfer of computer data or computer programs from one (1) computer to another, to initiate or engage in such communication with a person under the age of eighteen (18); and

(ii) By means of such communication he importunes, invites or induces a person under the age of eighteen (18) years to engage in sexual intercourse, deviant sexual intercourse or sexual contact with him, or to engage in a sexual performance, obscene sexual performance or sexual conduct for his benefit.

(b) A person who engages in the conduct proscribed by this subsection (3) is presumed to do so with knowledge of the character and content of the material.

(c) In any prosecution for computer luring, it shall be a defense that:

(i) The defendant made a reasonable effort to ascertain the true age of the minor and was unable to do so as a result of actions taken by the minor; or

(ii) The defendant has taken, in good faith, reasonable, effective and appropriate actions under the circumstances to restrict or prevent access by minors to the materials prohibited, which may involve any appropriate measures to restrict minors from access to such communications, including any method which is feasible under available technology; or

(iii) The defendant has restricted access to such materials by requiring use of a verified credit card, debit account, adult access code or adult personal identification number; or

(iv) The defendant has in good faith established a mechanism such that the labeling, segregation or other mechanism enables such material to be automatically blocked or screened by software or other capabilities reasonably available to responsible adults wishing to effect such blocking or screening and the defendant has not otherwise solicited minors not subject to such screening or blocking capabilities to access that material or to circumvent any such screening or blocking.

(d) In any prosecution for computer luring:

(i) No person shall be held to have violated this subsection (3) solely for providing access or connection to or from a facility, system, or network not under that person's control, including transmission, downloading, intermediate storage, access software or other
related capabilities that are incidental to providing such access or connection that do not include the creation of the content of the communication.

(ii) No employer shall be held liable for the actions of an employee or agent unless the employee's or agent's conduct is within the scope of his employment or agency or the employer, having knowledge of such conduct, authorizes or ratifies such conduct, or recklessly disregards such conduct.

(iii) The limitations provided by this paragraph (d) shall not be applicable to a person who is a conspirator with an entity actively involved in the creation or knowing distribution of communications that violate such provisions, or who knowingly advertises the availability of such communications, nor to a person who provides access or connection to a facility, system or network engaged in the violation of such provisions that is owned or controlled by such person.

(e) Computer luring is a felony, and any person convicted thereof shall be punished by commitment to the custody of the Department of Corrections for a term not to exceed three (3) years and by a fine not to exceed Ten Thousand Dollars ($10,000.00).

(4) Investigation and prosecution of a defendant under this section does not preclude prosecution of the defendant for a violation of other applicable criminal laws, including, but not limited to, the Mississippi Human Trafficking Act, Section 97-3-54 et seq.

MISS. CODE ANN. § 97-5-33 (2014). Depicting child engaging in sexual conduct
(1) No person shall, by any means including computer, cause, solicit or knowingly permit any child to engage in sexually explicit conduct or in the simulation of sexually explicit conduct for the purpose of producing any visual depiction of such conduct.

(2) No person shall, by any means including computer, photograph, film, video tape or otherwise depict or record a child engaging in sexually explicit conduct or in the simulation of sexually explicit conduct.

(3) No person shall, by any means including computer, knowingly send, transport, ship, mail or receive any photograph, drawing, sketch, film, video tape or other visual depiction of an actual child engaging in sexually explicit conduct.

(4) No person shall, by any means including computer, receive with intent to distribute, distribute for sale, sell or attempt to sell in any manner any photograph, drawing, sketch, film, video tape or other visual depiction of an actual child engaging in sexually explicit conduct.

(5) No person shall, by any means including computer, knowingly possess or knowingly access with intent to view any photograph, drawing, sketch, film, video tape or other visual depiction of an actual child engaging in sexually explicit conduct.
(6) No person shall, by any means including computer, knowingly entice, induce, persuade, seduce, solicit, advise, coerce, or order a child to meet with the defendant or any other person for the purpose of engaging in sexually explicit conduct.

(7) No person shall by any means, including computer, knowingly entice, induce, persuade, seduce, solicit, advise, coerce or order a child to produce any visual depiction of adult sexual conduct or any sexually explicit conduct.

(8) The fact that an undercover operative or law enforcement officer posed as a child or was involved in any other manner in the detection and investigation of an offense under this section shall not constitute a defense to a prosecution under this section.

(9) For purposes of determining jurisdiction, the offense is committed in this state if all or part of the conduct described in this section occurs in the State of Mississippi or if the transmission that constitutes the offense either originates in this state or is received in this state.

**MISS. CODE ANN. § 97-29-59 (2014). Sodomy**

Every person who shall be convicted of the detestable and abominable crime against nature committed with mankind or with a beast, shall be punished by imprisonment in the penitentiary for a term of not more than ten years.

**MISSOURI**

**MO. REV. STAT. § 589.400 (2014). Registration of certain offenders with chief law officers of county of residence--time limitation--cities may request copy of registration--fees--automatic removal from registry--petitions for removal--procedure, notice, denial of petition--higher education students and workers--persons removed**

1. Sections 589.400 to 589.425 shall apply to:

(1) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found guilty of, or pled guilty or nolo contendere to committing, attempting to commit, or conspiring to commit a felony offense of chapter 566, RSMo, including sexual trafficking of a child and sexual trafficking of a child under the age of twelve, or any offense of chapter 566, RSMo, where the victim is a minor, unless such person is exempted from registering under subsection 8 of this section; or

(2) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found guilty of, or pled guilty or nolo contendere to committing, attempting to commit, or conspiring to commit one or more of the following offenses: kidnapping when the victim was a child and the defendant was not a parent or guardian of the child; abuse of a child under section 568.060, RSMo, when such abuse is sexual in nature; felonious restraint when the victim was a child and the defendant is not a parent or guardian of the child;
sexual contact or sexual intercourse with a resident of a nursing home, under section 565.200, RSMo; endangering the welfare of a child under section 568.045, RSMo, when the endangerment is sexual in nature; genital mutilation of a female child, under section 568.065, RSMo; promoting prostitution in the first degree; promoting prostitution in the second degree; promoting prostitution in the third degree; sexual exploitation of a minor; promoting child pornography in the first degree; promoting child pornography in the second degree; possession of child pornography; furnishing pornographic material to minors; public display of explicit sexual material; coercing acceptance of obscene material; promoting obscenity in the first degree; promoting pornography for minors or obscenity in the second degree; incest; use of a child in a sexual performance; or promoting sexual performance by a child; or

(3) Any person who, since July 1, 1979, has been committed to the department of mental health as a criminal sexual psychopath; or

(4) Any person who, since July 1, 1979, has been found not guilty as a result of mental disease or defect of any offense listed in subdivision (1) or (2) of this subsection; or

(5) Any juvenile certified as an adult and transferred to a court of general jurisdiction who has been convicted of, found guilty of, or has pleaded guilty or nolo contendere to committing, attempting to commit, or conspiring to commit a felony under chapter 566, RSMo, which is equal to or more severe than aggravated sexual abuse under 18 U.S.C. Section 2241, which shall include any attempt or conspiracy to commit such offense;

(6) Any juvenile fourteen years of age or older at the time of the offense who has been adjudicated for an offense which is equal to or more severe than aggravated sexual abuse under 18 U.S.C. Section 2241, which shall include any attempt or conspiracy to commit such offense;

(7) Any person who is a resident of this state who has, since July 1, 1979, or is hereafter convicted of, been found guilty of, or pled guilty to or nolo contendere in any other state, or foreign country, or under federal, tribal, or military jurisdiction to committing, attempting to commit, or conspiring to commit an offense which, if committed in this state, would be a violation of chapter 566, RSMo, or a felony violation of any offense listed in subdivision (2) of this subsection or has been or is required to register in another state or has been or is required to register under tribal, federal, or military law; or

(8) Any person who has been or is required to register in another state or has been or is required to register under tribal, federal, or military law and who works or attends an educational institution, whether public or private in nature, including any secondary school, trade school, professional school, or institution of higher education on a full-time or on a part-time basis or has a temporary residence in Missouri. “Part-time” in this subdivision means for more than seven days in any twelve-month period.
2. Any person to whom sections 589.400 to 589.425 apply shall, within three days of conviction, release from incarceration, or placement upon probation, register with the chief law enforcement official of the county or city not within a county in which such person resides unless such person has already registered in that county for the same offense. Any person to whom sections 589.400 to 589.425 apply if not currently registered in their county of residence shall register with the chief law enforcement official of such county or city not within a county within three days. The chief law enforcement official shall forward a copy of the registration form required by section 589.407 to a city, town, village, or campus law enforcement agency located within the county of the chief law enforcement official, if so requested. Such request may ask the chief law enforcement official to forward copies of all registration forms filed with such official. The chief law enforcement official may forward a copy of such registration form to any city, town, village, or campus law enforcement agency, if so requested.

3. The registration requirements of sections 589.400 through 589.425 are lifetime registration requirements unless:

(1) All offenses requiring registration are reversed, vacated or set aside;

(2) The registrant is pardoned of the offenses requiring registration;

(3) The registrant is no longer required to register and his or her name shall be removed from the registry under the provisions of subsection 6 of this section; or

(4) The registrant may petition the court for removal or exemption from the registry under subsection 7 or 8 of this section and the court orders the removal or exemption of such person from the registry.

4. For processing an initial sex offender registration the chief law enforcement officer of the county or city not within a county may charge the offender registering a fee of up to ten dollars.

5. For processing any change in registration required pursuant to section 589.414 the chief law enforcement official of the county or city not within a county may charge the person changing their registration a fee of five dollars for each change made after the initial registration.

6. Any person currently on the sexual offender registry for being convicted of, found guilty of, or pleading guilty or nolo contendere to committing, attempting to commit, or conspiring to commit, felonious restraint when the victim was a child and he or she was the parent or guardian of the child, nonsexual child abuse that was committed under section 568.060, RSMo, or kidnapping when the victim was a child and he or she was the parent or guardian of the child shall be removed from the registry. However, such person shall remain on the sexual offender registry for any other offense for which he or she is
required to register under sections 589.400 to 589.425.

7. Any person currently on the sexual offender registry for having been convicted of, found guilty of, or having pleaded guilty or nolo contendere to committing, attempting to commit, or conspiring to commit promoting prostitution in the second degree, promoting prostitution in the third degree, public display of explicit sexual material, statutory rape in the second degree, and no physical force or threat of physical force was used in the commission of the crime may file a petition in the civil division of the circuit court in the county in which the offender was convicted or found guilty of or pled guilty or nolo contendere to committing, attempting to commit, or conspiring to commit the offense or offenses for the removal of his or her name from the sexual offender registry after ten years have passed from the date he or she was required to register.

8. Effective August 28, 2009, any person on the sexual offender registry for having been convicted of, found guilty of, or having pled guilty or nolo contendere to an offense included under subsection 1 of this section may file a petition after two years have passed from the date the offender was convicted or found guilty of or pled guilty or nolo contendere to the offense or offenses in the civil division of the circuit court in the county in which the offender was convicted or found guilty of or pled guilty or nolo contendere to the offense or offenses for removal of his or her name from the registry if such person was nineteen years of age or younger and the victim was thirteen years of age or older at the time of the offense and no physical force or threat of physical force was used in the commission of the offense, unless such person meets the qualifications of this subsection, and such person was eighteen years of age or younger at the time of the offense, and is convicted or found guilty of or pleads guilty or nolo contendere to a violation of section 566.068, 566.090, 566.093, or 566.095, RSMo, when such offense is a misdemeanor, in which case, such person may immediately file a petition to remove or exempt his or her name from the registry upon his or her conviction or finding or pleading of guilty or nolo contendere to such offense.

9. (1) The court may grant such relief under subsection 7 or 8 of this section if such person demonstrates to the court that he or she has complied with the provisions of this section and is not a current or potential threat to public safety. The prosecuting attorney in the circuit court in which the petition is filed must be given notice, by the person seeking removal or exemption from the registry, of the petition to present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied. Failure of the person seeking removal or exemption from the registry to notify the prosecuting attorney of the petition shall result in an automatic denial of such person's petition. If the prosecuting attorney is notified of the petition he or she shall make reasonable efforts to notify the victim of the crime for which the person was required to register of the petition and the dates and times of any hearings or other proceedings in connection with that petition.

(2) If the petition is denied, such person shall wait at least twelve months before petitioning the court again. If the court finds that the petitioner is entitled to relief, which
removes or exempts such person's name from the registry, a certified copy of the written findings or order shall be forwarded by the court to the chief law enforcement official having jurisdiction over the offender and to the Missouri state highway patrol in order to have such person's name removed or exempted from the registry.

10. Any nonresident worker or nonresident student shall register for the duration of such person's employment or attendance at any school of higher education and is not entitled to relief under the provisions of subsection 9 of this section. Any registered offender from another state who has a temporary residence in this state and resides more than seven days in a twelve-month period shall register for the duration of such person's temporary residency and is not entitled to the provisions of subsection 9 of this section.

11. Any person whose name is removed or exempted from the sexual offender registry under subsection 7 or 8 of this section shall no longer be required to fulfill the registration requirements of sections 589.400 to 589.425, unless such person is required to register for committing another offense after being removed from the registry.

**MO. REV. STAT. § 566.111 (2014). Unlawful sex with an animal, crime, penalty**

1. A person commits the crime of unlawful sex with an animal if that person engages in sexual conduct with an animal or engages in sexual conduct with an animal for commercial or recreational purposes.

2. Unlawful sex with an animal is a class A misdemeanor unless the defendant has previously been convicted under this section, in which case the crime is a class D felony.

3. In addition to any penalty imposed or as a condition of probation the court may:

   (1) Prohibit the defendant from harboring animals or residing in any household where animals are present during the period of probation or if probation is not granted for a period of time not to exceed two years after the defendant's sentence is completed;

   (2) Order all animals in the defendant's possession subject to a civil forfeiture action under chapter 513, RSMo; or

   (3) Order psychological evaluation and counseling of the defendant at the defendant's expense.

4. Nothing in this section shall be construed to prohibit generally accepted animal husbandry, farming and ranching practices or generally accepted veterinary medical practices.

5. For purposes of this section, the following terms mean:

   (1) “Animal”, every creature, either alive or dead, other than a human being;
(2) “Sexual conduct with an animal”, any touching of an animal with the genitals or any touching of the genitals or anus of an animal for the purpose of arousing or gratifying the person's sexual desire.

**MO. REV. STAT. § 568.606 (2014). Abuse or neglect of a child, penalty**

1. As used in this section, the following terms shall mean:

   (1) “**Abuse**”, the infliction of physical, sexual, or mental injury against a child by any person eighteen years of age or older. For purposes of this section, abuse shall not include injury inflicted on a child by accidental means by a person with care, custody, or control of the child, or discipline of a child by a person with care, custody, or control of the child, including spanking, in a reasonable manner;

   (2) “**Abusive head trauma**”, a serious physical injury to the head or brain caused by any means, including but not limited to shaking, jerking, pushing, pulling, slamming, hitting, or kicking;

   (3) “**Mental injury**”, an injury to the intellectual or psychological capacity or the emotional condition of a child as evidenced by an observable and substantial impairment of the ability of the child to function within his or her normal range of performance or behavior;

   (4) “**Neglect**”, the failure to provide, by those responsible for the care, custody, and control of a child under the age of eighteen years, the care reasonable and necessary to maintain the physical and mental health of the child, when such failure presents a substantial probability that death or physical injury or sexual injury would result;

   (5) “**Physical injury**”, physical pain, illness, or any impairment of physical condition, including but not limited to bruising, lacerations, hematomas, welts, or permanent or temporary disfigurement and impairment of any bodily function or organ;

   (6) “**Serious emotional injury**”, an injury that creates a substantial risk of temporary or permanent medical or psychological damage, manifested by impairment of a behavioral, cognitive, or physical condition. Serious emotional injury shall be established by testimony of qualified experts upon the reasonable expectation of probable harm to a reasonable degree of medical or psychological certainty;

   (7) “**Serious physical injury**”, a physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body.

   2. A person commits the offense of abuse or neglect of a child if such person knowingly causes a child who is less than eighteen years of age:

   (1) To suffer physical or mental injury as a result of abuse or neglect; or
(2) To be placed in a situation in which the child may suffer physical or mental injury as the result of abuse or neglect.

3. A person commits the offense of abuse or neglect of a child if such person recklessly causes a child who is less than eighteen years of age to suffer from abusive head trauma.

4. A person does not commit the offense of abuse or neglect of a child by virtue of the sole fact that the person delivers or allows the delivery of child to a provider of emergency services.

5. The offense of abuse or neglect of a child is:

(1) A class C felony, without eligibility for probation or parole until the defendant has served no less than one year of such sentence, unless the person has previously been found guilty of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct or the injury inflicted on the child is a serious emotional injury or a serious physical injury, in which case abuse or neglect of a child is a class B felony, without eligibility for probation or parole until the defendant has served not less than five years of such sentence; or

(2) A class A felony if the child dies as a result of injuries sustained from conduct chargeable under the provisions of this section.

6. Notwithstanding subsection 5 of this section to the contrary, the offense of abuse or neglect of a child is a class A felony, without eligibility for probation or parole until the defendant has served not less than fifteen years of such sentence, if:

(1) The injury is a serious emotional injury or a serious physical injury;

(2) The child is less than fourteen years of age; and

(3) The injury is the result of sexual abuse as defined under section 566.100 or sexual exploitation of a minor as defined under section 573.023.

7. The circuit or prosecuting attorney may refer a person who is suspected of abuse or neglect of a child to an appropriate public or private agency for treatment or counseling so long as the agency has consented to taking such referrals. Nothing in this subsection shall limit the discretion of the circuit or prosecuting attorney to prosecute a person who has been referred for treatment or counseling pursuant to this subsection.

8. Nothing in this section shall be construed to alter the requirement that every element of any crime referred to herein must be proven beyond a reasonable doubt.
9. Discipline, including spanking administered in a reasonable manner, shall not be construed to be abuse under this section.

MO. REV. STAT. § 573.010 (2014). Definitions
As used in this chapter the following terms shall mean:

(1) “Child”, any person under the age of fourteen;

(2) “Child pornography”:

(a) Any obscene material or performance depicting sexual conduct, sexual contact, or a sexual performance, as these terms are defined in section 556.061, and which has as one of its participants or portrays as an observer of such conduct, contact, or performance a minor under the age of eighteen; or

(b) Any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct where:

a. The production of such visual depiction involves the use of a minor engaging in sexually explicit conduct;

b. Such visual depiction is a digital image, computer image, or computer-generated image that is, or is indistinguishable from, that of a minor engaging in sexually explicit conduct; or

C. Such visual depiction has been created, adapted, or modified to show that an identifiable minor is engaging in sexually explicit conduct;

(3) “Displays publicly”, exposing, placing, posting, exhibiting, or in any fashion displaying in any location, whether public or private, an item in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a street, highway or public sidewalk, or from the property of others or from any portion of the person's store, or the exhibitor's store or property when items and material other than this material are offered for sale or rent to the public;

(4) “Explicit sexual material”, any pictorial or three-dimensional material depicting human masturbation, deviate sexual intercourse, sexual intercourse, direct physical stimulation or unclothed genitals, sadomasochistic abuse, or emphasizing the depiction of postpubertal human genitals; provided, however, that works of art or of anthropological significance shall not be deemed to be within the foregoing definition;

(5) “Furnish”, to issue, sell, give, provide, lend, mail, deliver, transfer, circulate, disseminate, present, exhibit or otherwise provide;
(6) “Graphic”, when used with respect to a depiction of sexually explicit conduct, that a viewer can observe any part of the genitals or pubic area of any depicted person or animal during any part of the time that the sexually explicit conduct is being depicted;

(7) “Identifiable minor”:

(a) A person:

a. (i) Who was a minor at the time the visual depiction was created, adapted, or modified; or

(ii) Whose image as a minor was used in creating, adapting, or modifying the visual depiction; and

b. Who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature; and

(b) The term shall not be construed to require proof of the actual identity of the identifiable minor;

(8) “Indistinguishable”, when used with respect to a depiction, virtually indistinguishable, in that the depiction is such that an ordinary person viewing the depiction would conclude that the depiction is of an actual minor engaged in sexually explicit conduct. Indistinguishable does not apply to depictions that are drawings, cartoons, sculptures, or paintings depicting minors or adults;

(9) “Material”, anything printed or written, or any picture, drawing, photograph, motion picture film, videotape or videotape production, or pictorial representation, or any recording or transcription, or any mechanical, chemical, or electrical reproduction, or stored computer data, or anything which is or may be used as a means of communication. Material includes undeveloped photographs, molds, printing plates, stored computer data and other latent representational objects;

(10) “Minor”, any person under the age of eighteen;

(11) “Nudity”, the showing of postpubertal human genitals or pubic area, with less than a fully opaque covering;

(12) “Obscene”, any material or performance is obscene if, taken as a whole:

(a) Applying contemporary community standards, its predominant appeal is to prurient interest in sex; and
(b) The average person, applying contemporary community standards, would find the material depicts or describes sexual conduct in a patently offensive way; and

(c) A reasonable person would find the material lacks serious literary, artistic, political or scientific value;

(13) “Performance”, any play, motion picture film, videotape, dance or exhibition performed before an audience of one or more;

(14) “Pornographic for minors”, any material or performance is pornographic for minors if the following apply:

(a) The average person, applying contemporary community standards, would find that the material or performance, taken as a whole, has a tendency to cater or appeal to a prurient interest of minors; and

(b) The material or performance depicts or describes nudity, sexual conduct, sexual excitement, or sadomasochistic abuse in a way which is patently offensive to the average person applying contemporary adult community standards with respect to what is suitable for minors; and

(c) The material or performance, taken as a whole, lacks serious literary, artistic, political, or scientific value for minors;

(15) “Promote”, to manufacture, issue, sell, provide, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, present, exhibit, or advertise, or to offer or agree to do the same, by any means including a computer;

(16) “Sadomasochistic abuse”, flagellation or torture by or upon a person as an act of sexual stimulation or gratification;

(17) “Sexual conduct”, actual or simulated, normal or perverted acts of human masturbation; deviate sexual intercourse; sexual intercourse; or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female in an act of apparent sexual stimulation or gratification or any sadomasochistic abuse or acts including animals or any latent objects in an act of apparent sexual stimulation or gratification;

(18) “Sexually explicit conduct”, actual or simulated:

(a) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(b) Bestiality;
(c) Masturbation;

(d) Sadistic or masochistic abuse; or

(e) Lascivious exhibition of the genitals or pubic area of any person;

(19) “Sexual excitement”, the condition of human male or female genitals when in a state of sexual stimulation or arousal;

(20) “Visual depiction”, includes undeveloped film and videotape, and data stored on computer disk or by electronic means which is capable of conversion into a visual image;

(21) “Wholesale promote”, to manufacture, issue, sell, provide, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, or to offer or agree to do the same for purposes of resale or redistribution.

**MO. REV. STAT. § 573.023 (2014). Sexual Exploitation of a minor, penalties**

1. A person commits the crime of sexual exploitation of a minor if such person knowingly or recklessly photographs, films, videotapes, produces or otherwise creates obscene material with a minor or child pornography.

2. Sexual exploitation of a minor is a class B felony unless the minor is a child, in which case it is a class A felony.

**MONTANA**

**MONT. CODE ANN. § 46-23-502 (2014). Definitions**

As used in 46-18-255 and this part, the following definitions apply:

(1) “Department” means the department of corrections provided for in 2-15-2301.

(2) “Mental abnormality” means a congenital or acquired condition that affects the mental, emotional, or volitional capacity of a person in a manner that predisposes the person to the commission of one or more sexual offenses to a degree that makes the person a menace to the health and safety of other persons.

(3) “Municipality” means an entity that has incorporated as a city or town.

(4) “Personality disorder” means a personality disorder as defined in the fourth edition of the Diagnostic and Statistical Manual of Mental Disorders adopted by the American psychiatric association.
(5) “Predatory sexual offense” means a sexual offense committed against a stranger or against a person with whom a relationship has been established or furthered for the primary purpose of victimization.

(6) “Registration agency” means:

(a) if the offender resides in a municipality, the police department of that municipality; or

(b) if the offender resides in a place other than a municipality, the sheriff's office of the county in which the offender resides.

(7)(a) “Residence” means the location at which a person regularly resides, regardless of the number of days or nights spent at that location, that can be located by a street address, including a house, apartment building, motel, hotel, or recreational or other vehicle.

(b) The term does not mean a homeless shelter.

(8) “Sexual offender evaluator” means a person qualified under rules established by the department to conduct sexual offender and sexually violent predator evaluations.

(9) “Sexual offense” means:

(a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-301 (if the victim is less than 18 years of age and the offender is not a parent of the victim), 45-5-302 (if the victim is less than 18 years of age and the offender is not a parent of the victim), 45-5-303 (if the victim is less than 18 years of age and the offender is not a parent of the victim), 45-5-310, 45-5-311, 45-5-502(3) (if the victim is less than 16 years of age and the offender is 3 or more years older than the victim), 45-5-503, 45-5-504(1) (if the victim is under 18 years of age and the offender is 18 years of age or older), 45-5-504(2)(c), 45-5-507 (if the victim is under 18 years of age and the offender is 3 or more years older than the victim or if the victim is 12 years of age or younger and the offender is 18 years of age or older at the time of the offense), 45-5-601(3), 45-5-602(3), 45-5-603(1)(b) or (2)(b), or 45-5-625; or

(b) any violation of a law of another state, a tribal government, or the federal government that is reasonably equivalent to a violation listed in subsection (9)(a) or for which the offender was required to register as a sexual offender after an adjudication or conviction.

(10) “Sexual or violent offender” means a person who has been convicted of or, in youth court, found to have committed or been adjudicated for a sexual or violent offense.

(11) “Sexually violent predator” means a person who:
(a) has been convicted of or, in youth court, found to have committed or been adjudicated for a sexual offense and who suffers from a mental abnormality or a personality disorder that makes the person likely to engage in predatory sexual offenses; or

(b) has been convicted of a sexual offense against a victim 12 years of age or younger and the offender is 18 years of age or older.

(12) “Transient” means an offender who has no residence.

(13) “Violent offense” means:

(a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-102, 45-5-103, 45-5-202, 45-5-206 (third or subsequent offense), 45-5-210(1)(b), (1)(c), or (1)(d), 45-5-212, 45-5-213, 45-5-302 (if the victim is not a minor), 45-5-303 (if the victim is not a minor), 45-5-401, 45-6-103, or 45-9-132; or

(b) any violation of a law of another state, a tribal government, or the federal government reasonably equivalent to a violation listed in subsection (13)(a).

MONT. CODE ANN. § 45-5-625 (2014). Sexual abuse of children
(1) A person commits the offense of sexual abuse of children if the person:

(a) knowingly employs, uses, or permits the employment or use of a child in an exhibition of sexual conduct, actual or simulated;

(b) knowingly photographs, films, videotapes, develops or duplicates the photographs, films, or videotapes, or records a child engaging in sexual conduct, actual or simulated;

(c) knowingly, by any means of communication, including electronic communication, persuades, entices, counsels, or procures a child under 16 years of age or a person the offender believes to be a child under 16 years of age to engage in sexual conduct, actual or simulated;

(d) knowingly processes, develops, prints, publishes, transports, distributes, sells, exhibits, or advertises any visual or print medium, including a medium by use of electronic communication in which a child is engaged in sexual conduct, actual or simulated;

(e) knowingly possesses any visual or print medium, including a medium by use of electronic communication in which a child is engaged in sexual conduct, actual or simulated;

(f) finances any of the activities described in subsections (1)(a) through (1)(d) and (1)(g), knowing that the activity is of the nature described in those subsections;
(g) possesses with intent to sell any visual or print medium, including a medium by use of electronic communication in which a child is engaged in sexual conduct, actual or simulated;

(h) knowingly travels within, from, or to this state with the intention of meeting a child under 16 years of age or a person the offender believes to be a child under 16 years of age in order to engage in sexual conduct, actual or simulated; or

(i) knowingly coerces, entices, persuades, arranges for, or facilitates a child under 16 years of age or a person the offender believes to be a child under 16 years of age to travel within, from, or to this state with the intention of engaging in sexual conduct, actual or simulated.

(2)(a) Except as provided in subsection (2)(b), (2)(c), or (4), a person convicted of the offense of sexual abuse of children shall be punished by life imprisonment or by imprisonment in the state prison for a term not to exceed 100 years and may be fined not more than $10,000.

(b) Except as provided in 46-18-219, if the victim is under 16 years of age, a person convicted of the offense of sexual abuse of children shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 4 years or more than 100 years and may be fined not more than $10,000.

(c) Except as provided in 46-18-219, a person convicted of the offense of sexual abuse of children for the possession of material, as provided in subsection (1)(e), shall be fined not to exceed $10,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both.

(3) An offense is not committed under subsections (1)(d) through (1)(g) if the visual or print medium is processed, developed, printed, published, transported, distributed, sold, possessed, or possessed with intent to sell, or if the activity is financed, as part of a sexual offender information or treatment course or program conducted or approved by the department of corrections.

(4)(a) If the victim was 12 years of age or younger and the offender was 18 years of age or older at the time of the offense, the offender:

(i) shall be punished by imprisonment in a state prison for a term of 100 years. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (4)(a)(i) except as provided in 46-18-222, and during the first 25 years of imprisonment, the offender is not eligible for parole.

(ii) may be fined an amount not to exceed $50,000; and
(iii) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections.

(b) If the offender is released after the mandatory minimum period of imprisonment, the offender is subject to supervision by the department of corrections for the remainder of the offender's life and shall participate in the program for continuous, satellite-based monitoring provided for in 46-23-1010.

(5) As used in this section, the following definitions apply:

(a) “Electronic communication” means a sign, signal, writing, image, sound, data, or intelligence of any nature transmitted or created in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system.

(b) “Sexual conduct” means:

(i) actual or simulated:

(A) sexual intercourse, whether between persons of the same or opposite sex;

(B) penetration of the vagina or rectum by any object, except when done as part of a recognized medical procedure;

(C) bestiality;

(D) masturbation;

(E) sadomasochistic abuse;

(F) lewd exhibition of the genitals, breasts, pubic or rectal area, or other intimate parts of any person; or

(G) defecation or urination for the purpose of the sexual stimulation of the viewer; or

(ii) depiction of a child in the nude or in a state of partial undress with the purpose to abuse, humiliate, harass, or degrade the child or to arouse or gratify the person's own sexual response or desire or the sexual response or desire of any person.

(c) “Simulated” means any depicting of the genitals or pubic or rectal area that gives the appearance of sexual conduct or incipient sexual conduct.

(d) “Visual medium” means:
(i) any film, photograph, videotape, negative, slide, or photographic reproduction that contains or incorporates in any manner any film, photograph, videotape, negative, or slide; or

(ii) any disk, diskette, or other physical media that allows an image to be displayed on a computer or other video screen and any image transmitted to a computer or other video screen by telephone line, cable, satellite transmission, or other method.

NEBRASKA

(1)(a) The Sex Offender Registration Act applies to any person who on or after January 1, 1997:

(i) Has ever pled guilty to, pled nolo contendere to, or been found guilty of any of the following:

(A) Kidnapping of a minor pursuant to section 28-313, except when the person is the parent of the minor and was not convicted of any other offense in this section;

(B) False imprisonment of a minor pursuant to section 28-314 or 28-315;

(C) Sexual assault pursuant to section 28-319 or 28-320;

(D) Sexual assault of a child in the second or third degree pursuant to section 28-320.01;

(E) Sexual assault of a child in the first degree pursuant to section 28-319.01;

(F) Sexual abuse of a vulnerable adult pursuant to subdivision (1)(c) of section 28-386;

(G) Incest of a minor pursuant to section 28-703;

(H) Pandering of a minor pursuant to section 28-802;

(I) Visual depiction of sexually explicit conduct of a child pursuant to section 28-1463.03 or 28-1463.05;

(J) Knowingly possessing any visual depiction of sexually explicit conduct which has a child as one of its participants or portrayed observers pursuant to section 28-813.01;

(K) Criminal child enticement pursuant to section 28-311;
(L) Child enticement by means of an electronic communication device pursuant to section 28-320.02;

(M) Debauching a minor pursuant to section 28-805; or

(N) Attempt, solicitation, aiding or abetting, being an accessory, or conspiracy to commit an offense listed in subdivisions (1)(a)(i)(A) through (1)(a)(i)(M) of this section;

(ii) Has ever pled guilty to, pled nolo contendere to, or been found guilty of any offense that is substantially equivalent to a registrable offense under subdivision (1)(a)(i) of this section by any village, town, city, state, territory, commonwealth, or other jurisdiction of the United States, by the United States Government, by court-martial or other military tribunal, or by a foreign jurisdiction, notwithstanding a procedure comparable in effect to that described under section 29-2264 or any other procedure to nullify a conviction other than by pardon;

(iii) Is incarcerated in a jail, a penal or correctional facility, or any other public or private institution or is under probation or parole as a result of pleading guilty to or being found guilty of a registrable offense under subdivision (1)(a)(i) or (ii) of this section prior to January 1, 1997; or

(iv) Enters the state and is required to register as a sex offender under the laws of another village, town, city, state, territory, commonwealth, or other jurisdiction of the United States.

(b) In addition to the registrable offenses under subdivision (1)(a) of this section, the Sex Offender Registration Act applies to any person who on or after January 1, 2010:

(i)(A) Except as provided in subdivision (1)(b)(i)(B) of this section, has ever pled guilty to, pled nolo contendere to, or been found guilty of any of the following:

(I) Murder in the first degree pursuant to section 28-303;

(II) Murder in the second degree pursuant to section 28-304;

(III) Manslaughter pursuant to section 28-305;

(IV) Assault in the first degree pursuant to section 28-308;

(V) Assault in the second degree pursuant to section 28-309;

(VI) Assault in the third degree pursuant to section 28-310;

(VII) Stalking pursuant to section 28-311.03;
(VIII) Unlawful intrusion pursuant to subsection (4) of section 28-311.08;

(IX) Kidnapping pursuant to section 28-313;

(X) False imprisonment pursuant to section 28-314 or 28-315;

(XI) Sexual abuse of an inmate or parolee in the first degree pursuant to section 28-322.02;

(XII) Sexual abuse of an inmate or parolee in the second degree pursuant to section 28-322.03;

(XIII) Sexual abuse of a protected individual pursuant to section 28-322.04;

(XIV) Incest pursuant to section 28-703;

(XV) Child abuse pursuant to subdivision (1)(d) or (e) of section 28-707;

(XVI) Enticement by electronic communication device pursuant to section 28-833; or

(XVII) Attempt, solicitation, aiding or abetting, being an accessory, or conspiracy to commit an offense listed in subdivisions (1)(b)(i)(A)(I) through (1)(b)(i)(A)(XVI) of this section.

(B) In order for the Sex Offender Registration Act to apply to the offenses listed in subdivisions (1)(b)(i)(A)(I), (II), (III), (IV), (V), (VI), (VII), (IX), and (X) of this section, a court shall have found that evidence of sexual penetration or sexual contact, as those terms are defined in section 28-318, was present in the record, which shall include consideration of the factual basis for a plea-based conviction and information contained in the presentence report;

(ii) Has ever pled guilty to, pled nolo contendere to, or been found guilty of any offense that is substantially equivalent to a registrable offense under subdivision (1)(b)(i) of this section by any village, town, city, state, territory, commonwealth, or other jurisdiction of the United States, by the United States Government, by court-martial or other military tribunal, or by a foreign jurisdiction, notwithstanding a procedure comparable in effect to that described under section 29-2264 or any other procedure to nullify a conviction other than by pardon; or

(iii) Enters the state and is required to register as a sex offender under the laws of another village, town, city, state, territory, commonwealth, or other jurisdiction of the United States.

(2) A person appealing a conviction of a registrable offense under this section shall be required to comply with the act during the appeals process.
NEB. REV. STAT. ANN. §28-813.01 (2014). Sexually explicit conduct; visual depiction; unlawful; penalty; affirmative defense

(1) It shall be unlawful for a person to knowingly possess any visual depiction of sexually explicit conduct, as defined in section 28-1463.02, which has a child, as defined in such section, as one of its participants or portrayed observers.

(2)(a) Any person who is under nineteen years of age at the time he or she violates this section shall be guilty of a Class IV felony for each offense.

(b) Any person who is nineteen years of age or older at the time he or she violates this section shall be guilty of a Class III felony for each offense.

(c) Any person who violates this section and has previously been convicted of a violation of this section or section 28-308, 28-309, 28-310, 28-311, 28-313, 28-314, 28-315, 28-319, 28-319.01, 28-320.01, 28-833, 28-1463.03, or 28-1463.05 or subsection (1) or (2) of section 28-320 shall be guilty of a Class IC felony for each offense.

(3) It shall be an affirmative defense to a charge made pursuant to this section that:

(a) The visual depiction portrays no person other than the defendant; or

(b)(i) The defendant was less than nineteen years of age; (ii) the visual depiction of sexually explicit conduct portrays a child who is fifteen years of age or older; (iii) the visual depiction was knowingly and voluntarily generated by the child depicted therein; (iv) the visual depiction was knowingly and voluntarily provided by the child depicted in the visual depiction; (v) the visual depiction contains only one child; (vi) the defendant has not provided or made available the visual depiction to another person except the child depicted who originally sent the visual depiction to the defendant; and (vii) the defendant did not coerce the child in the visual depiction to either create or send the visual depiction.

NEB. REV. STAT. ANN. § 28-1463.02 (2014). Terms, defined

As used in the Child Pornography Prevention Act, unless the context otherwise requires:

(1) Child, in the case of a participant, means any person under the age of eighteen years and, in the case of a portrayed observer, means any person under the age of sixteen years;

(2) Erotic fondling means touching a person's clothed or unclothed genitals or pubic area, breasts if the person is a female, or developing breast area if the person is a female child, for the purpose of real or simulated overt sexual gratification or sexual stimulation of one or more persons involved. Erotic fondling shall not be construed to include physical contact, even if affectionate, which is not for the purpose of real or simulated overt sexual gratification or sexual stimulation of one or more of the persons involved;
(3) Erotic nudity means the display of the human male or female genitals or pubic area, the human female breasts, or the developing breast area of the human female child, for the purpose of real or simulated overt sexual gratification or sexual stimulation of one or more of the persons involved;

(4) Sadomasochistic abuse means flagellation or torture by or upon a nude person or a person clad in undergarments, a mask, or bizarre costume, or the condition of being fettered, bound, or otherwise physically restrained when performed to predominantly appeal to the morbid interest;

(5) Sexually explicit conduct means: (a) Real or simulated intercourse, whether genital-genital, oral-genital, anal-genital, or oral-anal between persons of the same or opposite sex or between a human and an animal or with an artificial genital; (b) real or simulated masturbation; (c) real or simulated sadomasochistic abuse; (d) erotic fondling; (e) erotic nudity; or (f) real or simulated defecation or urination for the purpose of sexual gratification or sexual stimulation of one or more of the persons involved; and

(6) Visual depiction means live performance or photographic representation and includes any undeveloped film or videotape or data stored on a computer disk or by other electronic means which is capable of conversion into a visual image and also includes any photograph, film, video, picture, digital image, or computer-displayed image, video, or picture, whether made or produced by electronic, mechanical, computer, digital, or other means.

NEB. REV. STAT. ANN. § 28-1463.03 (2014). Visual depiction of sexually explicit conduct; prohibited acts; affirmative defense

(1) It shall be unlawful for a person to knowingly make, publish, direct, create, provide, or in any manner generate any visual depiction of sexually explicit conduct which has a child as one of its participants or portrayed observers.

(2) It shall be unlawful for a person knowingly to purchase, rent, sell, deliver, distribute, display for sale, advertise, trade, or provide to any person any visual depiction of sexually explicit conduct which has a child as one of its participants or portrayed observers.

(3) It shall be unlawful for a person to knowingly employ, force, authorize, induce, or otherwise cause a child to engage in any visual depiction of sexually explicit conduct which has a child as one of its participants or portrayed observers.

(4) It shall be unlawful for a parent, stepparent, legal guardian, or any person with custody and control of a child, knowing the content thereof, to consent to such child engaging in any visual depiction of sexually explicit conduct which has a child as one of its participants or portrayed observers.

(5) It shall be an affirmative defense to a charge brought pursuant to subsection (1) of this section if the defendant was less than eighteen years of age at the time the visual
depiction was created and the visual depiction of sexually explicit conduct includes no person other than the defendant.

(6) It shall be an affirmative defense to a charge brought pursuant to subsection (2) of this section if (a) the defendant was less than eighteen years of age, (b) the visual depiction of sexually explicit conduct includes no person other than the defendant, (c) the defendant had a reasonable belief at the time the visual depiction was sent to another that it was being sent to a willing recipient, and (d) the recipient was at least fifteen years of age at the time the visual depiction was sent.

NEB. REV. STAT. ANN. § 28-1463.05 (2014). Visual depiction of sexually explicit acts related to possession; violation; penalty
(1) It shall be unlawful for a person to knowingly possess with intent to rent, sell, deliver, distribute, trade, or provide to any person any visual depiction of sexually explicit conduct which has a child as one of its participants or portrayed observers.

(2)(a) Any person who is under nineteen years of age at the time he or she violates this section shall be guilty of a Class IIIA felony for each offense.

(b) Any person who is nineteen years of age or older at the time he or she violates this section shall be guilty of a Class III felony for each offense.

(c) Any person who violates this section and has previously been convicted of a violation of this section or section 28-308, 28-309, 28-310, 28-311, 28-313, 28-314, 28-315, 28-319, 28-319.01, 28-320.01, 28-813, 28-833, or 28-1463.03 or subsection (1) or (2) of section 28-320 shall be guilty of a Class IC felony for each offense.

NEVADA
NEV. REV. STAT. ANN. § 62F.200 (2014). “Sexual offense” defined
1. As used in this section and NRS 62F.220 and 62F.260, unless the context otherwise requires, “sexual offense” means:

(a) Sexual assault pursuant to NRS 200.366;

(b) Battery with intent to commit sexual assault pursuant to NRS 200.400;

(c) Lewdness with a child pursuant to NRS 201.230; or

(d) An attempt or conspiracy to commit an offense listed in this section.

2. The term does not include an offense involving consensual sexual conduct if the victim was at least 13 years of age and the offender was not more than 4 years older than the victim at the time of the commission of the offense.
NEV. REV. STAT. ANN. § 179D.097 (2014). “Sexual offense” defined
1. “Sexual offense” means any of the following offenses:

(a) Murder of the first degree committed in the perpetration or attempted perpetration of sexual assault or of sexual abuse or sexual molestation of a child less than 14 years of age pursuant to paragraph (b) of subsection 1 of NRS 200.030.

(b) Sexual assault pursuant to NRS 200.366.

(c) Statutory sexual seduction pursuant to NRS 200.368.

(d) Battery with intent to commit sexual assault pursuant to subsection 4 of NRS 200.400.

(e) An offense involving the administration of a drug to another person with the intent to enable or assist the commission of a felony pursuant to NRS 200.405, if the felony is an offense listed in this subsection.

(f) An offense involving the administration of a controlled substance to another person with the intent to enable or assist the commission of a crime of violence pursuant to NRS 200.408, if the crime of violence is an offense listed in this section.

(g) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation.

(h) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive.

(i) Incest pursuant to NRS 201.180.

(j) Open or gross lewdness pursuant to NRS 201.210.

(k) Indecent or obscene exposure pursuant to NRS 201.220.

(l) Lewdness with a child pursuant to NRS 201.230.

(m) Sexual penetration of a dead human body pursuant to NRS 201.450.

(n) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony.

(o) Sex trafficking pursuant to NRS 201.300.

(p) Any other offense that has an element involving a sexual act or sexual conduct with another.
(q) An attempt or conspiracy to commit an offense listed in paragraphs (a) to (p), inclusive.

(r) An offense that is determined to be sexually motivated pursuant to NRS 175.547 or 207.193.

(s) An offense committed in another jurisdiction that, if committed in this State, would be an offense listed in this subsection. This paragraph includes, without limitation, an offense prosecuted in:

(1) A tribal court.

(2) A court of the United States or the Armed Forces of the United States.

(t) An offense of a sexual nature committed in another jurisdiction, whether or not the offense would be an offense listed in this section, if the person who committed the offense resides or has resided or is or has been a student or worker in any jurisdiction in which the person is or has been required by the laws of that jurisdiction to register as a sex offender because of the offense. This paragraph includes, without limitation, an offense prosecuted in:

(1) A tribal court.

(2) A court of the United States or the Armed Forces of the United States.

(3) A court having jurisdiction over juveniles.

2. The term does not include an offense involving consensual sexual conduct if the victim was:

(a) An adult, unless the adult was under the custodial authority of the offender at the time of the offense; or

(b) At least 13 years of age and the offender was not more than 4 years older than the victim at the time of the commission of the offense.


1. A person who subjects another person to sexual penetration, or who forces another person to make a sexual penetration on himself or herself or another, or on a beast, against the will of the victim or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his or her conduct, is guilty of sexual assault.
2. Except as otherwise provided in subsections 3 and 4, a person who commits a sexual assault is guilty of a category A felony and shall be punished:

(a) If substantial bodily harm to the victim results from the actions of the defendant committed in connection with or as a part of the sexual assault, by imprisonment in the state prison:

(1) For life without the possibility of parole; or

(2) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 15 years has been served.

(b) If no substantial bodily harm to the victim results, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served.

3. Except as otherwise provided in subsection 4, a person who commits a sexual assault against a child under the age of 16 years is guilty of a category A felony and shall be punished:

(a) If the crime results in substantial bodily harm to the child, by imprisonment in the state prison for life without the possibility of parole.

(b) Except as otherwise provided in paragraph (c), if the crime does not result in substantial bodily harm to the child, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 25 years has been served.

(c) If the crime is committed against a child under the age of 14 years and does not result in substantial bodily harm to the child, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 35 years has been served.

4. A person who commits a sexual assault against a child under the age of 16 years and who has been previously convicted of:

(a) A sexual assault pursuant to this section or any other sexual offense against a child; or

(b) An offense committed in another jurisdiction that, if committed in this State, would constitute a sexual assault pursuant to this section or any other sexual offense against a child,

is guilty of a category A felony and shall be punished by imprisonment in the state prison for life without the possibility of parole.
5. For the purpose of this section, “other sexual offense against a child” means any act committed by an adult upon a child constituting:

(a) Incest pursuant to NRS 201.180;

(b) Lewdness with a child pursuant to NRS 201.230;

(c) Sado-masochistic abuse pursuant to NRS 201.262; or

(d) Luring a child using a computer, system or network pursuant to NRS 201.560, if punished as a felony.

**NEV. REV. STAT. ANN. § 200.508 (2014). Abuse, neglect or endangerment of child: Penalties; definitions**

1. A person who willfully causes a child who is less than 18 years of age to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be placed in a situation where the child may suffer physical pain or mental suffering as the result of abuse or neglect:

(a) If substantial bodily or mental harm results to the child:

(1) If the child is less than 14 years of age and the harm is the result of sexual abuse or exploitation, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 15 years has been served; or

(2) In all other such cases to which subparagraph (1) does not apply, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years; or

(b) If substantial bodily or mental harm does not result to the child:

(1) If the person has not previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years; or

(2) If the person has previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years,
unless a more severe penalty is prescribed by law for an act or omission that brings about the abuse or neglect.

2. A person who is responsible for the safety or welfare of a child and who permits or allows that child to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be placed in a situation where the child may suffer physical pain or mental suffering as the result of abuse or neglect:

   (a) If substantial bodily or mental harm results to the child:

      (1) If the child is less than 14 years of age and the harm is the result of sexual abuse or exploitation, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

      (2) In all other such cases to which subparagraph (1) does not apply, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years; or

   (b) If substantial bodily or mental harm does not result to the child:

      (1) If the person has not previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a gross misdemeanor; or

      (2) If the person has previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a category C felony and shall be punished as provided in NRS 193.130,

unless a more severe penalty is prescribed by law for an act or omission that brings about the abuse or neglect.

3. A person does not commit a violation of subsection 1 or 2 by virtue of the sole fact that the person delivers or allows the delivery of a child to a provider of emergency services pursuant to NRS 432B.630.

4. As used in this section:

   (a) “Abuse or neglect” means physical or mental injury of a nonaccidental nature, sexual abuse, sexual exploitation, negligent treatment or maltreatment of a child under the age of 18 years, as set forth in paragraph (d) and NRS 432B.070, 432B.100, 432B.110, 432B.140 and 432B.150, under circumstances which indicate that the child’s health or welfare is harmed or threatened with harm.
(b) “Allow” means to do nothing to prevent or stop the abuse or neglect of a child in circumstances where the person knows or has reason to know that the child is abused or neglected.

(c) “Permit” means permission that a reasonable person would not grant and which amounts to a neglect of responsibility attending the care, custody and control of a minor child.

(d) “Physical injury” means:

(1) Permanent or temporary disfigurement; or

(2) Impairment of any bodily function or organ of the body.

(e) “Substantial mental harm” means an injury to the intellectual or psychological capacity or the emotional condition of a child as evidenced by an observable and substantial impairment of the ability of the child to function within his or her normal range of performance or behavior.

**NEV. REV. STAT. ANN. § 200.700 (2014). Definitions**

As used in NRS 200.700 to 200.760, inclusive, unless the context otherwise requires:

1. “Performance” means any play, film, photograph, computer-generated image, electronic representation, dance or other visual presentation.

2. “Promote” means to produce, direct, procure, manufacture, sell, give, lend, publish, distribute, exhibit, advertise or possess for the purpose of distribution.

3. “Sexual conduct” means sexual intercourse, lewd exhibition of the genitals, fellatio, cunnilingus, bestiality, anal intercourse, excretion, sado-masochistic abuse, masturbation, or the penetration of any part of a person’s body or of any object manipulated or inserted by a person into the genital or anal opening of the body of another.

4. “Sexual portrayal” means the depiction of a person in a manner which appeals to the prurient interest in sex and which does not have serious literary, artistic, political or scientific value.

**NEV. REV. STAT. ANN. § 200.710 (2014). Unlawful to use minor in producing pornography or as subject of sexual portrayal in performance**

1. A person who knowingly uses, encourages, entices or permits a minor to simulate or engage in or assist others to simulate or engage in sexual conduct to produce a performance is guilty of a category A felony and shall be punished as provided in NRS 200.750.
2. A person who knowingly uses, encourages, entices, coerces or permits a minor to be the subject of a sexual portrayal in a performance is guilty of a category A felony and shall be punished as provided in NRS 200.750, regardless of whether the minor is aware that the sexual portrayal is part of a performance.


A person who knowingly promotes a performance of a minor:

1. Where the minor engages in or simulates, or assists others to engage in or simulate, sexual conduct; or

2. Where the minor is the subject of a sexual portrayal, is guilty of a category A felony and shall be punished as provided in NRS 200.750.

**NEV. REV. STAT. ANN. § 200.725 (2014). Preparing, advertising or distributing materials depicting pornography involving minor unlawful; penalty**

A person who knowingly prepares, advertises or distributes any item or material that depicts a minor engaging in, or simulating, or assisting others to engage in or simulate, sexual conduct is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 15 years, or by a fine of not more than $15,000, or by both fine and imprisonment.

**NEV. REV. STAT. ANN. § 200.727 (2014). Use of Internet to control visual presentation depicting sexual conduct of person under 16 years of age; penalties**

1. Any person who, knowingly, willfully and with the specific intent to view any film, photograph or other visual presentation depicting a person under the age of 16 years engaging in or simulating sexual conduct, uses the Internet to control such a film, photograph or other visual presentation is guilty of:

   (a) For the first offense, a category C felony and shall be punished as provided in NRS 193.130.

   (b) For any subsequent offense, a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than $5,000.

2. As used in this section, “sexual conduct” means sexual intercourse, fellatio, cunnilingus, bestiality, anal intercourse, excretion, sado-masochistic abuse, masturbation, or the penetration of any object manipulated or inserted by a person into the genital or anal opening of the body of another.
**NEV. REV. STAT. ANN. § 200.730 (2014). Possession of visual presentation depicting sexual conduct of person under 16 years of age unlawful; penalties**

A person who knowingly and willfully has in his or her possession for any purpose any film, photograph or other visual presentation depicting a person under the age of 16 years as the subject of a sexual portrayal or engaging in or simulating, or assisting others to engage in or simulate, sexual conduct:

1. For the first offense, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than $5,000.

2. For any subsequent offense, is guilty of a category A felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of life with the possibility of parole, and may be further punished by a fine of not more than $5,000.

**NEW HAMPSHIRE**

**N.H. REV. STAT. ANN. § 651-B:1 (2014). Definitions.**

In this chapter:

I. “Department” means the department of safety.

II. “Division” means the division of state police, department of safety.

III. “Local law enforcement agency” means the chief of police in the city or town where the person resides or is temporarily domiciled, or, if the municipality has no police chief or if the person resides in an unincorporated place, the division.

IV. “Sexual offender” means a person who is required to register for any sexual offense.

V. “Sexual offense” means the following offenses, including an accomplice to, or an attempt, conspiracy, or solicitation to commit, any of the following offenses, where the victim was 18 years of age or older at the time of the offense:

(a) Capital murder, RSA 630:1, I(e); first degree murder, RSA 630:1-a, I(b)(1); aggravated felonious sexual assault, RSA 632-A:2; felonious sexual assault, 632-A:3; sexual assault, 632-A:4, I(a) or RSA 632-A:4, III; violation of privacy, RSA 644:9, I(a) or RSA 644:9, III-a; or a second or subsequent offense within a 5-year period for indecent exposure and lewdness, RSA 645:1, I.

(b) A law of another state, country, territory, tribal territory, or the federal government reasonably equivalent to a violation listed in subparagraph (a). For purposes of this...
section, the term “country” refers to Canada, Great Britain, Australia, and New Zealand, as well as any other country that the United States State Department has determined has an independent judiciary that generally enforces the right to a fair trial.

(c) Any offense for which the offender is required to register pursuant to the law in the jurisdiction where the conviction occurred.

(d) Any other criminal offense which is not specifically listed in subparagraph (a) if the court finds by clear and convincing evidence at the time of conviction or sentencing that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification and protection of the public would be furthered by requiring the person to register. In determining whether the offender should be required to register, the court may consider the offender's prior criminal history and any other relevant information. If the court determines that the offender should be required to register, the court shall determine whether the offender should be required to register pursuant to the requirements of a tier I, tier II, or tier III offender. In determining in which tier the offender should register, the court shall consider the nature of other offenses that are currently listed in each tier; the extent to which public safety would be furthered; whether the victim was a minor when the offense occurred; and any other relevant factors. The hearing at which such a determination is made shall comply with due process requirements, including a right to appeal the finding. The court shall provide the defendant an opportunity to be heard on the issue prior to the imposition of the registration requirement and shall state on the record the reasons for its findings and the reasons for requiring registration.

VI. “Offender against children” means a person who is required to register for an offense against a child.

VII. “Offense against a child” means the following offenses, including an accomplice to, or an attempt, conspiracy, or solicitation to commit, any of the following offenses:

(a) Any of the following offenses, where the victim was under the age of 18 at the time of the offense: capital murder, RSA 630:1, I(e); first degree murder, RSA 630:1-a, 1(b)(1); aggravated felonious sexual assault, RSA 632-A:2; felonious sexual assault, RSA 632-A:3; sexual assault, RSA 632-A:4, I(a) or RSA 632-A:4, III; kidnapping, RSA 633:1; criminal restraint, RSA 633:2; false imprisonment, RSA 633:3; incest, RSA 639:2; violation of privacy, RSA 644:9, I(a) or RSA 644:9, III-a; a second or subsequent offense within a 5-year period for indecent exposure and lewdness, RSA 645:1, I; indecent exposure and lewdness, RSA 645:1, II and RSA 645:1, III; or prostitution, RSA 645:2.

(b) Intentional contribution to the delinquency of a minor, RSA 169-B:41, II; sexual assault, RSA 632-A:4, I(b) if the actor was 18 years of age or older at the time of the offense; endangering the welfare of a child, RSA 639:3, III; possession of child sexual abuse images, RSA 649-A:3; distribution of child sexual abuse images, RSA 649-A:3-a; manufacture of child sexual abuse images, RSA 649-A:3-b; computer pornography, RSA
649-B:3; certain uses of computer services prohibited, RSA 649-B:4; or obscene matters, RSA 650:2, II.

(c) A law of another state, country, territory, tribal territory, or the federal government reasonably equivalent to a violation listed in subparagraph (a) or (b). For purposes of this section, the term “country” refers to Canada, Great Britain, Australia, and New Zealand, as well as any other country that the United States State Department has determined has an independent judiciary that generally enforces the right to a fair trial.

(d) Any offense involving a victim under the age of 18 for which the offender is required to register pursuant to the law in the jurisdiction where the conviction occurred.

(e) Any other criminal offense which is not specifically listed in subparagraph (a) if the court finds by clear and convincing evidence at the time of conviction or sentencing that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification and protection of the public would be furthered by requiring the person to register. In determining whether the offender is required to register, the court may consider the offender's prior criminal history and any other relevant information. If the court determines that the offender is required to register, the court shall determine if the offender shall register as a tier I, tier II, or tier III offender. In determining the tier in which the offender is to be registered, the court shall consider the nature of other offenses that are currently listed in each tier, the extent to which public safety would be furthered, whether the victim was a minor when the offense occurred, and any other relevant factors. The hearing at which such a determination is made shall comply with due process requirements, including a right to appeal the findings. The defendant shall have the opportunity to be heard prior to the imposition of the registration requirement, and the court shall state on the record the reasons for its findings and the reasons for requiring registration.

VIII. “Tier I offender” means a sexual offender or offender against children who is required to register pursuant to RSA 651-B:1, V(d) or RSA 651-B:1, VII(e), or is required to register as a result of any of the following offenses:

(a) RSA 632-A:4, I(a); RSA 632-A:4, I(b); RSA 632-A:4, III; RSA 644:9, I(a); RSA 644:9, III-a; or a second or subsequent offense within a 5-year period for indecent exposure and lewdness, RSA 645:1, I.

(b) A law of another state, territory, tribal territory, or the federal government reasonably equivalent to a violation listed in subparagraph (a).

(c) Any out-of-state offense for which the offender is required to register in the state where the conviction occurred and the division determines the offender is a tier I offender.
(d) Any offense not listed in subparagraph (a) where the court determined the offender is a tier I offender and required the offender to register.

IX. “Tier II offender” means a sexual offender or offender against children who is required to register pursuant to RSA 651-B:1, V(d) or RSA 651-B:1, VII(e), or is required to register as a result of any of the following offenses:

(a) RSA 169-B:41, II; RSA 632-A:3, I; RSA 632-A:3, II; RSA 632-A:3, IV if the victim was 13 years of age or older but less than 18 years of age; RSA 633:2; RSA 633:3; RSA 639:3, III; RSA 645:1, II; RSA 645:1, III; RSA 645:2; RSA 649-A:3; RSA 649-A:3-a; RSA 649-A:3-b; RSA 649-B:3; RSA 649-B:4; or RSA 650:2, II.

(b) A law of another state, territory, tribal territory, or the federal government reasonably equivalent to a violation listed in subparagraph (a).

(c) Any out-of-state offense for which the offender is required to register in the state where the conviction occurred and the division determines the offender is a tier II offender.

(d) The offender is required to register as a result of more than one sexual offense or offense against a child.

(e) Any offense not listed in subparagraph (a) where the court determined the offender is a tier II offender and required the offender to register.

X. “Tier III offender” means a sexual offender or offender against children who is required to register pursuant to RSA 651-B:1, V(d) or RSA 651-B:1, VII(e), or is required to register as a result of any of the following:

(a) RSA 630:1, I(e), RSA 630:1-a, I(b)(1), RSA 632-A:2, RSA 632-A:3, III, RSA 632-A:3, IV if the victim was under the age of 13, RSA 633:1; or RSA 639:2.

(b) Any sexual offense or offense against a child if the offender was sentenced to an extended term of imprisonment pursuant to RSA 651:6.

(c) Any person civilly committed as a sexually violent predator pursuant to RSA 135-E.

(d) A law of another state, territory, tribal territory, or the federal government reasonably equivalent to a violation listed in subparagraph (a).

(e) Any out-of-state offense for which the offender is required to register in the state where the conviction occurred, and the division determines the offender is a tier III offender.
(f) The offender is required to register as a result of more than 2 sexual offenses or offenses against a child.

(g) Any offense not listed in subparagraph (a) where the court determined the offender is a tier III offender and required the offender to register.

XI. (a) “Required to register” means that a sexual offender or offender against children was charged with an offense or an attempt, conspiracy, solicitation, or as an accomplice to commit a sexual offense or offense against a child that resulted in one of the following outcomes:

1. Conviction.

2. A finding of not guilty by reason of insanity.

3. An adjudication as a juvenile delinquent and the court at the time of the dispositional hearing finds, pursuant to RSA 169-B:19, that the juvenile is required to register.

4. An adjudication of juvenile delinquency or its equivalent in another state or territory of the United States if the juvenile is required to register under the laws of that jurisdiction.

5. An order committing the person as a sexually violent predator pursuant to RSA 135-E.

(b) A juvenile certified to stand trial as an adult, who is convicted, found not guilty by reason of insanity, or committed as a sexually violent predator, shall be treated as an adult for all purposes under this chapter.

XII. “SOR system” means the division of state police sex offender registry system.

XIII. Notwithstanding RSA 21:6-a, “residence” means a place where a person is living or temporarily staying for more than a total of 5 days during a one-month period, such as a shelter or structure that can be located by a street address, including, but not limited to, houses, apartment buildings, motels, hotels, homeless shelters, and recreational and other vehicles.


In this chapter:

I. “Actor” means a person accused of a crime of sexual assault.

I-a. “Affinity” means a relation which one spouse because of marriage has to blood relatives of the other spouse.
I-b. “Genital openings” means the internal or external genitalia including, but not limited to, the vagina, labia majora, labia minora, vulva, urethra or perineum.

I-c. “Pattern of sexual assault” means committing more than one act under RSA 632-A:2 or RSA 632-A:3, or both, upon the same victim over a period of 2 months or more and within a period of 5 years.

II. “Retaliate” means to undertake action against the interests of the victim, including, but not limited to:

(a) Physical or mental torment or abuse.

(b) Kidnapping, false imprisonment or extortion.

(c) Public humiliation or disgrace.

III. “Serious personal injury” means extensive bodily injury or disfigurement, extreme mental anguish or trauma, disease or loss or impairment of a sexual or reproductive organ.

IV. “Sexual contact” means the intentional touching whether directly, through clothing, or otherwise, of the victim's or actor's sexual or intimate parts, including emissions, tongue, anus, breasts, and buttocks. Sexual contact includes only that aforementioned conduct which can be reasonably construed as being for the purpose of sexual arousal or gratification.

V. (a) “Sexual penetration” means:

(1) Sexual intercourse; or

(2) Cunnilingus; or

(3) Fellatio; or

(4) Anal intercourse; or

(5) Any intrusion, however slight, of any part of the actor's body, including emissions, or any object manipulated by the actor into genital or anal openings of the victim's body; or

(6) Any intrusion, however slight, of any part of the victim's body, including emissions, or any object manipulated by the victim into the oral, genital, or anal openings of the actor's body; or

(7) Any act which forces, coerces, or intimidates the victim to perform any sexual penetration as defined in subparagraphs (1)-(6) on the actor, on another person, or on
himself.

(b) Emissions include semen, urine, and feces. Emission is not required as an element of any form of sexual penetration.

(c) “Objects” include animals as defined in RSA 644:8, II.

VI. “Therapy” means the treatment of bodily, mental, or behavioral disorders by remedial agents or methods.


I. A person is guilty of the felony of aggravated felonious sexual assault if such person engages in sexual penetration with another person under any of the following circumstances:

(a) When the actor overcomes the victim through the actual application of physical force, physical violence or superior physical strength.

(b) When the victim is physically helpless to resist.

(c) When the actor coerces the victim to submit by threatening to use physical violence or superior physical strength on the victim, and the victim believes that the actor has the present ability to execute these threats.

(d) When the actor coerces the victim to submit by threatening to retaliate against the victim, or any other person, and the victim believes that the actor has the ability to execute these threats in the future.

(e) When the victim submits under circumstances involving false imprisonment, kidnapping or extortion.

(f) When the actor, without the prior knowledge or consent of the victim, administers or has knowledge of another person administering to the victim any intoxicating substance which mentally incapacitates the victim.

(g) When the actor provides therapy, medical treatment or examination of the victim and in the course of that therapeutic or treating relationship or within one year of termination of that therapeutic or treating relationship:

(1) Acts in a manner or for purposes which are not professionally recognized as ethical or acceptable; or

(2) Uses this position as such provider to coerce the victim to submit.
(h) When, except as between legally married spouses, the victim has a disability that renders him or her incapable of freely arriving at an independent choice as to whether or not to engage in sexual conduct, and the actor knows or has reason to know that the victim has such a disability.

(i) When the actor through concealment or by the element of surprise is able to cause sexual penetration with the victim before the victim has an adequate chance to flee or resist.

(j) When, except as between legally married spouses, the victim is 13 years of age or older and under 16 years of age and:

1. the actor is a member of the same household as the victim; or
2. the actor is related by blood or affinity to the victim.

(k) When, except as between legally married spouses, the victim is 13 years of age or older and under 18 years of age and the actor is in a position of authority over the victim and uses this authority to coerce the victim to submit.

(l) When the victim is less than 13 years of age.

(m) When at the time of the sexual assault, the victim indicates by speech or conduct that there is not freely given consent to performance of the sexual act.

(n) When the actor is in a position of authority over the victim and uses this authority to coerce the victim to submit under any of the following circumstances:

1. When the actor has direct supervisory or disciplinary authority over the victim by virtue of the victim being incarcerated in a correctional institution, the secure psychiatric unit, or juvenile detention facility where the actor is employed; or
2. When the actor is a probation or parole officer or a juvenile probation and parole officer who has direct supervisory or disciplinary authority over the victim while the victim is on parole or probation or under juvenile probation.

Consent of the victim under any of the circumstances set forth in subparagraph (n) shall not be considered a defense.

II. A person is guilty of aggravated felonious sexual assault without penetration when he intentionally touches whether directly, through clothing, or otherwise, the genitalia of a person under the age of 13 under circumstances that can be reasonably construed as being for the purpose of sexual arousal or gratification.
III. A person is guilty of aggravated felonious sexual assault when such person engages in a pattern of sexual assault against another person, not the actor's legal spouse, who is less than 16 years of age. The mental state applicable to the underlying acts of sexual assault need not be shown with respect to the element of engaging in a pattern of sexual assault.

IV. A person is guilty of aggravated felonious sexual assault when such person engages in sexual penetration as defined in RSA 632-A:1, V with another person under 18 years of age whom such person knows to be his or her ancestor, descendant, brother or sister of the whole or half blood, uncle, aunt, nephew, or niece. The relationships referred to herein include blood relationships without regard to legitimacy, stepchildren, and relationships of parent and child by adoption.

<Paragraph V effective January 1, 2015.> 

V. Upon proof that the victim and defendant were intimate partners or family or household members, as those terms are defined in RSA 631:2-b, III, a conviction under this section shall be recorded as “Aggravated Felonious Sexual Assault--Domestic Violence.”

A person is guilty of a class B felony if such person:

I. Subjects a person to sexual contact and causes serious personal injury to the victim under any of the circumstances named in RSA 632-A:2; or

II. Engages in sexual penetration with a person, other than his legal spouse, who is 13 years of age or older and under 16 years of age where the age difference between the actor and the other person is 4 years or more; or

III. Engages in sexual contact with a person other than his legal spouse who is under 13 years of age.

IV. (a) Engages in sexual contact with the person, or causes the person to engage in sexual contact on himself or herself in the presence of the actor, when the actor is in a position of authority over the person and uses that authority to coerce the victim to submit under any of the following circumstances:

(1) When the actor has direct supervisory or disciplinary authority over the victim by virtue of the victim being incarcerated in a correctional institution, the secure psychiatric unit, or juvenile detention facility where the actor is employed; or

(2) When the actor is a probation or parole officer or a juvenile probation and parole officer who has direct supervisory or disciplinary authority over the victim while the victim is on parole or probation or under juvenile probation.
(b) Consent of the victim under any of the circumstances set forth in this paragraph shall not be considered a defense.

(c) For the purpose of this paragraph, “sexual contact” means the intentional touching of the person's sexual or intimate parts, including genitalia, anus, breasts, and buttocks, where such contact, or the causing of such contact, can reasonably be construed as being for the purpose of sexual arousal or gratification of the person in the position of authority, or the humiliation of the person being touched.

<[Paragraph V effective January 1, 2015.]> V. Upon proof that the victim and defendant were intimate partners or family or household members, as those terms are defined in RSA 631:2-b, III, a conviction under this section shall be recorded as “Felonious Sexual Assault--Domestic Violence.”


I. A person is guilty of a class A misdemeanor under any of the following circumstances:

(a) When the actor subjects another person who is 13 years of age or older to sexual contact under any of the circumstances named in RSA 632-A:2.

(b) When the actor subjects another person, other than the actor's legal spouse, who is 13 years of age or older and under 16 years of age to sexual contact where the age difference between the actor and the other person is 5 years or more.

(c) In the absence of any of the circumstances set forth in RSA 632-A:2, when the actor engages in sexual penetration with a person, other than the actor's legal spouse, who is 13 years of age or older and under 16 years of age where the age difference between the actor and the other person is 4 years or less.

II. A person found guilty under subparagraph I(c) of this section shall not be required to register as a sexual offender under RSA 651-B.

III. (a) A person is guilty of a misdemeanor if such person engages in sexual contact or sexual penetration with another person, or causes the person to engage in sexual contact on himself or herself in the presence of the actor, when the actor is in a position of authority over the person under any of the following circumstances:

(1) When the actor has direct supervisory or disciplinary authority over the victim by virtue of the victim being incarcerated in a correctional institution, the secure psychiatric unit, or juvenile detention facility where the actor is employed; or
(2) When the actor is a probation or parole officer or a juvenile probation and parole officer who has direct supervisory or disciplinary authority over the victim while the victim is on parole or probation or under juvenile probation.

(b) Consent of the victim under any of the circumstances set forth in this paragraph shall not be considered a defense.

(c) For the purpose of this paragraph, “sexual contact” means the intentional touching of the person's sexual or intimate parts, including genitalia, anus, breasts, and buttocks, where such contact, or the causing of such contact, can reasonably be construed as being for the purpose of sexual arousal or gratification of the person in the position of authority, or the humiliation of the person being touched.

<[Paragraph IV effective January 1, 2015.]>

IV. Upon proof that the victim and defendant were intimate partners or family or household members, as those terms are defined in RSA 631:2-b, III, a conviction under this section shall be recorded as “Sexual Assault--Domestic Violence.”


In this chapter:

I. “Child” means any person under the age of 18 years.

II. “Disseminate” means to import, publish, produce, print, manufacture, distribute, sell, lease, exhibit, or display.

III. “Sexually explicit conduct” means human masturbation, the touching of the actor's or other person's sexual organs in the context of a sexual relationship, sexual intercourse actual or simulated, normal or perverted, whether alone or between members of the same or opposite sex or between humans and animals, or any lewd exhibitions of the buttocks, genitals, flagellation, bondage, or torture. Sexual intercourse is simulated when it depicts explicit sexual intercourse that gives the appearance of the consummation of sexual intercourse, normal or perverted.

IV. “Visual representation” means any visual depiction, including any photograph, film, video, digital image, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where:

(a) The production of such visual depiction involves the use of a child engaging in or being engaged in sexually explicit conduct; or

(b) Such visual depiction is a digital image, computer image, or computer-generated image of a child engaging in or being engaged in sexually explicit conduct; or
(c) Such visual depiction has been created, adapted, or modified to appear that an identifiable child is engaging in or being engaged in sexually explicit conduct.

V. (a) “Identifiable child” means a person:

(1) Who was a child at the time the visual depiction was created, adapted, or modified; or

(2) Whose image as a child was used in creating, adapting, or modifying the visual depiction; and

(3) Who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature.

(b) The term “identifiable child” shall not be construed to require proof of the actual identity of the identifiable child.

VI. “Previous conviction” or “previously convicted” means having been convicted by a jury or a judge, or having plead guilty prior to the commission of the current offense. For purposes of this paragraph, a previous conviction need not have been affirmed on appeal.

VII. “Computer” means an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device, but such term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device.

I. No person shall knowingly:

(a) Buy, procure, possess, or control any visual representation of a child engaging in sexually explicit conduct; or

(b) Bring or cause to be brought into this state any visual representation of a child engaging in sexually explicit conduct.

II. An offense under this section shall be a class A felony if such person has had no previous convictions in this state or another jurisdiction for the conduct prohibited by paragraph I. Upon conviction of an offense under this section based on an indictment alleging that the person has been previously convicted of an offense under this section or a reasonably equivalent offense in another jurisdiction, the defendant may be sentenced to a maximum sentence not to exceed 20 years and a minimum sentence not to exceed 1/2 of the maximum sentence.
III. It shall be an affirmative defense to a charge of violating paragraph I of this section that the defendant:

(a) Possessed less than 3 images of any visual depiction proscribed by that paragraph; and

(b) Promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any visual depiction or copy thereof:

(1) Took reasonable steps to destroy each such visual depiction; or

(2) Reported the matter to a law enforcement agency and afforded that agency access to each such visual depiction.

I. No person shall:

(a) Knowingly sell, exchange, or otherwise transfer, or possess with intent to sell, exchange, or otherwise transfer any visual representation of a child engaging in or being engaged in sexually explicit conduct;

(b) Knowingly publish, exhibit, or otherwise make available any visual representation of a child engaging in or being engaged in sexually explicit conduct.

II. (a) If such person has had no previous convictions in this state or another state for the conduct prohibited by paragraph I, the defendant may be sentenced to a maximum sentence not to exceed 20 years and a minimum sentence not to exceed 1/2 of the maximum. Upon conviction of an offense under this section based on an indictment alleging that the person has been previously convicted of an offense under this section or a reasonably equivalent offense in an out-of-state jurisdiction, the defendant may be sentenced to a maximum sentence not to exceed 30 years and a minimum sentence not to exceed 1/2 of the minimum.

(b) If such person has no previous convictions in this state or another state for the conduct prohibited in paragraph I, and is convicted under subparagraph I(b) with having less than 3 images or visual representations, the defendant will be guilty of a class B felony.

III. Nothing in this chapter shall be construed to limit any law enforcement agency from possessing or displaying or otherwise make available any images as may be necessary to the performance of a valid law enforcement function.

I. No person shall knowingly create, produce, manufacture, or direct a visual representation of a child engaging in or being engaged in sexually explicit conduct, or
participate in that portion of such visual representation that consists of a child engaging in or being engaged in sexually explicit conduct.

II. If such person has had no previous convictions in this state or another state for the conduct prohibited in this section, the defendant may be sentenced to a maximum sentence not to exceed 30 years and a minimum sentence not to exceed 1/2 of the maximum. Upon conviction of an offense under this section based on an indictment alleging that the person has been previously convicted of an offense under this section or a reasonably equivalent offense in an out-of-state jurisdiction, a person may be sentenced to life imprisonment or for such term as the court may order.

**N.H. REV. STAT. ANN. § 650:2 (2014). Definitions.**

In this chapter:

I. “Disseminate” means to import, publish, produce, print, manufacture, distribute, sell, lease, exhibit or display.

II. “Knowledge” means general awareness of the nature of the content of the material.

III. “Material” means any printed matter, visual representation, live performance or sound recording including, but not limited to, books, magazines, motion picture films, pamphlets, phonographic records, pictures, photographs, figures, statues, plays, dances or other representation or embodiment of the obscene. Undeveloped photographs, molds, printing plates, and the like, shall be deemed obscene material notwithstanding that processing or other acts may be required to make the obscenity patent or to disseminate it.

IV. Material is “obscene” if, considered as a whole, to the average person

   (a) When applying the contemporary standards of the county within which the obscenity offense was committed, its predominant appeal is to the prurient interest in sex, that is, an interest in lewdness or lascivious thoughts;

   (b) It depicts or describes sexual conduct in a manner so explicit as to be patently offensive; and

   (c) It lacks serious literary, artistic, political or scientific value.

V. “Predominant appeal” shall be judged with reference to ordinary adults unless it appears from the character of the material or the circumstances of its dissemination to be designed for children or other specially susceptible audience.

VI. “Sexual conduct” means human masturbation, sexual intercourse, actual or simulated, normal or perverted, whether alone or between members of the same or opposite sex or between humans and animals, any depiction or representation of excretory functions, any
lewd exhibitions of the genitals, flagellation or torture in the context of a sexual relationship. Sexual intercourse is simulated when it depicts explicit sexual intercourse which gives the appearance of the consummation of sexual intercourse, normal or perverted.

VII. “Child” means a person under the age of 18.


I. A person is guilty of a misdemeanor if he commits obscenity when, with knowledge of the nature of content thereof, he:

(a) Sells, delivers or provides, or offers or agrees to sell, deliver or provide, any obscene material; or

(b) Presents or directs an obscene play, dance or performance, or participates in that portion thereof which makes it obscene; or

(c) Publishes, exhibits or otherwise makes available any obscene material; or

(d) Possesses any obscene material for purposes of sale or other commercial dissemination; or

(e) Sells, advertises or otherwise commercially disseminates material, whether or not obscene, by representing or suggesting that it is obscene.

II. A person who commits any of the acts specified in subparagraphs (a) through (e) of paragraph I with knowledge that such act involves a child in material deemed obscene pursuant to this chapter is guilty of:

(a) A class B felony if such person has had no prior convictions in this state or another state for the conduct described in this paragraph;

(b) A class A felony if such person has had one or more prior convictions in this state or another state for the conduct described in this paragraph.

III. For the second and for each subsequent violation of paragraph I, such person shall be guilty of a class B felony.

**NEW JERSEY**


a. (1) A person who has been convicted, adjudicated delinquent or found not guilty by reason of insanity for commission of a sex offense as defined in subsection b. of this section shall register as provided in subsections c. and d. of this section.
(2) A person who in another jurisdiction is required to register as a sex offender and (a) is enrolled on a full-time or part-time basis in any public or private educational institution in this State, including any secondary school, trade or professional institution, institution of higher education or other post-secondary school, or (b) is employed or carries on a vocation in this State, on either a full-time or a part-time basis, with or without compensation, for more than 14 consecutive days or for an aggregate period exceeding 30 days in a calendar year, shall register in this State as provided in subsections c. and d. of this section.

(3) A person who fails to register as required under this act shall be guilty of a crime of the third degree.

b. For the purposes of this act a sex offense shall include the following:

(1) Aggravated sexual assault, sexual assault, aggravated criminal sexual contact, kidnapping pursuant to paragraph (2) of subsection c. of N.J.S.2C:13-1 or an attempt to commit any of these crimes if the court found that the offender's conduct was characterized by a pattern of repetitive, compulsive behavior, regardless of the date of the commission of the offense or the date of conviction;

(2) A conviction, adjudication of delinquency, or acquittal by reason of insanity for aggravated sexual assault; sexual assault; aggravated criminal sexual contact; kidnapping pursuant to paragraph (2) of subsection c. of N.J.S.2C:13-1; endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of the child pursuant to subsection a. of N.J.S.2C:24-4; endangering the welfare of a child pursuant to paragraph (3) or (4) or subparagraph (a) of paragraph (5) of subsection b. of N.J.S.2C:24-4; luring or enticing pursuant to section 1 of P.L.1993, c. 291 (C.2C:13-6); criminal sexual contact pursuant to N.J.S.2C:14-3b. if the victim is a minor; kidnapping pursuant to N.J.S.2C:13-1, criminal restraint pursuant to N.J.S.2C:13-2, or false imprisonment pursuant to N.J.S.2C:13-3 if the victim is a minor and the offender is not the parent of the victim; knowingly promoting prostitution of a child pursuant to paragraph (3) or paragraph (4) of subsection b. of N.J.S.2C:34-1; or an attempt to commit any of these enumerated offenses if the conviction, adjudication of delinquency or acquittal by reason of insanity is entered on or after the effective date of this act or the offender is serving a sentence of incarceration, probation, parole or other form of community supervision as a result of the offense or is confined following acquittal by reason of insanity or as a result of civil commitment on the effective date of this act;

(3) A conviction, adjudication of delinquency or acquittal by reason of insanity for an offense similar to any offense enumerated in paragraph (2) or a sentence on the basis of criteria similar to the criteria set forth in paragraph (1) of this subsection entered or imposed under the laws of the United States, this State or another state.
(4) Notwithstanding the provisions of paragraph (1), (2) or (3) of this subsection, a sex offense shall not include an adjudication of delinquency for endangering the welfare of a child pursuant to paragraph (4) or (5) of subsection b. of N.J.S.2C:24-4, provided that the actor demonstrates that:

(a) the facts of the case are limited to the creation, exhibition or distribution of a photograph depicting nudity as defined in N.J.S.2C:24-4 through the use of an electronic communications device, an interactive wireless communications device, or a computer;

(b) the creator and subject of the photograph are juveniles or were juveniles at the time of its making; and

(c) the subject of the photograph whose nudity is depicted knowingly consented to the making of the photograph.

c. A person required to register under the provisions of this act shall do so on forms to be provided by the designated registering agency as follows:

(1) A person who is required to register and who is under supervision in the community on probation, parole, furlough, work release, or a similar program, shall register at the time the person is placed under supervision or no later than 120 days after the effective date of this act, whichever is later, in accordance with procedures established by the Department of Corrections, the Department of Human Services, the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c. 284 (C.52:17B-170) or the Administrative Office of the Courts, whichever is responsible for supervision;

(2) A person confined in a correctional or juvenile facility or involuntarily committed who is required to register shall register prior to release in accordance with procedures established by the Department of Corrections, the Department of Human Services or the Juvenile Justice Commission and, within 48 hours of release, shall also register with the chief law enforcement officer of the municipality in which the person resides or, if the municipality does not have a local police force, the Superintendent of State Police;

(3) A person moving to or returning to this State from another jurisdiction shall register with the chief law enforcement officer of the municipality in which the person will reside or, if the municipality does not have a local police force, the Superintendent of State Police within 120 days of the effective date of this act or 10 days of first residing in or returning to a municipality in this State, whichever is later;

(4) A person required to register on the basis of a conviction prior to the effective date who is not confined or under supervision on the effective date of this act shall register within 120 days of the effective date of this act with the chief law enforcement officer of the municipality in which the person will reside or, if the municipality does not have a local police force, the Superintendent of State Police;
(5) A person who in another jurisdiction is required to register as a sex offender and who is enrolled on a full-time or part-time basis in any public or private educational institution in this State, including any secondary school, trade or professional institution, institution of higher education or other post-secondary school shall, within ten days of commencing attendance at such educational institution, register with the chief law enforcement officer of the municipality in which the educational institution is located or, if the municipality does not have a local police force, the Superintendent of State Police;

(6) A person who in another jurisdiction is required to register as a sex offender and who is employed or carries on a vocation in this State, on either a full-time or a part-time basis, with or without compensation, for more than 14 consecutive days or for an aggregate period exceeding 30 days in a calendar year, shall, within ten days after commencing such employment or vocation, register with the chief law enforcement officer of the municipality in which the employer is located or where the vocation is carried on, as the case may be, or, if the municipality does not have a local police force, the Superintendent of State Police;

(7) In addition to any other registration requirements set forth in this section, a person required to register under this act who is enrolled at, employed by or carries on a vocation at an institution of higher education or other post-secondary school in this State shall, within ten days after commencing such attendance, employment or vocation, register with the law enforcement unit of the educational institution, if the institution has such a unit.

d. (1) Upon a change of address, a person shall notify the law enforcement agency with which the person is registered and shall re-register with the appropriate law enforcement agency no less than 10 days before he intends to first reside at his new address. Upon a change of employment or school enrollment status, a person shall notify the appropriate law enforcement agency no later than five days after any such change. A person who fails to notify the appropriate law enforcement agency of a change of address or status in accordance with this subsection is guilty of a crime of the third degree.

(2) A person required to register under this act shall provide the appropriate law enforcement agency with information as to whether the person has routine access to or use of a computer or any other device with Internet capability. A person who fails to notify the appropriate law enforcement agency of such information or of a change in the person's access to or use of a computer or other device with Internet capability or who provides false information concerning the person's access to or use of a computer or any other device with Internet capability is guilty of a crime of the third degree.

e. A person required to register under paragraph (1) of subsection b. of this section or under paragraph (3) of subsection b. due to a sentence imposed on the basis of criteria similar to the criteria set forth in paragraph (1) of subsection b. shall verify his address with the appropriate law enforcement agency every 90 days in a manner prescribed by the Attorney General. A person required to register under paragraph (2) of subsection b. of
this section or under paragraph (3) of subsection b. on the basis of a conviction for an offense similar to an offense enumerated in paragraph (2) of subsection b. shall verify his address annually in a manner prescribed by the Attorney General. In addition to address information, the person shall provide as part of the verification process any additional information the Attorney General may require. One year after the effective date of this act, the Attorney General shall review, evaluate and, if warranted, modify pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410 (C. 52:14B-1 et seq.) the verification requirement. Any person who knowingly provides false information concerning his place of residence or who fails to verify his address with the appropriate law enforcement agency or other entity, as prescribed by the Attorney General in accordance with this subsection, is guilty of a crime of the third degree.

f. Except as provided in subsection g. of this section, a person required to register under this act may make application to the Superior Court of this State to terminate the obligation upon proof that the person has not committed an offense within 15 years following conviction or release from a correctional facility for any term of imprisonment imposed, whichever is later, and is not likely to pose a threat to the safety of others.

g. A person required to register under this section who has been convicted of, adjudicated delinquent, or acquitted by reason of insanity for more than one sex offense as defined in subsection b. of this section or who has been convicted of, adjudicated delinquent, or acquitted by reason of insanity for aggravated sexual assault pursuant to subsection a. of N.J.S.2C:14-2 or sexual assault pursuant to paragraph (1) of subsection c. of N.J.S.2C:14-2 is not eligible under subsection f. of this section to make application to the Superior Court of this State to terminate the registration obligation.


a. (1) Any person having a legal duty for the care of a child or who has assumed responsibility for the care of a child who engages in sexual conduct which would impair or debauch the morals of the child is guilty of a crime of the second degree. Any other person who engages in conduct or who causes harm as described in this paragraph to a child is guilty of a crime of the third degree.

(2) Any person having a legal duty for the care of a child or who has assumed responsibility for the care of a child who causes the child harm that would make the child an abused or neglected child as defined in R.S.9:6-1, R.S.9:6-3 and P.L.1974, c. 119, § 1 (C.9:6-8.21) is guilty of a crime of the second degree. Any other person who engages in conduct or who causes harm as described in this paragraph to a child is guilty of a crime of the third degree.

b. (1) As used in this subsection:

“Child” means any person under 18 years of age.
“Distribute” means to sell, or to manufacture, give, provide, lend, trade, mail, deliver, publish, circulate, disseminate, present, exhibit, display, share, advertise, offer, or make available via the Internet or by any other means, whether for pecuniary gain or not. The term also includes an agreement or attempt to distribute.

“File-sharing program” means a computer program, application, software or operating system that allows the user of a computer on which such program, application, software or operating system is installed to designate files as available for searching by and copying to one or more other computers, to transmit such designated files directly to one or more other computers, and to request the transmission of such designated files directly from one or more other computers. The term “file-sharing program” includes but is not limited to a computer program, application or software that enables a computer user to participate in a peer-to-peer network.

“Internet” means the international computer network of both federal and non-federal interoperable packet switched data networks.

“Item depicting the sexual exploitation or abuse of a child” means a photograph, film, video, an electronic, electromagnetic or digital recording, an image stored or maintained in a computer program or file or in a portion of a file, or any other reproduction or reconstruction which depicts a child engaging in a prohibited sexual act or in the simulation of such an act.

“Peer-to-peer network” means a connection of computer systems through which files are shared directly between the systems on a network without the need of a central server.

“Prohibited sexual act” means

(a) Sexual intercourse; or

(b) Anal intercourse; or

(c) Masturbation; or

(d) Bestiality; or

(e) Sadism; or

(f) Masochism; or

(g) Fellatio; or

(h) Cunnilingus; or
(i) Nudity, if depicted for the purpose of sexual stimulation or gratification of any person who may view such depiction; or

(j) Any act of sexual penetration or sexual contact as defined in N.J.S.2C:14-1.

“Reproduction” means, but is not limited to, computer generated images.

(2) (Deleted by amendment, P.L.2001, c. 291).

(3) A person commits a crime of the first degree if he causes or permits a child to engage in a prohibited sexual act or in the simulation of such an act if the person knows, has reason to know or intends that the prohibited act may be photographed, filmed, reproduced, or reconstructed in any manner, including on the Internet, or may be part of an exhibition or performance.

(4) A person commits a crime of the second degree if he photographs or films a child in a prohibited sexual act or in the simulation of such an act or who uses any device, including a computer, to reproduce or reconstruct the image of a child in a prohibited sexual act or in the simulation of such an act.

(5)(a) A person commits a crime of the second degree if, by any means, including but not limited to the Internet, he:

(i) knowingly distributes an item depicting the sexual exploitation or abuse of a child;

(ii) knowingly possesses an item depicting the sexual exploitation or abuse of a child with the intent to distribute that item; or

(iii) knowingly stores or maintains an item depicting the sexual exploitation or abuse of a child using a file-sharing program which is designated as available for searching by or copying to one or more other computers.

In a prosecution under sub-subparagraph (iii) of this subparagraph, the State shall not be required to offer proof that an item depicting the sexual exploitation or abuse of a child had actually been searched, copied, transmitted or viewed by another user of the file-sharing program, or by any other person, and it shall be no defense that the defendant did not intend to distribute the item to another user of the file-sharing program or to any other person. Nor shall the State be required to prove that the defendant was aware that the item depicting the sexual exploitation or abuse of a child was available for searching or copying to one or more other computers, and the defendant shall be strictly liable for failing to designate the item as not available for searching or copying by one or more other computers.

Notwithstanding the provisions of subsection a. of N.J.S.2C:43-6, a person whose offense under this subparagraph involved 25 or more items depicting the sexual exploitation or
abuse of a child shall be sentenced to a mandatory minimum term of imprisonment, which shall be fixed at, or between, one-third and one-half of the sentence imposed by the court or five years, whichever is greater, during which the defendant shall be ineligible for parole.

Notwithstanding the provisions of subsection a. of N.J.S.2C:43-6, a person convicted of a second or subsequent offense under this subparagraph shall be sentenced to an extended term of imprisonment as set forth in N.J.S.2C:43-7. For the purposes of this subparagraph, an offense is considered a second or subsequent offense if the actor has at any time been convicted pursuant to paragraph (3), (4) or (5) of this subsection, or under any similar statute of the United States, this State or any other state for an offense that is substantially equivalent to paragraph (3), (4) or (5) of this subsection.

For purposes of this subparagraph, the term “possess” includes receiving, viewing, or having under one's control, through any means, including the Internet.

(b) A person commits a crime of the third degree if he knowingly possesses, knowingly views, or knowingly has under his control, through any means, including the Internet, an item depicting the sexual exploitation or abuse of a child.

Notwithstanding the provisions of subsection e. of N.J.S.2C:44-1, in any instance where a person was convicted of an offense under this subparagraph that involved 100 or more items depicting the sexual exploitation or abuse of a child, the court shall impose a sentence of imprisonment unless, having regard to the character and condition of the defendant, it is of the opinion that imprisonment would be a serious injustice which overrides the need to deter such conduct by others.

Notwithstanding the provisions of subsection a. of N.J.S.2C:43-6, a person convicted of a second or subsequent offense under this subparagraph shall be sentenced to an extended term of imprisonment as set forth in N.J.S.2C:43-7. For the purposes of this subparagraph, an offense is considered a second or subsequent offense if the actor has at any time been convicted pursuant to paragraph (3), (4) or (5) of this subsection, or under any similar statute of the United States, this State or any other state for an offense that is substantially equivalent to paragraph (3), (4) or (5) of this subsection.

Nothing in this subparagraph shall be construed to preclude or limit any prosecution or conviction for the offense set forth in subparagraph (a) of this paragraph.

(6) For purposes of this subsection, a person who is depicted as or presents the appearance of being under the age of 18 in any photograph, film, videotape, computer program or file, video game or any other reproduction or reconstruction shall be rebuttable presumed to be under the age of 18. If the child who is depicted as engaging in, or who is caused to engage in, a prohibited sexual act or simulation of a prohibited sexual act is under the age of 18, the actor shall be strictly liable and it shall not be a defense that the actor did not know that the child was under the age of 18, nor shall it be a
defense that the actor believed that the child was 18 years of age or older, even if such a mistaken belief was reasonable.

(7) For aggregation purposes, each depiction of the sexual exploitation or abuse of a child shall be considered a separate item, and each individual act of distribution of an item depicting the sexual exploitation or abuse of a child shall be considered a separate item. For purposes of determining the number of items depicting the sexual exploitation or abuse of a child for purposes of sentencing pursuant to subparagraph (a) of paragraph (5) of this subsection, the court shall aggregate all items involved, whether the act or acts constituting the violation occurred at the same time or at different times and, with respect to distribution, whether the act or acts of distribution were to the same person or several persons or occurred at different times, provided that each individual act was committed within the applicable statute of limitations. For purposes of determining the number of items depicting the sexual exploitation or abuse of a child for purposes of sentencing pursuant to subparagraph (b) of paragraph (5) of this subsection, the court shall aggregate all items involved, whether the possession of such items occurred at the same time or at different times, provided that each individual act was committed within the applicable statute of limitations.

NEW MEXICO

N.M. STAT. ANN. § 29-11A-3 (2014). Definitions
As used in the Sex Offender Registration and Notification Act:

A. “business day” means a day that is not a Saturday, a Sunday or a state holiday;

B. “conviction” means a conviction in any court of competent jurisdiction and includes a deferred sentence, but does not include a conditional discharge;

C. “department” means the department of public safety;

D. “institution of higher education” means a:

(1) private or public post-secondary educational institution;

(2) trade school; or

(3) professional school;

E. “habitually lives” means any place where a sex offender lives for at least thirty days in any three-hundred-sixty-five-day period;

F. “out-of-state registrant” means any person who establishes a residence in New Mexico while the person is required to register as a sex offender in another state or territory;
G. “registration requirement” means any requirement set forth in Section 29-11A-4 NMSA 1978 that requires a sex offender to register; provide information, including a DNA sample; renew, revise or change registration information; or provide written notice or disclosure regarding the sex offender's status as a sex offender;

H. “sex offender” means a person who:

(1) is a resident of New Mexico who is convicted of a sex offense pursuant to state, federal, tribal or military law;

(2) changes residence to New Mexico, when that person has been convicted of a sex offense pursuant to state, federal, tribal or military law;

(3) does not have an established residence in New Mexico, but lives in a shelter, halfway house or transitional living facility or stays in multiple locations in New Mexico and who has been convicted of a sex offense pursuant to state, federal, tribal or military law; or

(4) is a resident of another state and who has been convicted of a sex offense pursuant to state, federal, tribal or military law, but who is:

(a) employed full time or part time in New Mexico for a period of time exceeding fourteen days or for an aggregate period of time exceeding thirty days during any calendar year, including any employment or vocation, whether financially compensated, volunteered or for the purpose of government or educational benefit; or

(b) enrolled on a full-time or part-time basis in a private or public school or an institution of higher education in New Mexico;

I. “sex offense” means any of the following offenses or their equivalents in any other jurisdiction:

(1) aggravated criminal sexual penetration or criminal sexual penetration in the first, second, third or fourth degree, as provided in Section 30-9-11 NMSA 1978;

(2) criminal sexual contact in the fourth degree, as provided in Section 30-9-12 NMSA 1978;

(3) criminal sexual contact of a minor in the second, third or fourth degree, as provided in Section 30-9-13 NMSA 1978;

(4) sexual exploitation of children, as provided in Section 30-6A-3 NMSA 1978;

(5) sexual exploitation of children by prostitution, as provided in Section 30-6A-4 NMSA 1978;
(6) kidnapping, as provided in Section 30-4-1 NMSA 1978, when committed with the intent to inflict a sexual offense;

(7) false imprisonment, as provided in Section 30-4-3 NMSA 1978, when committed with the intent to inflict a sexual offense;

(8) aggravated indecent exposure, as provided in Section 30-9-14.3 NMSA 1978;

(9) enticement of child, as provided in Section 30-9-1 NMSA 1978;

(10) incest, as provided in Section 30-10-3 NMSA 1978, when the victim is younger than eighteen years of age;

(11) child solicitation by electronic communication device, as provided in Section 30-37-3.2 NMSA 1978, for convictions occurring on or after July 1, 2013;

(12) solicitation to commit criminal sexual contact of a minor in the second, third or fourth degree, as provided in Sections 30-9-13 and 30-28-3 NMSA 1978; or

(13) attempt to commit any of the sex offenses set forth in Paragraphs (1) through (11) of this subsection, as provided in Section 30-28-1 NMSA 1978; and

J. “social networking site” means an internet web site that facilitates online social interaction by offering a mechanism for communication with other users, where such users are likely to include a substantial number of minors under the age of sixteen, and allowing users, through the creation of web pages, profiles or other means, to provide information about themselves that is available to the public or to other users.


As used in the Sexual Exploitation of Children Act:

A. “prohibited sexual act” means:

(1) sexual intercourse, including genital-genital, oral-genital, anal-genital or oral-anal, whether between persons of the same or opposite sex;

(2) bestiality;

(3) masturbation;

(4) sadomasochistic abuse for the purpose of sexual stimulation; or
(5) lewd and sexually explicit exhibition with a focus on the genitals or pubic area of any person for the purpose of sexual stimulation;

B. “visual or print medium” means:

(1) any film, photograph, negative, slide, computer diskette, videotape, videodisc or any computer or electronically generated imagery; or

(2) any book, magazine or other form of publication or photographic reproduction containing or incorporating any film, photograph, negative, slide, computer diskette, videotape, videodisc or any computer generated or electronically generated imagery;

C. “performed publicly” means performed in a place that is open to or used by the public;

D. “manufacture” means the production, processing, copying by any means, printing, packaging or repackaging of any visual or print medium depicting any prohibited sexual act or simulation of such an act if one or more of the participants in that act is a child under eighteen years of age; and

E. “obscene” means any material, when the content if taken as a whole:

(1) appeals to a prurient interest in sex, as determined by the average person applying contemporary community standards;

(2) portrays a prohibited sexual act in a patently offensive way; and

(3) lacks serious literary, artistic, political or scientific value.

N.M. STAT. ANN. § 30-6A-3 (2014). Sexual exploitation of children
A. It is unlawful for a person to intentionally possess any obscene visual or print medium depicting any prohibited sexual act or simulation of such an act if that person knows or has reason to know that the obscene medium depicts any prohibited sexual act or simulation of such act and if that person knows or has reason to know that one or more of the participants in that act is a child under eighteen years of age. A person who violates the provisions of this subsection is guilty of a fourth degree felony.

B. It is unlawful for a person to intentionally distribute any obscene visual or print medium depicting any prohibited sexual act or simulation of such an act if that person knows or has reason to know that the obscene medium depicts any prohibited sexual act or simulation of such act and if that person knows or has reason to know that one or more of the participants in that act is a child under eighteen years of age. A person who violates the provisions of this subsection is guilty of a third degree felony.

C. It is unlawful for a person to intentionally cause or permit a child under eighteen years of age to engage in any prohibited sexual act or simulation of such an act if that person
knows, has reason to know or intends that the act may be recorded in any obscene visual or print medium or performed publicly. A person who violates the provisions of this subsection is guilty of a third degree felony, unless the child is under the age of thirteen, in which event the person is guilty of a second degree felony.

D. It is unlawful for a person to intentionally manufacture any obscene visual or print medium depicting any prohibited sexual act or simulation of such an act if one or more of the participants in that act is a child under eighteen years of age. A person who violates the provisions of this subsection is guilty of a second degree felony.

E. It is unlawful for a person to intentionally manufacture any obscene visual or print medium depicting any prohibited sexual act or simulation of such an act if that person knows or has reason to know that the obscene medium depicts a prohibited sexual act or simulation of such an act and if that person knows or has reason to know that a real child under eighteen years of age, who is not a participant, is depicted as a participant in that act. A person who violates the provisions of this subsection is guilty of a fourth degree felony.

F. It is unlawful for a person to intentionally distribute any obscene visual or print medium depicting any prohibited sexual act or simulation of such an act if that person knows or has reason to know that the obscene medium depicts a prohibited sexual act or simulation of such an act and if that person knows or has reason to know that a real child under eighteen years of age, who is not a participant, is depicted as a participant in that act. A person who violates the provisions of this subsection is guilty of a third degree felony.

G. The penalties provided for in this section shall be in addition to those set out in Section 30-9-11 NMSA 1978.


A. Any person knowingly receiving any pecuniary profit as a result of a child under the age of sixteen engaging in a prohibited sexual act with another is guilty of a second degree felony, unless the child is under the age of thirteen, in which event the person is guilty of a first degree felony.

B. Any person hiring or offering to hire a child over the age of thirteen and under the age of sixteen to engage in any prohibited sexual act is guilty of a second degree felony.

C. Any parent, legal guardian or person having custody or control of a child under sixteen years of age who knowingly permits that child to engage in or to assist any other person to engage in any prohibited sexual act or simulation of such an act for the purpose of producing any visual or print medium depicting such an act is guilty of a third degree felony.
NEW YORK

N.Y. CORRECT. LAW § 168-a (2014). Definitions
As used in this article, the following definitions apply:

1. “Sex offender” includes any person who is convicted of any of the offenses set forth in subdivision two or three of this section. Convictions that result from or are connected with the same act, or result from offenses committed at the same time, shall be counted for the purpose of this article as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this article.

2. “Sex offense” means: (a)(i) a conviction of or a conviction for an attempt to commit any of the provisions of sections 130.20, 130.25, 130.30, 130.40, 130.45, 130.60, 230.34, 250.50, 255.25, 255.26 and 255.27 or article two hundred sixty-three of the penal law, or section 135.05, 135.10, 135.20 or 135.25 of such law relating to kidnapping offenses, provided the victim of such kidnapping or related offense is less than seventeen years old and the offender is not the parent of the victim, or section 230.04, where the person patronized is in fact less than seventeen years of age, 230.05 or 230.06, or subdivision two of section 230.30, or section 230.32 or 230.33 of the penal law, or (ii) a conviction of or a conviction for an attempt to commit any of the provisions of section 235.22 of the penal law, or (iii) a conviction of or a conviction for an attempt to commit any provisions of the foregoing sections committed or attempted as a hate crime defined in section 485.05 of the penal law or as a crime of terrorism defined in section 490.25 of such law or as a sexually motivated felony defined in section 130.91 of such law; or

(b) a conviction of or a conviction for an attempt to commit any of the provisions of section 130.52 or 130.55 of the penal law, provided the victim of such offense is less than eighteen years of age; or

(c) a conviction of or a conviction for an attempt to commit any of the provisions of section 130.52 or 130.55 of the penal law regardless of the age of the victim and the offender has previously been convicted of: (i) a sex offense defined in this article, (ii) a sexually violent offense defined in this article, or (iii) any of the provisions of section 130.52 or 130.55 of the penal law, or an attempt thereof; or

(d) a conviction of (i) an offense in any other jurisdiction which includes all of the essential elements of any such crime provided for in paragraph (a), (b) or (c) of this subdivision or (ii) a felony in any other jurisdiction for which the offender is required to register as a sex offender in the jurisdiction in which the conviction occurred or, (iii) any of the provisions of 18 U.S.C. 2251, 18 U.S.C. 2251A, 18 U.S.C. 2252, 18 U.S.C. 2252A, 18 U.S.C. 2260, 18 U.S.C. 2422(b), 18 U.S.C. 2423, or 18 U.S.C. 2425, provided that the elements of such crime of conviction are substantially the same as those which are a part of such offense as of the date on which this subparagraph takes effect.
(e) a conviction of or a conviction for an attempt to commit any of the provisions of subdivision two, three or four of section 250.45 of the penal law, unless upon motion by the defendant, the trial court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, is of the opinion that registration would be unduly harsh and inappropriate.

3. “Sexually violent offender” means: (a)(i) a conviction of or a conviction for an attempt to commit any of the provisions of sections 130.35, 130.50, 130.65, 130.66, 130.67, 130.70, 130.75, 130.80, 130.95 and 130.96 of the penal law, or (ii) a conviction of or a conviction for an attempt to commit any of the provisions of sections 130.53, 130.65-a and 130.90 of the penal law, or (iii) a conviction of or a conviction for an attempt to commit any provisions of the foregoing sections committed or attempted as a hate crime defined in section 485.05 of the penal law or as a crime of terrorism defined in section 490.25 of such law; or

(b) a conviction of an offense in any other jurisdiction which includes all of the essential elements of any such felony provided for in paragraph (a) of this subdivision or conviction of a felony in any other jurisdiction for which the offender is required to register as a sex offender in the jurisdiction in which the conviction occurred.

4. “Law enforcement agency having jurisdiction” means: (a)(i) the chief law enforcement officer in the village, town or city in which the offender expects to reside upon his or her discharge, probation, parole, release to post-release supervision or upon any form of state or local conditional release; or (ii) if there be no chief law enforcement officer in such village, town or city, the chief law enforcement officer of the county in which the offender expects to reside; or (iii) if there be no chief law enforcement officer in such village, town, city or county, the division of state police; and (b) in the case of a sex offender who expects to reside within a state park or on other land under the jurisdiction of the office of parks, recreation and historic preservation, the state regional park police.

5. “Division” means the division of criminal justice services as defined by section eight hundred thirty-seven of the executive law.

6. “Hospital” means: (a) a hospital as defined in subdivision two of section four hundred of this chapter and applies to persons committed to such hospital by order of commitment made pursuant to article sixteen of this chapter; or (b) a secure treatment facility as
defined in section 10.03 of the mental hygiene law and applies to persons committed to such facility by an order made pursuant to article ten of the mental hygiene law.

7. (a) “Sexual predator” means a sex offender who has been convicted of a sexually violent offense defined in subdivision three of this section and who suffers from a mental abnormality or personality disorder that makes him or her likely to engage in predatory sexually violent offenses.

(b) “Sexually violent offender” means a sex offender who has been convicted of a sexually violent offense defined in subdivision three of this section.

(c) “Predicate sex offender” means a sex offender who has been convicted of an offense set forth in subdivision two or three of this section when the offender has been previously convicted of an offense set forth in subdivision two or three of this section.

8. “Mental abnormality” means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of other persons.

9. “Predatory” means an act directed at a stranger, or a person with whom a relationship has been established or promoted for the primary purpose of victimization.

10. “Board” means the “board of examiners of sex offenders” established pursuant to section one hundred sixty-eight-l of this article.

11. “Local correctional facility” means a local correctional facility as that term is defined in subdivision sixteen of section two of this chapter.

12. Probation means a sentence of probation imposed pursuant to article sixty-five of the penal law and shall include a sentence of imprisonment imposed in conjunction with a sentence of probation.

13. “Institution of higher education” means an institution in the state providing higher education as such term is defined in subdivision eight of section two of the education law.

14. “Nonresident worker” means any person required to register as a sex offender in another jurisdiction who is employed or carries on a vocation in this state, on either a full-time or a part-time basis, with or without compensation, for more than fourteen consecutive days, or for an aggregate period exceeding thirty days in a calendar year.

15. “Nonresident student” means a person required to register as a sex offender in another jurisdiction who is enrolled on a full-time or part-time basis in any public or private educational institution in this state including any secondary school, trade or professional institution or institution of higher education.
16. “Authorized internet entity” means any business, organization or other entity providing or offering a service over the internet which permits persons under eighteen years of age to access, meet, congregate or communicate with other users for the purpose of social networking. This definition shall not include general e-mail services.

17. “Internet access provider” means any business, organization or other entity engaged in the business of providing a computer and communications facility through which a customer may obtain access to the internet, but does not include a business, organization or other entity to the extent that it provides only telecommunications services.

18. “Internet identifiers” means electronic mail addresses and designations used for the purposes of chat, instant messaging, social networking or other similar internet communication.

N.Y. PENAL LAW § 130.20 (2014) Sexual misconduct
A person is guilty of sexual misconduct when:

1. He or she engages in sexual intercourse with another person without such person's consent; or

2. He or she engages in oral sexual conduct or anal sexual conduct with another person without such person's consent; or

3. He or she engages in sexual conduct with an animal or a dead human body.

Sexual misconduct is a class A misdemeanor.

N.Y. PENAL LAW § 263.00 (2014). Definitions
As used in this article the following definitions shall apply:

1. “Sexual performance” means any performance or part thereof which, for purposes of section 263.16 of this article, includes sexual conduct by a child less than sixteen years of age or, for purposes of section 263.05 or 263.15 of this article, includes sexual conduct by a child less than seventeen years of age.

2. “Obscene sexual performance” means any performance which, for purposes of section 263.11 of this article, includes sexual conduct by a child less than sixteen years of age or, for purposes of section 263.10 of this article, includes sexual conduct by a child less than seventeen years of age, in any material which is obscene, as such term is defined in section 235.00 of this chapter.

3. “Sexual conduct” means actual or simulated sexual intercourse, oral sexual conduct, anal sexual conduct, sexual bestiality, masturbation, sado-masochistic abuse, or lewd
exhibition of the genitals.

4. “Performance” means any play, motion picture, photograph or dance. Performance also means any other visual representation exhibited before an audience.

5. “Promote” means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, present, exhibit or advertise, or to offer or agree to do the same.

6. “Simulated” means the explicit depiction of any of the conduct set forth in subdivision three of this section which creates the appearance of such conduct and which exhibits any uncovered portion of the breasts, genitals or buttocks.

7. “Oral sexual conduct” and “anal sexual conduct” mean the conduct defined by subdivision two of section 130.00 of this chapter.

8. “Sado-masochistic abuse” means the conduct defined in subdivision five of section 235.20 of this chapter.

N.Y. Penal Law § 263.05 (2014). Use of a child in a sexual performance
A person is guilty of the use of a child in a sexual performance if knowing the character and content thereof he employs, authorizes or induces a child less than seventeen years of age to engage in a sexual performance or being a parent, legal guardian or custodian of such child, he consents to the participation by such child in a sexual performance.

Use of a child in a sexual performance is a class C felony.

N.Y. Penal Law § 263.10 (2014). Promoting an obscene sexual performance by a child
A person is guilty of promoting an obscene sexual performance by a child when, knowing the character and content thereof, he produces, directs or promotes any obscene performance which includes sexual conduct by a child less than seventeen years of age.

Promoting an obscene sexual performance by a child is a class D felony.

N.Y. Penal Law § 263.11 (2014). Possessing an obscene sexual performance by a child
A person is guilty of possessing an obscene sexual performance by a child when, knowing the character and content thereof, he knowingly has in his possession or control any obscene performance which includes sexual conduct by a child less than sixteen years of age.

Possessing an obscene sexual performance by a child is a class E felony.
**N.Y. Penal Law § 263.15 (2014). Promoting a sexual performance by a child**

A person is guilty of promoting a sexual performance by a child when, knowing the character and content thereof, he produces, directs or promotes any performance which includes sexual conduct by a child less than seventeen years of age.

Promoting a sexual performance by a child is a class D felony.

**N.Y. Penal Law § 263.16 (2014). Possessing a sexual performance by a child**

A person is guilty of possessing a sexual performance by a child when, knowing the character and content thereof, he knowingly has in his possession or control any performance which includes sexual conduct by a child less than sixteen years of age.

Possessing a sexual performance by a child is a class E felony.

**NORTH CAROLINA**

**N.C. Gen. Stat. § 14-208.6 (2014). Definitions**

The following definitions apply in this Article:

(1a) “Aggravated offense” means any criminal offense that includes either of the following: (i) engaging in a sexual act involving vaginal, anal, or oral penetration with a victim of any age through the use of force or the threat of serious violence; or (ii) engaging in a sexual act involving vaginal, anal, or oral penetration with a victim who is less than 12 years old.

(1b) “County registry” means the information compiled by the sheriff of a county in compliance with this Article.

(1c) “Division” means the Division of Criminal Information of the Department of Justice.

(1d) “Electronic mail” means the transmission of information or communication by the use of the Internet, a computer, a facsimile machine, a pager, a cellular telephone, a video recorder, or other electronic means sent to a person identified by a unique address or address number and received by that person.

(1e) “Employed” includes employment that is full-time or part-time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

(1f) “Entity” means a business or organization that provides Internet service, electronic communications service, remote computing service, online service, electronic mail service, or electronic instant message or chat services whether the business or organization is within or outside the State.
(1g) “Instant Message” means a form of real-time text communication between two or more people. The communication is conveyed via computers connected over a network such as the Internet.

(1h) “Institution of higher education” means any postsecondary public or private educational institution, including any trade or professional institution, college, or university.

(1i) “Internet” means the global information system that is logically linked together by a globally unique address space based on the Internet Protocol or its subsequent extensions; that is able to support communications using the Transmission Control Protocol/Internet Protocol suite, its subsequent extensions, or other Internet Protocol compatible protocols; and that provides, uses, or makes accessible, either publicly or privately, high-level services layered on the communications and related infrastructure described in this subdivision.

(1j) “Mental abnormality” means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of others.

(1k) “Nonresident student” means a person who is not a resident of North Carolina but who is enrolled in any type of school in the State on a part-time or full-time basis.

(1l) “Nonresident worker” means a person who is not a resident of North Carolina but who has employment or carries on a vocation in the State, on a part-time or full-time basis, with or without compensation or government or educational benefit, for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year.

(1m) “Offense against a minor” means any of the following offenses if the offense is committed against a minor, and the person committing the offense is not the minor's parent: G.S. 14-39 (kidnapping), G.S. 14-41 (abduction of children), and G.S. 14-43.3 (felonious restraint). The term also includes the following if the person convicted of the following is not the minor's parent: a solicitation or conspiracy to commit any of these offenses; aiding and abetting any of these offenses.

(1n) “Online identifier” means electronic mail address, instant message screen name, user ID, chat or other Internet communication name, but it does not mean social security number, date of birth, or pin number.

(2) “Penal institution” means:

a. A detention facility operated under the jurisdiction of the Section of Prisons of the Division of Adult Correction of the Department of Public Safety;
b. A detention facility operated under the jurisdiction of another state or the federal government; or

c. A detention facility operated by a local government in this State or another state.

(2a) “Personality disorder” means an enduring pattern of inner experience and behavior that deviates markedly from the expectations of the individual’s culture, is pervasive and inflexible, has an onset in adolescence or early adulthood, is stable over time, and leads to distress or impairment.

(2b) “Recidivist” means a person who has a prior conviction for an offense that is described in G.S. 14-208.6(4).

(3) “Release” means discharged or paroled.

(4) “Reportable conviction” means:

a. A final conviction for an offense against a minor, a sexually violent offense, or an attempt to commit any of those offenses unless the conviction is for aiding and abetting. A final conviction for aiding and abetting is a reportable conviction only if the court sentencing the individual finds that the registration of that individual under this Article furthers the purposes of this Article as stated in G.S. 14-208.5.

b. A final conviction in another state of an offense, which if committed in this State, is substantially similar to an offense against a minor or a sexually violent offense as defined by this section, or a final conviction in another state of an offense that requires registration under the sex offender registration statutes of that state.

c. A final conviction in a federal jurisdiction (including a court martial) of an offense, which is substantially similar to an offense against a minor or a sexually violent offense as defined by this section.

d. A final conviction for a violation of G.S. 14-202(d), (e), (f), (g), or (h), or a second or subsequent conviction for a violation of G.S. 14-202(a), (a1), or (c), only if the court sentencing the individual issues an order pursuant to G.S. 14-202(l) requiring the individual to register.

e. A final conviction for a violation of G.S. 14-43.14, only if the court sentencing the individual issues an order pursuant to G.S. 14-43.14(e) requiring the individual to register.

(5) “Sexually violent offense” means a violation of G.S. 14-27.2 (first degree rape), G.S. 14-27.2A (rape of a child; adult offender), G.S. 14-27.3 (second degree rape), G.S. 14-27.4 (first degree sexual offense), G.S. 14-27.4A (sex offense with a child; adult
offender), G.S. 14-27.5 (second degree sexual offense), G.S. 14-27.5A (sexual battery), former G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.7 (intercourse and sexual offense with certain victims), G.S. 14-27.7A(a) (statutory rape or sexual offense of person who is 13-, 14-, or 15-years-old where the defendant is at least six years older), G.S. 14-43.11 (human trafficking) if (i) the offense is committed against a minor who is less than 18 years of age or (ii) the offense is committed against any person with the intent that they be held in sexual servitude, G.S. 14-43.13 (subjecting or maintaining a person for sexual servitude), G.S. 14-178 (incest between near relatives), G.S. 14-190.6 (employing or permitting minor to assist in offenses against public morality and decency), G.S. 14-190.9(a1) (felonious indecent exposure), G.S. 14-190.16 (first degree sexual exploitation of a minor), G.S. 14-190.17 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third degree sexual exploitation of a minor), G.S. 14-202.1 (taking indecent liberties with children), G.S. 14-202.3 (Solicitation of child by computer or certain other electronic devices to commit an unlawful sex act), G.S. 14-202.4(a) (taking indecent liberties with a student), G.S. 14-205.2(c) or (d) (patronizing a prostitute who is a minor or a mentally disabled person), G.S. 14-205.3(b) (promoting prostitution of a minor or a mentally disabled person), G.S. 14-318.4(a1) (parent or caretaker commit or permit act of prostitution with or by a juvenile), or G.S. 14-318.4(a2) (commission or allowing of sexual act upon a juvenile by parent or guardian). The term also includes the following: a solicitation or conspiracy to commit any of these offenses; aiding and abetting any of these offenses.

(6) “Sexually violent predator” means a person who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in sexually violent offenses directed at strangers or at a person with whom a relationship has been established or promoted for the primary purpose of victimization.

(7) “Sheriff” means the sheriff of a county in this State.

(8) “Statewide registry” means the central registry compiled by the Division in accordance with G.S. 14-208.14.

(9) “Student” means a person who is enrolled on a full-time or part-time basis, in any postsecondary public or private educational institution, including any trade or professional institution, or other institution of higher education.

N.C. GEN. STAT. § 14-43.10 (2014). Definitions
(a) Definitions. -- The following definitions apply in this Article:

(1) Coercion. -- The term includes all of the following:

a. Causing or threatening to cause bodily harm to any person, physically restraining or confining any person, or threatening to physically restrain or confine any person.
(2) Deception. -- The term includes all of the following:

a. Creating or confirming another's impression of an existing fact or past event that is false and which the accused knows or believes to be false.

b. Maintaining the status or condition of a person arising from a pledge by that person of his or her personal services as security for a debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined, or preventing a person from acquiring information pertinent to the disposition of such debt.

c. Promising benefits or the performance of services that the accused does not intend to deliver or perform or knows will not be delivered or performed.

(3) Involuntary servitude. -- The term includes the following:

a. The performance of labor, whether or not for compensation, or whether or not for the satisfaction of a debt; and

b. By deception, coercion, or intimidation using violence or the threat of violence or by any other means of coercion or intimidation.

(4) Minor. -- A person who is less than 18 years of age.

(5) Sexual servitude. -- The term includes the following:

a. Any sexual activity as defined in G.S. 14-190.13 for which anything of value is directly or indirectly given, promised to, or received by any person, which conduct is induced or obtained by coercion or deception or which conduct is induced or obtained from a person under the age of 18 years; or

b. Any sexual activity as defined in G.S. 14-190.13 that is performed or provided by any person, which conduct is induced or obtained by coercion or deception or which conduct is induced or obtained from a person under the age of 18 years.
(a) A person commits the offense of sexual servitude when that person knowingly or in reckless disregard of the consequences of the action subjects or maintains another in sexual servitude.

(b) A person who violates this section is guilty of a Class D felony if the victim of the offense is an adult. A person who violates this section is guilty of a Class C felony if the victim of the offense is a minor.

(b1) Mistake of age is not a defense to prosecution under this section. Consent of a minor is not a defense to prosecution under this section.

(c) Each violation of this section constitutes a separate offense and shall not merge with any other offense. Evidence of failure to deliver benefits or perform services standing alone shall not be sufficient to authorize a conviction under this section.

The following definitions apply to G.S. 14-190.14, displaying material harmful to minors; G.S. 14-190.15, disseminating or exhibiting to minors harmful material or performances; G.S. 14-190.16, first degree sexual exploitation of a minor; G.S. 14-190.17, second degree sexual exploitation of a minor; G.S. 14-190.17A, third degree sexual exploitation of a minor.

(1) Harmful to Minors.--That quality of any material or performance that depicts sexually explicit nudity or sexual activity and that, taken as a whole, has the following characteristics:

a. The average adult person applying contemporary community standards would find that the material or performance has a predominant tendency to appeal to a prurient interest of minors in sex; and

b. The average adult person applying contemporary community standards would find that the depiction of sexually explicit nudity or sexual activity in the material or performance is patently offensive to prevailing standards in the adult community concerning what is suitable for minors; and

    c. The material or performance lacks serious literary, artistic, political, or scientific value for minors.

(2) Material.--Pictures, drawings, video recordings, films or other visual depictions or representations but not material consisting entirely of written words.

(3) Minor.--An individual who is less than 18 years old and is not married or judicially emancipated.
(4) Prostitution.--Engaging or offering to engage in sexual activity with or for another in exchange for anything of value.

(5) Sexual Activity.--Any of the following acts:

a. Masturbation, whether done alone or with another human or an animal.

b. Vaginal, anal, or oral intercourse, whether done with another human or with an animal.

c. Touching, in an act of apparent sexual stimulation or sexual abuse, of the clothed or unclothed genitals, pubic area, or buttocks of another person or the clothed or unclothed breasts of a human female.

d. An act or condition that depicts torture, physical restraint by being fettered or bound, or flagellation of or by a person clad in undergarments or in revealing or bizarre costume.

e. Excretory functions; provided, however, that this sub-subdivision shall not apply to G.S. 14-190.17A.

f. The insertion of any part of a person's body, other than the male sexual organ, or of any object into another person's anus or vagina, except when done as part of a recognized medical procedure.

g. The lascivious exhibition of the genitals or pubic area of any person.

(6) Sexually Explicit Nudity.--The showing of:

a. Uncovered, or less than opaquey covered, human genitals, pubic area, or buttocks, or the nipple or any portion of the areola of the human female breast, except as provided in G.S. 14-190.9(b); or

b. Covered human male genitals in a discernibly turgid state.

**N.C. Gen. Stat. § 14-190.16 (2014). First degree sexual exploitation of a minor**

(a) Offense.--A person commits the offense of first degree sexual exploitation of a minor if, knowing the character or content of the material or performance, he:

(1) Uses, employs, induces, coerces, encourages, or facilitates a minor to engage in or assist others to engage in sexual activity for a live performance or for the purpose of producing material that contains a visual representation depicting this activity; or

(2) Permits a minor under his custody or control to engage in sexual activity for a live performance or for the purpose of producing material that contains a visual representation
depicting this activity; or

(3) Transports or finances the transportation of a minor through or across this State with the intent that the minor engage in sexual activity for a live performance or for the purpose of producing material that contains a visual representation depicting this activity; or

(4) Records, photographs, films, develops, or duplicates for sale or pecuniary gain material that contains a visual representation depicting a minor engaged in sexual activity.

(b) Inference.--In a prosecution under this section, the trier of fact may infer that a participant in sexual activity whom material through its title, text, visual representations, or otherwise represents or depicts as a minor is a minor.

(c) Mistake of Age.--Mistake of age is not a defense to a prosecution under this section.

(d) Punishment and Sentencing.--Violation of this section is a Class C felony.

N.C. GEN. STAT. § 14-190.17 (2014). Second degree sexual exploitation of a minor
(a) Offense.--A person commits the offense of second degree sexual exploitation of a minor if, knowing the character or content of the material, he:

(1) Records, photographs, films, develops, or duplicates material that contains a visual representation of a minor engaged in sexual activity; or

(2) Distributes, transports, exhibits, receives, sells, purchases, exchanges, or solicits material that contains a visual representation of a minor engaged in sexual activity.

(b) Inference.--In a prosecution under this section, the trier of fact may infer that a participant in sexual activity whom material through its title, text, visual representations or otherwise represents or depicts as a minor is a minor.

(c) Mistake of Age.--Mistake of age is not a defense to a prosecution under this section.

(d) Punishment and Sentencing.--Violation of this section is a Class E felony.

N.C. GEN. STAT. § 14-190.17A (2014). Third degree sexual exploitation of a minor
(a) Offense.--A person commits the offense of third degree sexual exploitation of a minor if, knowing the character or content of the material, he possesses material that contains a visual representation of a minor engaging in sexual activity.

(b) Inference.--In a prosecution under this section, the trier of fact may infer that a participant in sexual activity whom material through its title, text, visual representations
or otherwise represents or depicts as a minor is a minor.

(c) Mistake of Age.--Mistake of age is not a defense to a prosecution under this section.

(d) Punishment and Sentencing.--Violation of this section is a Class H felony.

NORTH DAKOTA


1. As used in this section:

a. “A crime against a child” means a violation of chapter 12.1-16, section 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04, subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01, 12.1-18-02, 12.1-18-05, chapter 12.1-29, or subdivision a of subsection 1 or subsection 2 of section 14-09-22, labor trafficking in violation of chapter 12.1-40, or an equivalent offense from another court in the United States, a tribal court, or court of another country, in which the victim is a minor or is otherwise of the age required for the act to be a crime or an attempt or conspiracy to commit these offenses.

b. “Department” means the department of corrections and rehabilitation.

c. “Mental abnormality” means a congenital or acquired condition of an individual that affects the emotional or volitional capacity of the individual in a manner that predisposes that individual to the commission of criminal sexual acts to a degree that makes the individual a menace to the health and safety of other individuals.

d. “Predatory” means an act directed at a stranger or at an individual with whom a relationship has been established or promoted for the primary purpose of victimization.

e. “Sexual offender” means a person who has pled guilty to or been found guilty, including juvenile delinquent adjudications, of a violation of section 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-05.1, 12.1-20-06, 12.1-20-06.1, 12.1-20-07 except for subdivision a, 12.1-20-11, 12.1-20-12.1, or 12.1-20-12.2, chapter 12.1-27.2, or subsection 2 of section 12.1-22-03.1, sex trafficking in violation of chapter 12.1-40, or an equivalent offense from another court in the United States, a tribal court, or court of another country, or an attempt or conspiracy to commit these offenses.

f. “Sexually dangerous individual” means an individual who meets the definition specified in section 25-03.3-01.

g. “Temporarily domiciled” means staying or being physically present in this state for more than thirty days in a calendar year or at a location for longer than ten consecutive
days, attending school for longer than ten days, or maintaining employment in the jurisdiction for longer than ten days, regardless of the state of the residence.

2. The court shall impose, in addition to any penalty provided by law, a requirement that the individual register, within three days of coming into a county in which the individual resides or within the period identified in this section that the individual becomes temporarily domiciled. The individual must register with the chief of police of the city or the sheriff of the county if the individual resides, attends school, or is employed in an area other than a city. The court shall require an individual to register by stating this requirement on the court records, if that individual:

a. Has pled guilty or nolo contendere to, or been found guilty as a felonious sexual offender or an attempted felonious sexual offender, including juvenile delinquent adjudications of equivalent offenses unless the offense is listed in subdivision c.

b. Has pled guilty or nolo contendere to, or been found guilty as a sexual offender for, a misdemeanor or attempted misdemeanor. The court may deviate from requiring an individual to register if the court first finds the individual is no more than three years older than the victim if the victim is a minor, the individual has not previously been convicted as a sexual offender or of a crime against a child, and the individual did not exhibit mental abnormality or predatory conduct in the commission of the offense.

c. Is a juvenile found delinquent under subdivision d of subsection 1 of section 12.1-20-03, subdivision a of subsection 2 of section 12.1-20-03, or as a sexual offender for a misdemeanor. The court may deviate from requiring the juvenile to register if the court first finds the juvenile has not previously been convicted as a sexual offender or for a crime against a child, and the juvenile did not exhibit mental abnormality or predatory conduct in the commission of the offense.

d. Has pled guilty or nolo contendere to, or been found guilty of, a crime against a child or an attempted crime against a child, including juvenile delinquent adjudications of equivalent offenses. Except if the offense is described in section 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 and the person is not the parent of the victim, the court may deviate from requiring an individual to register if the court first finds the individual has not previously been convicted as a sexual offender or for a crime against a child, and the individual did not exhibit mental abnormality or predatory conduct in the commission of the offense.

e. Has pled guilty or nolo contendere, been found guilty, or been adjudicated delinquent of any crime against another individual which is not otherwise specified in this section if the court determines that registration is warranted by the nature of the crime and therefore orders registration for the individual. If the court orders an individual to register as an offender under this section, the individual shall comply with all of the registration requirements in this chapter.
3. If a court has not ordered an individual to register in this state, an individual who resides or is temporarily domiciled in this state shall register if the individual:

a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime against a child described in section 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 if the individual was not the parent of the victim, or as a sexual offender;

b. Has pled guilty or nolo contendere to, or been adjudicated for or found guilty of, an offense in a court of this state for which registration is mandatory under this section or an offense from another court in the United States, a tribal court, or court of another country equivalent to those offenses set forth in this section; or

c. Has pled guilty or nolo contendere to, or has been found guilty of, a crime against a child or as a sexual offender for which registration is mandatory under this section if the conviction occurred after July 31, 1985.

4. In its consideration of mental abnormality or predatory conduct, the court shall consider the age of the offender, the age of the victim, the difference in ages of the victim and offender, the circumstances and motive of the crime, the relationship of the victim and offender, and the mental state of the offender. The court may order an offender to be evaluated by a qualified counselor, psychologist, or physician before sentencing. Except as provided under subdivision e of subsection 2, the court shall state on the record in open court its affirmative finding for not requiring an offender to register.

5. When an individual is required to register under this section, the official in charge of a facility or institution where the individual required to register is confined, or the department, shall, before the discharge, parole, or release of that individual, inform the individual of the duty to register pursuant to this section. The official or the department shall require the individual to read and sign a form as required by the attorney general, stating that the duty of the individual to register has been explained to that individual. The official in charge of the place of confinement, or the department, shall obtain the address where the individual expects to reside, attend school, or work upon discharge, parole, or release and shall report the address to the attorney general. The official in charge of the place of confinement, or the department, shall give three copies of the form to the individual and shall send three copies to the attorney general no later than forty-five days before the scheduled release of that individual. The attorney general shall forward one copy to the law enforcement agency having jurisdiction where the individual expects to reside, attend school, or work upon discharge, parole, or release, one copy to the prosecutor who prosecuted the individual, and one copy to the court in which the individual was prosecuted. All forms must be transmitted and received by the law enforcement agency, prosecutor, and court thirty days before the discharge, parole, or release of the individual.

6. An individual who is required to register pursuant to this section who is released on probation or discharged upon payment of a fine must, before the release or discharge, be
informed of the duty to register under this section by the court in which that individual is convicted. The court shall require the individual to read and sign a form as required by the attorney general, stating that the duty of the individual to register under this section has been explained to that individual. The court shall obtain the address where the individual expects to reside, attend school, or work upon release or discharge and shall report the address to the attorney general within three days. The court shall give one copy of the form to the individual and shall send two copies to the attorney general. The attorney general shall forward one copy to the appropriate law enforcement agency having jurisdiction where the individual expects to reside, attend school, or work upon discharge, parole, or release.

7. Registration consists of a written statement signed by the individual, giving the information required by the attorney general, and the fingerprints and photograph of the individual. An individual who is not required to provide a sample of blood and other body fluids under section 31-13-03 or by the individual's state or court of conviction or adjudication shall submit a sample of blood and other body fluids for inclusion in a centralized database of DNA identification records under section 31-13-05. The collection, submission, testing and analysis of, and records produced from, samples of blood and other body fluids, are subject to chapter 31-13. Evidence of the DNA profile comparison is admissible in accordance with section 31-13-02. A report of the DNA analysis certified by the state crime laboratory is admissible in accordance with section 31-13-05. A district court shall order an individual who refuses to submit a sample of blood or other body fluids for registration purposes to show cause at a specified time and place why the individual should not be required to submit the sample required under this subsection. Within three days after registration, the registering law enforcement agency shall forward the statement, fingerprints, and photograph to the attorney general and shall submit the sample of the individual's blood and body fluids to the state crime laboratory. If an individual required to register under this section has a change in vehicle or computer online identity, the individual shall inform in writing, within three days after the change, the law enforcement agency with which that individual last registered of the individual's new vehicle or computer online identity. If an individual required to register pursuant to this section has a change in name, school, or residence or employment address, that individual shall inform in writing, at least ten days before the change, the law enforcement agency with which that individual last registered of the individual's new name, school, residence address, or employment address. A change in school or employment address includes the termination of school or employment for which an individual required to register under this section shall inform in writing within five days of the termination the law enforcement agency with which the individual last registered. The law enforcement agency, within three days after receipt of the information, shall forward it to the attorney general. The attorney general shall forward the appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence, school, or employment. Upon a change of address, the individual required to register shall also register within three days at the law enforcement agency having local jurisdiction of the new place of residence, school, or employment. The individual registering under this section shall periodically confirm the information required under
this subsection in a manner and at an interval determined by the attorney general. A law enforcement agency that has previously registered an offender may omit the fingerprint portion of the registration if that agency has a set of fingerprints on file for that individual and is personally familiar with and can visually identify the offender. These provisions also apply in any other state that requires registration.

8. An individual required to register under this section shall comply with the registration requirement for the longer of the following periods:

a. A period of fifteen years after the date of sentence or order deferring or suspending sentence upon a plea or finding of guilt or after release from incarceration, whichever is later;

b. A period of twenty-five years after the date of sentence or order deferring or suspending sentence upon a plea or finding of guilt or after release from incarceration, whichever is later, if the offender is assigned a moderate risk by the attorney general as provided in subsection 12; or

c. For the life of the individual, if that individual:

(1) On two or more occasions has pled guilty or nolo contendere to, or been found guilty of a crime against a child or as a sexual offender. If all qualifying offenses are misdemeanors, this lifetime provision does not apply unless a qualifying offense was committed after August 1, 1999;

(2) Pleads guilty or nolo contendere to, or is found guilty of, an offense committed after August 1, 1999, which is described in subdivision a of subsection 1 of section 12.1-20-03, section 12.1-20-03.1, or subdivision d of subsection 1 of section 12.1-20-03 if the person is an adult and the victim is under age twelve, or section 12.1-18-01 if that individual is an adult other than a parent of the victim, or an equivalent offense from another court in the United States, a tribal court, or court of another country; or

(3) Is assigned a high risk by the attorney general as provided in subsection 12.

9. An individual required to register under this section who violates this section is guilty of a class C felony. The clerk of court shall forward all warrants issued for a violation of this section to the county sheriff, who shall enter all such warrants into the national crime information center wanted person file. A court may not relieve an individual, other than a juvenile, who violates this section from serving a term of at least ninety days in jail and completing probation of one year.

10. When an individual is released on parole or probation and is required to register pursuant to this section, but fails to do so within the time prescribed, the court shall order the probation, or the parole board shall order the parole, of the individual revoked.
11. If an individual required to register pursuant to this section is temporarily sent outside the facility or institution where that individual is confined under conviction or sentence, the local law enforcement agency having jurisdiction over the place where that individual is being sent must be notified within a reasonable time period before that individual is released from the facility or institution. This subsection does not apply to any individual temporarily released under guard from the facility or institution in which that individual is confined.

12. The attorney general, with the assistance of the department and the juvenile courts, shall develop guidelines for the risk assessment of sexual offenders who are required to register, with a low-risk, moderate-risk, or high-risk level being assigned to each offender as follows:

a. The department shall conduct a risk assessment of sexual offenders who are incarcerated in institutions under the control of the department and sexual offenders who are on supervised probation. The department, in a timely manner, shall provide the attorney general any information, including the offender's level of risk and supporting documentation, concerning individuals required to be registered under this section who are about to be released or placed into the community.

b. The attorney general shall conduct a risk assessment of sexual offenders who are not under the custody or supervision of the department. The attorney general may adopt a law enforcement agency's previous assignment of risk level for an individual if the assessment was conducted in a manner substantially similar to the guidelines developed under this subsection.

c. The juvenile courts or the agency having legal custody of a juvenile shall conduct a risk assessment of juvenile sexual offenders who are required to register under this section. The juvenile courts or the agency having legal custody of a juvenile shall provide the attorney general any information, including the offender's level of risk and supporting documentation, concerning juveniles required to register and who are about to be released or placed into the community.

d. The attorney general shall notify the offender of the risk level assigned to that offender. An offender may request a review of that determination with the attorney general’s sexual offender risk assessment committee and may present any information that the offender believes may lower the assigned risk level.

13. Relevant and necessary conviction and registration information must be disclosed to the public by a law enforcement agency if the individual is a moderate or high risk and the agency determines that disclosure of the conviction and registration information is necessary for public protection. The attorney general shall develop guidelines for public disclosure of offender registration information. Public disclosure may include internet access if the offender:
a. Is required to register for a lifetime under subsection 8;

b. Has been determined to be a high risk to the public by the department, the attorney general, or the courts, according to guidelines developed by those agencies; or

c. Has been determined to be a high risk to the public by an agency of another state or the federal government.

If the offender has been determined to be a moderate risk, public disclosure must include, at a minimum, notification of the offense to the victim registered under chapter 12.1-34 and to any agency, civic organization, or group of persons who have characteristics similar to those of a victim of the offender. Upon request, law enforcement agencies may release conviction and registration information regarding low-risk, moderate-risk, or high-risk offenders.

14. A state officer, law enforcement agency, or public school district or governing body of a nonpublic school or any appointee, officer, or employee of those entities is not subject to civil or criminal liability for making risk determinations, allowing a sexual offender to attend a school function under section 12.1-20-25, or for disclosing or for failing to disclose information as permitted by this section.

15. If a juvenile is adjudicated delinquent and required or ordered to register as a sexual offender or as an offender against a child under this section, the juvenile shall comply with the registration requirements in this section. Notwithstanding any other provision of law, a law enforcement agency shall register a juvenile offender in the same manner as adult offenders and may release any relevant and necessary information on file to other law enforcement agencies, the department of human services, or the public if disclosure is necessary to protect public health or safety. The law enforcement agency shall release any relevant and necessary information on file to the superintendent or principal of the school the juvenile attends. The school administration shall notify others in similar positions if the juvenile transfers to another learning institution in or outside the state.

16. If an individual has been required to register as a sexual offender or an offender against a child under section 12.1-32-15 or 27-20-52.1 before August 1, 1999, the individual may petition the court to be removed from the offender list if registration is no longer mandatory for that individual. In considering the petition, the court shall comply with the requirements of this section.

17. A sexual offender who is currently assigned a moderate or high-risk level by the attorney general may not use a state park of this state as a residence or residential address to comply with the registration requirements of this section. Before arriving at a state park for overnight lodging or camping, a sexual offender who is assigned a moderate or high-risk level by the attorney general shall notify a parks and recreation department law enforcement officer at the state park where the sexual offender will be staying.
N.D. CENT. CODE § 12.1-27.2-01 (2014). Definitions
As used in this chapter:

1. “Obscene sexual performance” means any performance which includes sexual conduct by a minor in any obscene material or obscene performance, as defined in section 12.1-27.1-01.

2. “Performance” means any play, motion picture, photograph, dance, or other visual representation, or any part of a performance.

3. “Promote” means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise.

4. “Sexual conduct” means actual or simulated sexual intercourse, sodomy, sexual bestiality, masturbation, sadomasochistic abuse, or lewd exhibition of the buttocks, breasts, or genitals, including the further definitions of sodomy and sadomasochistic abuse under section 12.1-27.1-01.

5. “Sexual performance” means any performance which includes sexual conduct by a minor.

6. “Simulated” means the explicit depiction of any of the conduct set forth in subsection 4 which creates the appearance of actual sexual conduct and which exhibits any nude or partially denuded human figure, as defined in section 12.1-27.1-03.1.

A person is guilty of a class B felony if, knowing the character and content of a performance, that person employs, authorizes, or induces a minor to engage in sexual conduct during a performance or, if being a parent, legal guardian, or custodian of a minor, that person consents to the participation by the minor in sexual conduct during a performance.

N.D. CENT. CODE § 12.1-27.2-03 (2014). Promoting or directing an obscene sexual performance by a minor
A person is guilty of a class B felony if, knowing the character and content of a performance, that person produces, directs, or promotes any obscene performance which includes sexual conduct by a person who was a minor at the time of the performance.

A person is guilty of a class C felony if, knowing the character and content of a performance, that person produces, directs, or promotes any performance which includes sexual conduct by a person who was a minor at the time of the performance.
A person is guilty of a class C felony if, knowing of its character and content, that person knowingly possesses any motion picture, photograph, or other visual representation that includes sexual conduct by a minor.

OHIO

OHIO REV. CODE ANN. § 2950.01 (2014). Definitions
As used in this chapter, unless the context clearly requires otherwise:

(A) “Sexually oriented offense” means any of the following violations or offenses committed by a person, regardless of the person's age:

(1) A violation of section 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.21, 2907.22, 2907.32, 2907.321, 2907.322, or 2907.323 of the Revised Code;

(2) A violation of section 2907.04 of the Revised Code when the offender is less than four years older than the other person with whom the offender engaged in sexual conduct, the other person did not consent to the sexual conduct, and the offender previously has not been convicted of or pleaded guilty to a violation of section 2907.02, 2907.03, or 2907.04 of the Revised Code or a violation of former section 2907.12 of the Revised Code;

(3) A violation of section 2907.04 of the Revised Code when the offender is at least four years older than the other person with whom the offender engaged in sexual conduct or when the offender is less than four years older than the other person with whom the offender engaged in sexual conduct and the offender previously has been convicted of or pleaded guilty to a violation of section 2907.02, 2907.03, or 2907.04 of the Revised Code or a violation of former section 2907.12 of the Revised Code;

(4) A violation of section 2903.01, 2903.02, or 2903.11 of the Revised Code when the violation was committed with a sexual motivation;

(5) A violation of division (A) of section 2903.04 of the Revised Code when the offender committed or attempted to commit the felony that is the basis of the violation with a sexual motivation;

(6) A violation of division (A)(3) of section 2903.211 of the Revised Code;

(7) A violation of division (A)(1), (2), (3), or (5) of section 2905.01 of the Revised Code when the offense is committed with a sexual motivation;

(8) A violation of division (A)(4) of section 2905.01 of the Revised Code;
(9) A violation of division (B) of section 2905.01 of the Revised Code when the victim of the offense is under eighteen years of age and the offender is not a parent of the victim of the offense;

(10) A violation of division (B) of section 2903.03, of division (B) of section 2905.02, of division (B) of section 2905.03, of division (B) of section 2905.05, or of division (B)(5) of section 2919.22 of the Revised Code;

(11) A violation of section 2905.32 of the Revised Code when any of the following applies:

(a) The violation is a violation of division (A)(1) of that section and the offender knowingly recruited, lured, enticed, isolated, harbored, transported, provided, obtained, or maintained, or knowingly attempted to recruit, lure, entice, isolate, harbor, transport, provide, obtain, or maintain, another person knowing that the person would be compelled to engage in sexual activity for hire, engage in a performance that was obscene, sexually oriented, or nudity oriented, or be a model or participant in the production of material that was obscene, sexually oriented, or nudity oriented.

(b) The violation is a violation of division (A)(2) of that section and the offender knowingly recruited, lured, enticed, isolated, harbored, transported, provided, obtained, or maintained, or knowingly attempted to recruit, lure, entice, isolate, harbor, transport, provide, obtain, or maintain a person who is less than sixteen years of age or is a developmentally disabled person whom the offender knows or has reasonable cause to believe is a developmentally disabled person for any purpose listed in divisions (A)(2)(a) to (c) of that section.

(c) The violation is a violation of division (A)(3) of that section, the offender knowingly recruited, lured, enticed, isolated, harbored, transported, provided, obtained, or maintained, or knowingly attempted to recruit, lure, entice, isolate, harbor, transport, provide, obtain, or maintain a person who is sixteen or seventeen years of age for any purpose listed in divisions (A)(2)(a) to (c) of that section, and the circumstances described in division (A)(5), (6), (7), (8), (9), (10), (11), (12), or (13) of section 2907.03 of the Revised Code apply with respect to the offender and the other person.

(12) A violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to any offense listed in division (A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), or (11) of this section;

(13) A violation of division (A)(3) of section 2907.24 of the Revised Code;
(14) Any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in division (A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), or (13) of this section.

(B)(1) “Sex offender” means, subject to division (B)(2) of this section, a person who is convicted of, pleads guilty to, has been convicted of, has pleaded guilty to, is adjudicated a delinquent child for committing, or has been adjudicated a delinquent child for committing any sexually oriented offense.

(2) “Sex offender” does not include a person who is convicted of, pleads guilty to, has been convicted of, has pleaded guilty to, is adjudicated a delinquent child for committing, or has been adjudicated a delinquent child for committing a sexually oriented offense if the offense involves consensual sexual conduct or consensual sexual contact and either of the following applies:

(a) The victim of the sexually oriented offense was eighteen years of age or older and at the time of the sexually oriented offense was not under the custodial authority of the person who is convicted of, pleads guilty to, has been convicted of, has pleaded guilty to, is adjudicated a delinquent child for committing, or has been adjudicated a delinquent child for committing the sexually oriented offense.

(b) The victim of the offense was thirteen years of age or older, and the person who is convicted of, pleads guilty to, has been convicted of, has pleaded guilty to, is adjudicated a delinquent child for committing, or has been adjudicated a delinquent child for committing the sexually oriented offense is not more than four years older than the victim.

(C) “Child-victim oriented offense” means any of the following violations or offenses committed by a person, regardless of the person’s age, when the victim is under eighteen years of age and is not a child of the person who commits the violation:

(1) A violation of division (A)(1), (2), (3), or (5) of section 2905.01 of the Revised Code when the violation is not included in division (A)(7) of this section;

(2) A violation of division (A) of section 2905.02, division (A) of section 2905.03, or division (A) of section 2905.05 of the Revised Code;

(3) A violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to any offense listed in division (C)(1) or (2) of this section;

(4) Any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in division (C)(1), (2), or (3) of this section.
(D) “Child-victim offender” means a person who is convicted of, pleads guilty to, has been convicted of, has pleaded guilty to, is adjudicated a delinquent child for committing, or has been adjudicated a delinquent child for committing any child-victim oriented offense.

(E) “Tier I sex offender/child-victim offender” means any of the following:

(1) A sex offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to any of the following sexually oriented offenses:

(a) A violation of section 2907.06, 2907.07, 2907.08, 2907.22, or 2907.32 of the Revised Code;

(b) A violation of section 2907.04 of the Revised Code when the offender is less than four years older than the other person with whom the offender engaged in sexual conduct, the other person did not consent to the sexual conduct, and the offender previously has not been convicted of or pleaded guilty to a violation of section 2907.02, 2907.03, or 2907.04 of the Revised Code or a violation of former section 2907.12 of the Revised Code;

(c) A violation of division (A)(1), (2), (3), or (5) of section 2907.05 of the Revised Code;

(d) A violation of division (A)(3) of section 2907.323 of the Revised Code;

(e) A violation of division (A)(3) of section 2903.211, of division (B) of section 2905.03, or of division (B) of section 2905.05 of the Revised Code;

(f) A violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States, that is or was substantially equivalent to any offense listed in division (E)(1)(a), (b), (c), (d), or (e) of this section;

(g) Any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in division (E)(1)(a), (b), (c), (d), (e), or (f) of this section.

(2) A child-victim offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to a child-victim oriented offense and who is not within either category of child-victim offender described in division (F)(2) or (G)(2) of this section.

(3) A sex offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any sexually oriented offense and who a juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a tier I sex offender/child-victim offender relative to the offense.
(4) A child-victim offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any child-victim oriented offense and who a juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a tier I sex offender/child-victim offender relative to the offense.

(F) “Tier II sex offender/child-victim offender” means any of the following:

(1) A sex offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to any of the following sexually oriented offenses:

(a) A violation of section 2907.21, 2907.321, or 2907.322 of the Revised Code;

(b) A violation of section 2907.04 of the Revised Code when the offender is at least four years older than the other person with whom the offender engaged in sexual conduct, or when the offender is less than four years older than the other person with whom the offender engaged in sexual conduct and the offender previously has been convicted of or pleaded guilty to a violation of section 2907.02, 2907.03, or 2907.04 of the Revised Code or former section 2907.12 of the Revised Code;

(c) A violation of division (A)(4) of section 2907.05, of division (A)(3) of section 2907.24, or of division (A)(1) or (2) of section 2907.323 of the Revised Code;

(d) A violation of division (A)(1), (2), (3), or (5) of section 2905.01 of the Revised Code when the offense is committed with a sexual motivation;

(e) A violation of division (A)(4) of section 2905.01 of the Revised Code when the victim of the offense is eighteen years of age or older;

(f) A violation of division (B) of section 2905.02 or of division (B)(5) of section 2919.22 of the Revised Code;

(g) A violation of section 2905.32 of the Revised Code that is described in division (A)(11)(a), (b), or (c) of this section;

(h) A violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to any offense listed in division (F)(1)(a), (b), (c), (d), (e), (f), or (g) of this section;

(i) Any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in division (F)(1)(a), (b), (c), (d), (e), (f), (g), or (h) of this section;
(j) Any sexually oriented offense that is committed after the sex offender previously has been convicted of, pleaded guilty to, or has been adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense for which the offender was classified a tier I sex offender/child-victim offender.

(2) A child-victim offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to any child-victim oriented offense when the child-victim oriented offense is committed after the child-victim offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense for which the offender was classified a tier I sex offender/child-victim offender.

(3) A sex offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any sexually oriented offense and who a juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a tier II sex offender/child-victim offender relative to the offense.

(4) A child-victim offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any child-victim oriented offense and whom a juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a tier II sex offender/child-victim offender relative to the current offense.

(5) A sex offender or child-victim offender who is not in any category of tier II sex offender/child-victim offender set forth in division (F)(1), (2), (3), or (4) of this section, who prior to January 1, 2008, was adjudicated a delinquent child for committing a sexually oriented offense or child-victim oriented offense, and who prior to that date was determined to be a habitual sex offender or determined to be a habitual child-victim offender, unless either of the following applies:

(a) The sex offender or child-victim offender is reclassified pursuant to section 2950.031 or 2950.032 of the Revised Code as a tier I sex offender/child-victim offender or a tier III sex offender/child-victim offender relative to the offense.

(b) A juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies the child a tier I sex offender/child-victim offender or a tier III sex offender/child-victim offender relative to the offense.

(G) “Tier III sex offender/child-victim offender” means any of the following:

(1) A sex offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to any of the following sexually oriented offenses:

(a) A violation of section 2907.02 or 2907.03 of the Revised Code;
(b) A violation of division (B) of section 2907.05 of the Revised Code;

(c) A violation of section 2903.01, 2903.02, or 2903.11 of the Revised Code when the violation was committed with a sexual motivation;

(d) A violation of division (A) of section 2903.04 of the Revised Code when the offender committed or attempted to commit the felony that is the basis of the violation with a sexual motivation;

(e) A violation of division (A)(4) of section 2905.01 of the Revised Code when the victim of the offense is under eighteen years of age;

(f) A violation of division (B) of section 2905.01 of the Revised Code when the victim of the offense is under eighteen years of age and the offender is not a parent of the victim of the offense;

(g) A violation of division (B) of section 2903.03 of the Revised Code;

(h) A violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to any offense listed in division (G)(1)(a), (b), (c), (d), (e), (f), or (g) of this section;

(i) Any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in division (G)(1)(a), (b), (c), (d), (e), (f), (g), or (h) of this section;

(j) Any sexually oriented offense that is committed after the sex offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense for which the offender was classified a tier II sex offender/child-victim offender or a tier III sex offender/child-victim offender.

(2) A child-victim offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to any child-victim oriented offense when the child-victim oriented offense is committed after the child-victim offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense for which the offender was classified a tier II sex offender/child-victim offender or a tier III sex offender/child-victim offender.

(3) A sex offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any sexually oriented offense and who a juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a tier III sex offender/child-victim offender relative to the offense.
(4) A child-victim offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any child-victim oriented offense and whom a juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a tier III sex offender/child-victim offender relative to the current offense.

(5) A sex offender or child-victim offender who is not in any category of tier III sex offender/child-victim offender set forth in division (G)(1), (2), (3), or (4) of this section, who prior to January 1, 2008, was convicted of or pleaded guilty to a sexually oriented offense or child-victim oriented offense or was adjudicated a delinquent child for committing a sexually oriented offense or child-victim oriented offense and classified a juvenile offender registrant, and who prior to that date was adjudicated a sexual predator or adjudicated a child-victim predator, unless either of the following applies:

(a) The sex offender or child-victim offender is reclassified pursuant to section 2950.031 or 2950.032 of the Revised Code as a tier I sex offender/child-victim offender or a tier II sex offender/child-victim offender relative to the offense.

(b) The sex offender or child-victim offender is a delinquent child, and a juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies the child a tier I sex offender/child-victim offender or a tier II sex offender/child-victim offender relative to the offense.

(6) A sex offender who is convicted of, pleads guilty to, was convicted of, or pleaded guilty to a sexually oriented offense, if the sexually oriented offense and the circumstances in which it was committed are such that division (F) of section 2971.03 of the Revised Code automatically classifies the offender as a tier III sex offender/child-victim offender;

(7) A sex offender or child-victim offender who is convicted of, pleads guilty to, was convicted of, pleaded guilty to, is adjudicated a delinquent child for committing, or was adjudicated a delinquent child for committing a sexually oriented offense or child-victim offense in another state, in a federal court, military court, or Indian tribal court, or in a court in any nation other than the United States if both of the following apply:

(a) Under the law of the jurisdiction in which the offender was convicted or pleaded guilty or the delinquent child was adjudicated, the offender or delinquent child is in a category substantially equivalent to a category of tier III sex offender/child-victim offender described in division (G)(1), (2), (3), (4), (5), or (6) of this section.

(b) Subsequent to the conviction, plea of guilty, or adjudication in the other jurisdiction, the offender or delinquent child resides, has temporary domicile, attends school or an institution of higher education, is employed, or intends to reside in this state in any manner and for any period of time that subjects the offender or delinquent child to a duty...
to register or provide notice of intent to reside under section 2950.04 or 2950.041 of the Revised Code.

(H) “Confinement” includes, but is not limited to, a community residential sanction imposed pursuant to section 2929.16 or 2929.26 of the Revised Code.

(I) “Prosecutor” has the same meaning as in section 2935.01 of the Revised Code.

(J) “Supervised release” means a release of an offender from a prison term, a term of imprisonment, or another type of confinement that satisfies either of the following conditions:

(1) The release is on parole, a conditional pardon, under a community control sanction, under transitional control, or under a post-release control sanction, and it requires the person to report to or be supervised by a parole officer, probation officer, field officer, or another type of supervising officer.

(2) The release is any type of release that is not described in division (J)(1) of this section and that requires the person to report to or be supervised by a probation officer, a parole officer, a field officer, or another type of supervising officer.

(K) “Sexually violent predator specification,” “sexually violent predator,” “sexually violent offense,” “sexual motivation specification,” “designated homicide, assault, or kidnapping offense,” and “violent sex offense” have the same meanings as in section 2971.01 of the Revised Code.

(L) “Post-release control sanction” and “transitional control” have the same meanings as in section 2967.01 of the Revised Code.

(M) “Juvenile offender registrant” means a person who is adjudicated a delinquent child for committing on or after January 1, 2002, a sexually oriented offense or a child-victim oriented offense, who is fourteen years of age or older at the time of committing the offense, and who a juvenile court judge, pursuant to an order issued under section 2152.82, 2152.83, 2152.84, 2152.85, or 2152.86 of the Revised Code, classifies a juvenile offender registrant and specifies has a duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code. “Juvenile offender registrant” includes a person who prior to January 1, 2008, was a “juvenile offender registrant” under the definition of the term in existence prior to January 1, 2008, and a person who prior to July 31, 2003, was a “juvenile sex offender registrant” under the former definition of that former term.

(N) “Public registry-qualified juvenile offender registrant” means a person who is adjudicated a delinquent child and on whom a juvenile court has imposed a serious youthful offender dispositional sentence under section 2152.13 of the Revised Code before, on, or after January 1, 2008, and to whom all of the following apply:
(1) The person is adjudicated a delinquent child for committing, attempting to commit, conspiring to commit, or complicity in committing one of the following acts:

(a) A violation of section 2907.02 of the Revised Code, division (B) of section 2907.05 of the Revised Code, or section 2907.03 of the Revised Code if the victim of the violation was less than twelve years of age;

(b) A violation of section 2903.01, 2903.02, or 2905.01 of the Revised Code that was committed with a purpose to gratify the sexual needs or desires of the child;

(c) A violation of division (B) of section 2903.03 of the Revised Code.

(2) The person was fourteen, fifteen, sixteen, or seventeen years of age at the time of committing the act.

(3) A juvenile court judge, pursuant to an order issued under section 2152.86 of the Revised Code, classifies the person a juvenile offender registrant, specifies the person has a duty to comply with sections 2950.04, 2950.05, and 2950.06 of the Revised Code, and classifies the person a public registry-qualified juvenile offender registrant, and the classification of the person as a public registry-qualified juvenile offender registrant has not been terminated pursuant to division (D) of section 2152.86 of the Revised Code.

(O) “Secure facility” means any facility that is designed and operated to ensure that all of its entrances and exits are locked and under the exclusive control of its staff and to ensure that, because of that exclusive control, no person who is institutionalized or confined in the facility may leave the facility without permission or supervision.

(P) “Out-of-state juvenile offender registrant” means a person who is adjudicated a delinquent child in a court in another state, in a federal court, military court, or Indian tribal court, or in a court in any nation other than the United States for committing a sexually oriented offense or a child-victim oriented offense, who on or after January 1, 2002, moves to and resides in this state or temporarily is domiciled in this state for more than five days, and who has a duty under section 2950.04 or 2950.041 of the Revised Code to register in this state and the duty to otherwise comply with that applicable section and sections 2950.05 and 2950.06 of the Revised Code. “Out-of-state juvenile offender registrant” includes a person who prior to January 1, 2008, was an “out-of-state juvenile offender registrant” under the definition of the term in existence prior to January 1, 2008, and a person who prior to July 31, 2003, was an “out-of-state juvenile sex offender registrant” under the former definition of that former term.

(Q) “Juvenile court judge” includes a magistrate to whom the juvenile court judge confers duties pursuant to division (A)(15) of section 2151.23 of the Revised Code.
(R) “Adjudicated a delinquent child for committing a sexually oriented offense” includes a child who receives a serious youthful offender dispositional sentence under section 2152.13 of the Revised Code for committing a sexually oriented offense.

(S) “School” and “school premises” have the same meanings as in section 2925.01 of the Revised Code.

(T) “Residential premises” means the building in which a residential unit is located and the grounds upon which that building stands, extending to the perimeter of the property. “Residential premises” includes any type of structure in which a residential unit is located, including, but not limited to, multi-unit buildings and mobile and manufactured homes.

(U) “Residential unit” means a dwelling unit for residential use and occupancy, and includes the structure or part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or two or more persons who maintain a common household. “Residential unit” does not include a halfway house or a community-based correctional facility.

(V) “Multi-unit building” means a building in which is located more than twelve residential units that have entry doors that open directly into the unit from a hallway that is shared with one or more other units. A residential unit is not considered located in a multi-unit building if the unit does not have an entry door that opens directly into the unit from a hallway that is shared with one or more other units or if the unit is in a building that is not a multi-unit building as described in this division.

(W) “Community control sanction” has the same meaning as in section 2929.01 of the Revised Code.

(X) “Halfway house” and “community-based correctional facility” have the same meanings as in section 2929.01 of the Revised Code.

**OHIO REV. CODE ANN. § 2907.01 (2014). Definitions**

As used in sections 2907.01 to 2907.38 of the Revised Code:

(A) “Sexual conduct” means vaginal intercourse between a male and female; anal intercourse, fellatio, and cunnilingus between persons regardless of sex; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal opening of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse.

(B) “Sexual contact” means any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if the person is a female, a breast, for the purpose of sexually arousing or gratifying either person.
(C) “Sexual activity” means sexual conduct or sexual contact, or both.

(D) “Prostitute” means a male or female who promiscuously engages in sexual activity for hire, regardless of whether the hire is paid to the prostitute or to another.

(E) “Harmful to juveniles” means that quality of any material or performance describing or representing nudity, sexual conduct, sexual excitement, or sado-masochistic abuse in any form to which all of the following apply:

(1) The material or performance, when considered as a whole, appeals to the prurient interest of juveniles in sex.

(2) The material or performance is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for juveniles.

(3) The material or performance, when considered as a whole, lacks serious literary, artistic, political, and scientific value for juveniles.

(F) When considered as a whole, and judged with reference to ordinary adults or, if it is designed for sexual deviates or other specially susceptible group, judged with reference to that group, any material or performance is “obscene” if any of the following apply:

(1) Its dominant appeal is to prurient interest;

(2) Its dominant tendency is to arouse lust by displaying or depicting sexual activity, masturbation, sexual excitement, or nudity in a way that tends to represent human beings as mere objects of sexual appetite;

(3) Its dominant tendency is to arouse lust by displaying or depicting bestiality or extreme or bizarre violence, cruelty, or brutality;

(4) Its dominant tendency is to appeal to scatological interest by displaying or depicting human bodily functions of elimination in a way that inspires disgust or revulsion in persons with ordinary sensibilities, without serving any genuine scientific, educational, sociological, moral, or artistic purpose;

(5) It contains a series of displays or descriptions of sexual activity, masturbation, sexual excitement, nudity, bestiality, extreme or bizarre violence, cruelty, or brutality, or human bodily functions of elimination, the cumulative effect of which is a dominant tendency to appeal to prurient or scatological interest, when the appeal to such an interest is primarily for its own sake or for commercial exploitation, rather than primarily for a genuine scientific, educational, sociological, moral, or artistic purpose.

(G) “Sexual excitement” means the condition of human male or female genitals when in a state of sexual stimulation or arousal.
(H) “Nudity” means the showing, representation, or depiction of human male or female genitals, pubic area, or buttocks with less than a full, opaque covering, or of a female breast with less than a full, opaque covering of any portion thereof below the top of the nipple, or of covered male genitals in a discernibly turgid state.

(I) “Juvenile” means an unmarried person under the age of eighteen.

(J) “Material” means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, phonographic record, or tape, or other tangible thing capable of arousing interest through sight, sound, or touch and includes an image or text appearing on a computer monitor, television screen, liquid crystal display, or similar display device or an image or text recorded on a computer hard disk, computer floppy disk, compact disk, magnetic tape, or similar data storage device.

(K) “Performance” means any motion picture, preview, trailer, play, show, skit, dance, or other exhibition performed before an audience.

(L) “Spouse” means a person married to an offender at the time of an alleged offense, except that such person shall not be considered the spouse when any of the following apply:

1. When the parties have entered into a written separation agreement authorized by section 3103.06 of the Revised Code;

2. During the pendency of an action between the parties for annulment, divorce, dissolution of marriage, or legal separation;

3. In the case of an action for legal separation, after the effective date of the judgment for legal separation.

(M) “Minor” means a person under the age of eighteen.

(N) “Mental health client or patient” has the same meaning as in section 2305.51 of the Revised Code.

(O) “Mental health professional” has the same meaning as in section 2305.115 of the Revised Code.

(P) “Sado-masochistic abuse” means flagellation or torture by or upon a person or the condition of being fettered, bound, or otherwise physically restrained.


(A) No person, with knowledge of the character of the material or performance involved, shall do any of the following:
(1) Create, reproduce, or publish any obscene material, when the offender knows that the material is to be used for commercial exploitation or will be publicly disseminated or displayed, or when the offender is reckless in that regard;

(2) Promote or advertise for sale, delivery, or dissemination; sell, deliver, publicly disseminate, publicly display, exhibit, present, rent, or provide; or offer or agree to sell, deliver, publicly disseminate, publicly display, exhibit, present, rent, or provide, any obscene material;

(3) Create, direct, or produce an obscene performance, when the offender knows that it is to be used for commercial exploitation or will be publicly presented, or when the offender is reckless in that regard;

(4) Advertise or promote an obscene performance for presentation, or present or participate in presenting an obscene performance, when the performance is presented publicly, or when admission is charged;

(5) Buy, procure, possess, or control any obscene material with purpose to violate division (A)(2) or (4) of this section.

(B) It is an affirmative defense to a charge under this section, that the material or performance involved was disseminated or presented for a bona fide medical, scientific, educational, religious, governmental, judicial, or other proper purpose, by or to a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, clergyman, prosecutor, judge, or other person having a proper interest in the material or performance.

(C) Whoever violates this section is guilty of pandering obscenity, a felony of the fifth degree. If the offender previously has been convicted of a violation of this section or of section 2907.31 of the Revised Code, then pandering obscenity is a felony of the fourth degree.


(A) No person, with knowledge of the character of the material or performance involved, shall do any of the following:

(1) Create, reproduce, or publish any obscene material that has a minor as one of its participants or portrayed observers;

(2) Promote or advertise for sale or dissemination; sell, deliver, disseminate, display, exhibit, present, rent, or provide; or offer or agree to sell, deliver, disseminate, display, exhibit, present, rent, or provide, any obscene material that has a minor as one of its participants or portrayed observers;
(3) Create, direct, or produce an obscene performance that has a minor as one of its participants;

(4) Advertise or promote for presentation, present, or participate in presenting an obscene performance that has a minor as one of its participants;

(5) Buy, procure, possess, or control any obscene material, that has a minor as one of its participants;

(6) Bring or cause to be brought into this state any obscene material that has a minor as one of its participants or portrayed observers.

(B)(1) This section does not apply to any material or performance that is sold, disseminated, displayed, possessed, controlled, brought or caused to be brought into this state, or presented for a bona fide medical, scientific, educational, religious, governmental, judicial, or other proper purpose, by or to a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, clergyman, prosecutor, judge, or other person having a proper interest in the material or performance.

(2) Mistake of age is not a defense to a charge under this section.

(3) In a prosecution under this section, the trier of fact may infer that a person in the material or performance involved is a minor if the material or performance, through its title, text, visual representation, or otherwise, represents or depicts the person as a minor.

(C) Whoever violates this section is guilty of pandering obscenity involving a minor. Violation of division (A)(1), (2), (3), (4), or (6) of this section is a felony of the second degree. Violation of division (A)(5) of this section is a felony of the fourth degree. If the offender previously has been convicted of or pleaded guilty to a violation of this section or section 2907.322 or 2907.323 of the Revised Code, pandering obscenity involving a minor in violation of division (A)(5) of this section is a felony of the third degree.

**OHIO REV. CODE ANN. § 2907.322 (2014). Pandering sexually oriented matter involving a minor**

(A) No person, with knowledge of the character of the material or performance involved, shall do any of the following:

(1) Create, record, photograph, film, develop, reproduce, or publish any material that shows a minor participating or engaging in sexual activity, masturbation, or bestiality;

(2) Advertise for sale or dissemination, sell, distribute, transport, disseminate, exhibit, or display any material that shows a minor participating or engaging in sexual activity, masturbation, or bestiality;
(3) Create, direct, or produce a performance that shows a minor participating or engaging in sexual activity, masturbation, or bestiality;

(4) Advertise for presentation, present, or participate in presenting a performance that shows a minor participating or engaging in sexual activity, masturbation, or bestiality;

(5) Knowingly solicit, receive, purchase, exchange, possess, or control any material that shows a minor participating or engaging in sexual activity, masturbation, or bestiality;

(6) Bring or cause to be brought into this state any material that shows a minor participating or engaging in sexual activity, masturbation, or bestiality, or bring, cause to be brought, or finance the bringing of any minor into or across this state with the intent that the minor engage in sexual activity, masturbation, or bestiality in a performance or for the purpose of producing material containing a visual representation depicting the minor engaged in sexual activity, masturbation, or bestiality.

(B)(1) This section does not apply to any material or performance that is sold, disseminated, displayed, possessed, controlled, brought or caused to be brought into this state, or presented for a bona fide medical, scientific, educational, religious, governmental, judicial, or other proper purpose, by or to a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, clergyman, prosecutor, judge, or other person having a proper interest in the material or performance.

(2) Mistake of age is not a defense to a charge under this section.

(3) In a prosecution under this section, the trier of fact may infer that a person in the material or performance involved is a minor if the material or performance, through its title, text, visual representation, or otherwise, represents or depicts the person as a minor.

(C) Whoever violates this section is guilty of pandering sexually oriented matter involving a minor. Violation of division (A)(1), (2), (3), (4), or (6) of this section is a felony of the second degree. Violation of division (A)(5) of this section is a felony of the fourth degree. If the offender previously has been convicted of or pleaded guilty to a violation of this section or section 2907.321 or 2907.323 of the Revised Code, pandering sexually oriented matter involving a minor in violation of division (A)(5) of this section is a felony of the third degree.

(A) No person, who is the parent, guardian, custodian, person having custody or control, or person in loco parentis of a child under eighteen years of age or a mentally or physically handicapped child under twenty-one years of age, shall create a substantial risk to the health or safety of the child, by violating a duty of care, protection, or support. It is not a violation of a duty of care, protection, or support under this division when the parent, guardian, custodian, or person having custody or control of a child treats the

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physical or mental illness or defect of the child by spiritual means through prayer alone, in accordance with the tenets of a recognized religious body.

(B) No person shall do any of the following to a child under eighteen years of age or a mentally or physically handicapped child under twenty-one years of age:

(1) Abuse the child;

(2) Torture or cruelly abuse the child;

(3) Administer corporal punishment or other physical disciplinary measure, or physically restrain the child in a cruel manner or for a prolonged period, which punishment, discipline, or restraint is excessive under the circumstances and creates a substantial risk of serious physical harm to the child;

(4) Repeatedly administer unwarranted disciplinary measures to the child, when there is a substantial risk that such conduct, if continued, will seriously impair or retard the child's mental health or development;

(5) Entice, coerce, permit, encourage, compel, hire, employ, use, or allow the child to act, model, or in any other way participate in, or be photographed for, the production, presentation, dissemination, or advertisement of any material or performance that the offender knows or reasonably should know is obscene, is sexually oriented matter, or is nudity-oriented matter;

(6) Allow the child to be on the same parcel of real property and within one hundred feet of, or, in the case of more than one housing unit on the same parcel of real property, in the same housing unit and within one hundred feet of, any act in violation of section 2925.04 or 2925.041 of the Revised Code when the person knows that the act is occurring, whether or not any person is prosecuted for or convicted of the violation of section 2925.04 or 2925.041 of the Revised Code that is the basis of the violation of this division.

(C)(1) No person shall operate a vehicle, streetcar, or trackless trolley within this state in violation of division (A) of section 4511.19 of the Revised Code when one or more children under eighteen years of age are in the vehicle, streetcar, or trackless trolley. Notwithstanding any other provision of law, a person may be convicted at the same trial or proceeding of a violation of this division and a violation of division (A) of section 4511.19 of the Revised Code that constitutes the basis of the charge of the violation of this division. For purposes of sections 4511.191 to 4511.197 of the Revised Code and all related provisions of law, a person arrested for a violation of this division shall be considered to be under arrest for operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or for operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine.
(2) As used in division (C)(1) of this section:

(a) “Controlled substance” has the same meaning as in section 3719.01 of the Revised Code.

(b) “Vehicle,” “streetcar,” and “trackless trolley” have the same meanings as in section 4511.01 of the Revised Code.

(D)(1) Division (B)(5) of this section does not apply to any material or performance that is produced, presented, or disseminated for a bona fide medical, scientific, educational, religious, governmental, judicial, or other proper purpose, by or to a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, member of the clergy, prosecutor, judge, or other person having a proper interest in the material or performance.

(2) Mistake of age is not a defense to a charge under division (B)(5) of this section.

(3) In a prosecution under division (B)(5) of this section, the trier of fact may infer that an actor, model, or participant in the material or performance involved is a juvenile if the material or performance, through its title, text, visual representation, or otherwise, represents or depicts the actor, model, or participant as a juvenile.

(4) As used in this division and division (B)(5) of this section:

(a) “Material,” “performance,” “obscene,” and “sexual activity” have the same meanings as in section 2907.01 of the Revised Code.

(b) “Nudity-oriented matter” means any material or performance that shows a minor in a state of nudity and that, taken as a whole by the average person applying contemporary community standards, appeals to prurient interest.

(c) “Sexually oriented matter” means any material or performance that shows a minor participating or engaging in sexual activity, masturbation, or bestiality.

(E)(1) Whoever violates this section is guilty of endangering children.

(2) If the offender violates division (A) or (B)(1) of this section, endangering children is one of the following, and, in the circumstances described in division (E)(2)(e) of this section, that division applies:

(a) Except as otherwise provided in division (E)(2)(b), (c), or (d) of this section, a misdemeanor of the first degree;
(b) If the offender previously has been convicted of an offense under this section or of any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child, except as otherwise provided in division (E)(2)(c) or (d) of this section, a felony of the fourth degree;

(c) If the violation is a violation of division (A) of this section and results in serious physical harm to the child involved, a felony of the third degree;

(d) If the violation is a violation of division (B)(1) of this section and results in serious physical harm to the child involved, a felony of the second degree.

(e) If the violation is a felony violation of division (B)(1) of this section and the offender also is convicted of or pleads guilty to a specification as described in section 2941.1422 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, the court shall sentence the offender to a mandatory prison term as provided in division (B)(7) of section 2929.14 of the Revised Code and shall order the offender to make restitution as provided in division (B)(8) of section 2929.18 of the Revised Code.

(3) If the offender violates division (B)(2), (3), (4), or (6) of this section, except as otherwise provided in this division, endangering children is a felony of the third degree. If the violation results in serious physical harm to the child involved, or if the offender previously has been convicted of an offense under this section or of any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child, endangering children is a felony of the second degree. If the offender violates division (B)(2), (3), or (4) of this section and the offender also is convicted of or pleads guilty to a specification as described in section 2941.1422 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, the court shall sentence the offender to a mandatory prison term as provided in division (B)(7) of section 2929.14 of the Revised Code and shall order the offender to make restitution as provided in division (B)(8) of section 2929.18 of the Revised Code. If the offender violates division (B)(6) of this section and the drug involved is methamphetamine, the court shall impose a mandatory prison term on the offender as follows:

(a) If the violation is a violation of division (B)(6) of this section that is a felony of the third degree under division (E)(3) of this section and the drug involved is methamphetamine, except as otherwise provided in this division, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the third degree that is not less than two years. If the violation is a violation of division (B)(6) of this section that is a felony of the third degree under division (E)(3) of this section, if the drug involved is methamphetamine, and if the offender previously has been convicted of or pleaded guilty to a violation of division (B)(6) of this section, a violation of division (A) of section 2925.04 of the Revised Code, or a violation of division (A) of section 2925.041 of the Revised Code, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the third degree that is not less than five years.
(b) If the violation is a violation of division (B)(6) of this section that is a felony of the second degree under division (E)(3) of this section and the drug involved is methamphetamine, except as otherwise provided in this division, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree that is not less than three years. If the violation is a violation of division (B)(6) of this section that is a felony of the second degree under division (E)(3) of this section, if the drug involved is methamphetamine, and if the offender previously has been convicted of or pleaded guilty to a violation of division (B)(6) of this section, a violation of division (A) of section 2925.04 of the Revised Code, or a violation of division (A) of section 2925.041 of the Revised Code, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree that is not less than five years.

(4) If the offender violates division (B)(5) of this section, endangering children is a felony of the second degree. If the offender also is convicted of or pleads guilty to a specification as described in section 2941.1422 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, the court shall sentence the offender to a mandatory prison term as provided in division (B)(7) of section 2929.14 of the Revised Code and shall order the offender to make restitution as provided in division (B)(8) of section 2929.18 of the Revised Code.

(5) If the offender violates division (C) of this section, the offender shall be punished as follows:

(a) Except as otherwise provided in division (E)(5)(b) or (c) of this section, endangering children in violation of division (C) of this section is a misdemeanor of the first degree.

(b) If the violation results in serious physical harm to the child involved or the offender previously has been convicted of an offense under this section or any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child, except as otherwise provided in division (E)(5)(c) of this section, endangering children in violation of division (C) of this section is a felony of the fifth degree.

(c) If the violation results in serious physical harm to the child involved and if the offender previously has been convicted of a violation of division (C) of this section, section 2903.06 or 2903.08 of the Revised Code, section 2903.07 of the Revised Code as it existed prior to March 23, 2000, or section 2903.04 of the Revised Code in a case in which the offender was subject to the sanctions described in division (D) of that section, endangering children in violation of division (C) of this section is a felony of the fourth degree.

(d) In addition to any term of imprisonment, fine, or other sentence, penalty, or sanction it imposes upon the offender pursuant to division (E)(5)(a), (b), or (c) of this section or pursuant to any other provision of law and in addition to any suspension of the offender's
driver's or commercial driver's license or permit or nonresident operating privilege under Chapter 4506., 4509., 4510., or 4511. of the Revised Code or under any other provision of law, the court also may impose upon the offender a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in division (A)(7) of section 4510.02 of the Revised Code.

(e) In addition to any term of imprisonment, fine, or other sentence, penalty, or sanction imposed upon the offender pursuant to division (E)(5)(a), (b), (c), or (d) of this section or pursuant to any other provision of law for the violation of division (C) of this section, if as part of the same trial or proceeding the offender also is convicted of or pleads guilty to a separate charge charging the violation of division (A) of section 4511.19 of the Revised Code that was the basis of the charge of the violation of division (C) of this section, the offender also shall be sentenced in accordance with section 4511.19 of the Revised Code for that violation of division (A) of section 4511.19 of the Revised Code.

(F)(1)(a) A court may require an offender to perform not more than two hundred hours of supervised community service work under the authority of an agency, subdivision, or charitable organization. The requirement shall be part of the community control sanction or sentence of the offender, and the court shall impose the community service in accordance with and subject to divisions (F)(1)(a) and (b) of this section. The court may require an offender whom it requires to perform supervised community service work as part of the offender's community control sanction or sentence to pay the court a reasonable fee to cover the costs of the offender's participation in the work, including, but not limited to, the costs of procuring a policy or policies of liability insurance to cover the period during which the offender will perform the work. If the court requires the offender to perform supervised community service work as part of the offender's community control sanction or sentence, the court shall do so in accordance with the following limitations and criteria:

(i) The court shall require that the community service work be performed after completion of the term of imprisonment or jail term imposed upon the offender for the violation of division (C) of this section, if applicable.

(ii) The supervised community service work shall be subject to the limitations set forth in divisions (B)(1), (2), and (3) of section 2951.02 of the Revised Code.

(iii) The community service work shall be supervised in the manner described in division (B)(4) of section 2951.02 of the Revised Code by an official or person with the qualifications described in that division. The official or person periodically shall report in writing to the court concerning the conduct of the offender in performing the work.

(iv) The court shall inform the offender in writing that if the offender does not adequately perform, as determined by the court, all of the required community service work, the court may order that the offender be committed to a jail or workhouse for a period of time...
that does not exceed the term of imprisonment that the court could have imposed upon
the offender for the violation of division (C) of this section, reduced by the total amount
of time that the offender actually was imprisoned under the sentence or term that was
imposed upon the offender for that violation and by the total amount of time that the
offender was confined for any reason arising out of the offense for which the offender
was convicted and sentenced as described in sections 2949.08 and 2967.191 of the
Revised Code, and that, if the court orders that the offender be so committed, the court is
authorized, but not required, to grant the offender credit upon the period of the
commitment for the community service work that the offender adequately performed.

(b) If a court, pursuant to division (F)(1)(a) of this section, orders an offender to perform
community service work as part of the offender's community control sanction or sentence
and if the offender does not adequately perform all of the required community service
work, as determined by the court, the court may order that the offender be committed to a
jail or workhouse for a period of time that does not exceed the term of imprisonment that
the court could have imposed upon the offender for the violation of division (C) of this
section, reduced by the total amount of time that the offender actually was imprisoned
under the sentence or term that was imposed upon the offender for that violation and by
the total amount of time that the offender was confined for any reason arising out of the
offense for which the offender was convicted and sentenced as described in sections
2949.08 and 2967.191 of the Revised Code. The court may order that a person committed
pursuant to this division shall receive hour-for-hour credit upon the period of the
commitment for the community service work that the offender adequately performed. No
commitment pursuant to this division shall exceed the period of the term of imprisonment
that the sentencing court could have imposed upon the offender for the violation of
division (C) of this section, reduced by the total amount of time that the offender actually
was imprisoned under that sentence or term and by the total amount of time that the
offender was confined for any reason arising out of the offense for which the offender
was convicted and sentenced as described in sections 2949.08 and 2967.191 of the
Revised Code.

(2) Division (F)(1) of this section does not limit or affect the authority of the court to
suspend the sentence imposed upon a misdemeanor offender and place the offender under
a community control sanction pursuant to section 2929.25 of the Revised Code, to require
a misdemeanor or felony offender to perform supervised community service work in
accordance with division (B) of section 2951.02 of the Revised Code, or to place a felony
offender under a community control sanction.

(G)(1) If a court suspends an offender's driver's or commercial driver's license or permit
or nonresident operating privilege under division (E)(5)(d) of this section, the period of
the suspension shall be consecutive to, and commence after, the period of suspension of
the offender's driver's or commercial driver's license or permit or nonresident operating
privilege that is imposed under Chapter 4506., 4509., 4510., or 4511. of the Revised
Code or under any other provision of law in relation to the violation of division (C) of
this section that is the basis of the suspension under division (E)(5)(d) of this section or in

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relation to the violation of division (A) of section 4511.19 of the Revised Code that is the basis for that violation of division (C) of this section.

(2) An offender is not entitled to request, and the court shall not grant to the offender, limited driving privileges if the offender's license, permit, or privilege has been suspended under division (E)(5)(d) of this section and the offender, within the preceding six years, has been convicted of or pleaded guilty to three or more violations of one or more of the following:

(a) Division (C) of this section;

(b) Any equivalent offense, as defined in section 4511.181 of the Revised Code.

(H)(1) If a person violates division (C) of this section and if, at the time of the violation, there were two or more children under eighteen years of age in the motor vehicle involved in the violation, the offender may be convicted of a violation of division (C) of this section for each of the children, but the court may sentence the offender for only one of the violations.

(2)(a) If a person is convicted of or pleads guilty to a violation of division (C) of this section but the person is not also convicted of and does not also plead guilty to a separate charge charging the violation of division (A) of section 4511.19 of the Revised Code that was the basis of the charge of the violation of division (C) of this section, both of the following apply:

(i) For purposes of the provisions of section 4511.19 of the Revised Code that set forth the penalties and sanctions for a violation of division (A) of section 4511.19 of the Revised Code, the conviction of or plea of guilty to the violation of division (C) of this section shall not constitute a violation of division (A) of section 4511.19 of the Revised Code;

(ii) For purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of division (A) of section 4511.19 of the Revised Code and that is not described in division (H)(2)(a)(i) of this section, the conviction of or plea of guilty to the violation of division (C) of this section shall constitute a conviction of or plea of guilty to a violation of division (A) of section 4511.19 of the Revised Code.

(b) If a person is convicted of or pleads guilty to a violation of division (C) of this section and the person also is convicted of or pleads guilty to a separate charge charging the violation of division (A) of section 4511.19 of the Revised Code that was the basis of the charge of the violation of division (C) of this section, the conviction of or plea of guilty to the violation of division (C) of this section shall not constitute, for purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of division (A) of section 4511.19 of the Revised Code, a conviction of or plea of guilty to a violation of division (A) of section 4511.19 of the Revised Code.
(I) As used in this section:

1. “Community control sanction” has the same meaning as in section 2929.01 of the Revised Code;

2. “Limited driving privileges” has the same meaning as in section 4501.01 of the Revised Code;

3. “Methamphetamine” has the same meaning as in section 2925.01 of the Revised Code.

OKLAHOMA


A. The provisions of the Sex Offenders Registration Act shall apply to any person residing, working or attending school within the State of Oklahoma who, after November 1, 1989, has been convicted, whether upon a verdict or plea of guilty or upon a plea of nolo contendere, or received a suspended sentence or any probationary term, or is currently serving a sentence or any form of probation or parole for a crime or an attempt to commit a crime provided for in Section 843.5 of Title 21 of the Oklahoma Statutes if the offense involved sexual abuse or sexual exploitation as those terms are defined in Section 1-1-105 of Title 10A of the Oklahoma Statutes, Section 681, if the offense involved sexual assault, 741, if the offense involved sexual abuse or sexual exploitation, Section 843.1, if the offense involved sexual abuse of a child, 865 et seq., 885, 886, 888, 891, if the offense involved sexual abuse or sexual exploitation, 1021, 1021.2, 1021.3, 1024.2, 1040.12a, 1040.13, 1040.13a, 1087, 1088, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma Statutes.

B. The provisions of the Sex Offenders Registration Act shall apply to any person who after November 1, 1989, resides, works or attends school within the State of Oklahoma and who has been convicted or received a suspended sentence at any time in any court of another state, the District of Columbia, Puerto Rico, Guam, American Samoa, the Northern Mariana Islands and the United States Virgin Islands, a federal court, an Indian tribal court, a military court, or a court of a foreign country for a crime, attempted crime or a conspiracy to commit a crime which, if committed or attempted in this state, would be a crime, an attempt to commit a crime or a conspiracy to commit a crime provided for in any of said laws listed in subsection A of this section.

C. The provisions of the Sex Offenders Registration Act shall apply to any person who resides, works or attends school within the State of Oklahoma and who has received a deferred judgment at any time in any court of another state, the District of Columbia, Puerto Rico, Guam, American Samoa, the Northern Mariana Islands and the United States Virgin Islands, a federal court, an Indian tribal court, a military court, or a court of a foreign country for a crime, attempted crime or a conspiracy to commit a crime which, if committed or attempted in this state, would be a crime, an attempt to commit a crime or a conspiracy to commit a crime provided for in any of said laws listed in subsection A of this section.
States Virgin Islands, a federal court, an Indian tribal court, a military court, or a court of a foreign country for a crime, attempted crime or a conspiracy to commit a crime which, if committed or attempted or conspired to be committed in this state, would be a crime, an attempt to commit a crime or a conspiracy to commit a crime provided for in Section 843.5 of Title 21 of the Oklahoma Statutes if the offense involved sexual abuse or sexual exploitation as those terms are defined in Section 1-1-105 of Title 10A of the Oklahoma Statutes, Section 681, if the offense involved sexual assault, 741, if the offense involved sexual abuse or sexual exploitation, Section 843.1, if the offense involved sexual abuse or sexual exploitation, Section 852.1, if the offense involved sexual abuse of a child, 865 et seq., 885, 886, 888, 891, if the offense involved sexual abuse or sexual exploitation, 1021, 1021.2, 1021.3, 1024.2, 1040.12a, 1040.13, 1040.13a, 1087, 1088, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma Statutes. The provisions of the Sex Offenders Registration Act shall not apply to any such person while the person is incarcerated in a maximum or medium correctional institution of the Department of Corrections.

D. On the effective date of this act, any person registered as a sex offender pursuant to Section 741 of Title 21 of the Oklahoma Statutes shall be summarily removed from the Sex Offender Registry by the Department of Corrections and all law enforcement agencies of any political subdivision of this state, unless the offense involved sexual abuse or sexual exploitation.

E. The provisions of the Sex Offenders Registration Act shall not apply to any such person who has received a criminal history records expungement for a conviction in another state for a crime or attempted crime which, if committed or attempted in this state, would be a crime or an attempt to commit a crime provided for in any said laws listed in subsection A of this section.

Every person who is guilty of the detestable and abominable crime against nature, committed with mankind or with a beast, is punishable by imprisonment in the custody of the Department of Corrections not exceeding ten (10) years. Except for persons sentenced to life or life without parole, any person sentenced to imprisonment for two (2) years or more for a violation of this section shall be required to serve a term of post-imprisonment supervision pursuant to subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes under conditions determined by the Department of Corrections. The jury shall be advised that the mandatory post-imprisonment supervision shall be in addition to the actual imprisonment.

A. Every person who willfully and knowingly either:

1. Lewdly exposes his or her person or genitals in any public place, or in any place where there are present other persons to be offended or annoyed thereby; provided, however, for purposes of this section, a person alleged to have committed an act of public urination
shall be prosecuted pursuant to Section 22 of this title unless such act was accompanied with another act that violates paragraphs 2 through 4 of this subsection and shall not be subject to registration under the Sex Offenders Registration Act;

2. Procures, counsels, or assists any person to expose such person, or to make any other exhibition of such person to public view or to the view of any number of persons, for the purpose of sexual stimulation of the viewer;

3. Writes, composes, stereotypes, prints, photographs, designs, copies, draws, engraves, paints, molds, cuts, or otherwise prepares, publishes, sells, distributes, keeps for sale, knowingly downloads on a computer, or exhibits any obscene material or child pornography; or

4. Makes, prepares, cuts, sells, gives, loans, distributes, keeps for sale, or exhibits any disc record, metal, plastic, or wax, wire or tape recording, or any type of obscene material or child pornography,

shall be guilty, upon conviction, of a felony and shall be punished by the imposition of a fine of not less than Five Hundred Dollars ($500.00) nor more than Twenty Thousand Dollars ($20,000.00) or by imprisonment for not less than thirty (30) days nor more than ten (10) years, or by both such fine and imprisonment.

B. Every person who:

1. Willfully solicits or aids a minor child to perform; or

2. Shows, exhibits, loans, or distributes to a minor child any obscene material or child pornography for the purpose of inducing said minor to participate in,

any act specified in paragraphs 1, 2, 3 or 4 of subsection A of this section shall be guilty of a felony, upon conviction, and shall be punished by imprisonment in the custody of the Department of Corrections for not less than ten (10) years nor more than thirty (30) years, except when the minor child is under twelve (12) years of age at the time the offense is committed, and in such case the person shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections for not less than twenty-five (25) years.

C. Persons convicted under this section shall not be eligible for a deferred sentence.

D. Except for persons sentenced to life or life without parole, any person sentenced to imprisonment for two (2) years or more for a violation of this section shall be required to serve a term of post-imprisonment supervision pursuant to subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes under conditions determined by the Department of Corrections. The jury shall be advised that the
mandatory post-imprisonment supervision shall be in addition to the actual imprisonment.

E. For purposes of this section, “downloading on a computer” means electronically transferring an electronic file from one computer or electronic media to another computer or electronic media.


A. Any person who shall procure or cause the participation of any minor under the age of eighteen (18) years in any child pornography or who knowingly possesses, procures, or manufactures, or causes to be sold or distributed any child pornography shall be guilty, upon conviction, of a felony and shall be punished by imprisonment for not more than twenty (20) years or by the imposition of a fine of not more than Twenty-five Thousand Dollars ($25,000.00) or by both said fine and imprisonment. Persons convicted under this section shall not be eligible for a deferred sentence. Except for persons sentenced to life or life without parole, any person sentenced to imprisonment for two (2) years or more for a violation of this subsection shall be required to serve a term of post-imprisonment supervision pursuant to subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes under conditions determined by the Department of Corrections. The jury shall be advised that the mandatory post-imprisonment supervision shall be in addition to the actual imprisonment.

B. The consent of the minor, or of the mother, father, legal guardian, or custodian of the minor to the activity prohibited by this section shall not constitute a defense.


A. Any parent, guardian or individual having custody of a minor under the age of eighteen (18) years who knowingly permits or consents to the participation of a minor in any child pornography shall be guilty of a felony and, upon conviction, shall be imprisoned in the custody of the Department of Corrections for a period of not more than twenty (20) years or a fine of not more than Twenty-five Thousand Dollars ($25,000.00) or by both such fine and imprisonment. Persons convicted under this section shall not be eligible for a deferred sentence. Except for persons sentenced to life or life without parole, any person sentenced to imprisonment for two (2) years or more for a violation of this subsection shall be required to serve a term of post-imprisonment supervision pursuant to subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes under conditions determined by the Department of Corrections. The jury shall be advised that the mandatory post-imprisonment supervision shall be in addition to the actual imprisonment.

B. The consent of the minor to the activity prohibited by this section shall not constitute a defense.
It shall be unlawful for any person to buy, procure or possess child pornography in violation of Sections 1024.1 through 1024.4 of this title. Such person shall, upon conviction, be guilty of a felony and shall be imprisoned for a period of not more than five (5) years or a fine up to, but not exceeding, Five Thousand Dollars ($5,000.00) or by both such fine and imprisonment.

A. Any person who, with knowledge of its contents, possesses one hundred (100) or more separate materials depicting child pornography shall be, upon conviction, guilty of aggravated possession of child pornography. The violator shall be punished by imprisonment in the custody of the Department of Corrections for a term not exceeding life imprisonment and by a fine in an amount not more than Ten Thousand Dollars ($10,000.00). The violator, upon conviction, shall be required to register as a sex offender under the Sex Offenders Registration Act. [FN1]

B. For purposes of this section:

1. Multiple copies of the same identical material shall each be counted as a separate item;

2. The term “material” means the same definition provided by Section 1040.75 of Title 21 of the Oklahoma Statutes and, in addition, includes all digital and computerized images and depictions; and

3. The term “child pornography” means the same definition provided by Section 1040.80 of Title 21 of the Oklahoma Statutes and, in addition, includes sexual conduct, sexual excitement, sadomasochistic abuse, and performance of material harmful to minors where a minor is present or depicted as such terms are defined in Section 1040.75 of Title 21 of the Oklahoma Statutes.

Every person who, with knowledge of its contents, sends, brings, or causes to be sent or brought into this state for sale or commercial distribution, or in this state prepares, sells, exhibits, commercially distributes, gives away, offers to give away, or has in his possession with intent to sell, to commercially distribute, to exhibit, to give away, or to offer to give away any obscene material or child pornography or gives information stating when, where, how, or from whom, or by what means obscene material or child pornography can be purchased or obtained, upon conviction, is guilty of a felony and shall be punished by imprisonment for not more than ten (10) years in prison or by a fine of not more than Ten Thousand Dollars ($10,000.00), or by both such imprisonment and fine.
OREGON

As used in ORS 181.800 to 181.845:

(1) “Another United States court” means a federal court, a military court, the tribal court of a federally recognized Indian tribe or a court of:

(a) A state other than Oregon;

(b) The District of Columbia;

(c) The Commonwealth of Puerto Rico;

(d) Guam;

(e) American Samoa;

(f) The Commonwealth of the Northern Mariana Islands; or

(g) The United States Virgin Islands.

(2) “Attends” means is enrolled on a full-time or part-time basis.

(3)(a) “Correctional facility” means any place used for the confinement of persons:

(A) Charged with or convicted of a crime or otherwise confined under a court order.

(B) Found to be within the jurisdiction of the juvenile court for having committed an act that if committed by an adult would constitute a crime.

(b) “Correctional facility” applies to a state hospital or a secure intensive community inpatient facility only as to persons detained therein charged with or convicted of a crime, or detained therein after being found guilty except for insanity under ORS 161.290 to 161.370 or responsible except for insanity under ORS 419C.411.

(4) “Institution of higher education” means a public or private educational institution that provides a program of post-secondary education.

(5) “Sex crime” means:

(a) Rape in any degree;

(b) Sodomy in any degree;
(c) Unlawful sexual penetration in any degree;

(d) Sexual abuse in any degree;

(e) Incest with a child victim;

(f) Using a child in a display of sexually explicit conduct;

(g) Encouraging child sexual abuse in any degree;

(h) Transporting child pornography into the state;

(i) Paying for viewing a child's sexually explicit conduct;

(j) Compelling prostitution;

(k) Promoting prostitution;

(L) Kidnapping in the first degree if the victim was under 18 years of age;

(m) Contributing to the sexual delinquency of a minor;

(n) Sexual misconduct if the offender is at least 18 years of age;

(o) Possession of materials depicting sexually explicit conduct of a child in the first degree;

(p) Kidnapping in the second degree if the victim was under 18 years of age, except by a parent or by a person found to be within the jurisdiction of the juvenile court;

(q) Online sexual corruption of a child in any degree if the offender reasonably believed the child to be more than five years younger than the offender;

(r) Luring a minor, if:

(A) The offender reasonably believed the child to be more than five years younger than the offender or under 16 years of age; and

(B) The court designates in the judgment that the offense is a sex crime;

(s) Sexual assault of an animal;

(t) Public indecency or private indecency, if the person has a prior conviction for a crime listed in this subsection;
(u) Trafficking in persons as described in ORS 163.266 (1)(b) or (c);

(v) Purchasing sex with a minor if the court designates the offense as a sex crime pursuant to ORS 163.413 (3)(d), or the offense is the defendant’s second or subsequent conviction under ORS 163.413 (3)(b)(B);

(w) Any attempt to commit any of the crimes listed in paragraphs (a) to (s), (u) or (v) of this subsection;

(x) Burglary, when committed with intent to commit any of the offenses listed in paragraphs (a) to (v) of this subsection; or

(y) Criminal conspiracy if the offender agrees with one or more persons to engage in or cause the performance of an offense listed in paragraphs (a) to (t) of this subsection.

(6) “Sex offender” means a person who:

(a) Has been convicted of a sex crime;

(b) Has been found guilty except for insanity of a sex crime;

(c) Has been convicted in another United States court of a crime:

(A) That would constitute a sex crime if committed in this state; or

(B) For which the person would have to register as a sex offender in that court's jurisdiction, or as required under federal law, regardless of whether the crime would constitute a sex crime in this state; or

(d) Is described in ORS 181.809 (1).

(7) “Works” or “carries on a vocation” means full-time or part-time employment for more than 14 days within one calendar year whether financially compensated, volunteered or for the purpose of governmental or educational benefit.


(1) A person commits the crime of sexual abuse in the first degree when that person:

(a) Subjects another person to sexual contact and:

(A) The victim is less than 14 years of age;

(B) The victim is subjected to forcible compulsion by the actor; or
(C) The victim is incapable of consent by reason of being mentally defective, mentally incapacitated or physically helpless; or

(b) Intentionally causes a person under 18 years of age to touch or contact the mouth, anus or sex organs of an animal for the purpose of arousing or gratifying the sexual desire of a person.

(2) Sexual abuse in the first degree is a Class B felony.

As used in ORS 163.670 to 163.693:

(1) “Child” means a person who is less than 18 years of age, and any reference to a child in relation to a visual recording of the child is a reference to a person who was less than 18 years of age at the time the original image in the visual recording was created and not the age of the person at the time of an alleged offense relating to the subsequent reproduction, use or possession of the visual recording.

(2) “Child abuse” means conduct that constitutes, or would constitute if committed in this state, a crime in which the victim is a child.

(3) “Sexually explicit conduct” means actual or simulated:

(a) Sexual intercourse or deviant sexual intercourse;

(b) Genital-genital, oral-genital, anal-genital or oral-anal contact, whether between persons of the same or opposite sex or between humans and animals;

(c) Penetration of the vagina or rectum by any object other than as part of a medical diagnosis or treatment or as part of a personal hygiene practice;

(d) Masturbation;

(e) Sadistic or masochistic abuse; or

(f) Lewd exhibition of sexual or other intimate parts.

(4) “Visual depiction” includes, but is not limited to, visual recordings, pictures and computer-generated images and pictures, whether made or produced by electronic, mechanical or other means.

(5) “Visual recording” includes, but is not limited to, photographs, films, videotapes and computer and other digital pictures, regardless of the manner in which the recording is stored.
(1) A person commits the crime of using a child in a display of sexually explicit conduct if the person employs, authorizes, permits, compels or induces a child to participate or engage in sexually explicit conduct for any person to observe or to record in a visual recording.

(2) Using a child in a display of sexually explicit conduct is a Class A felony.

(1) A person commits the crime of encouraging child sexual abuse in the first degree if the person:

(a)(A) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, displays, finances, attempts to finance or sells a visual recording of sexually explicit conduct involving a child or knowingly possesses, accesses or views such a visual recording with the intent to develop, duplicate, publish, print, disseminate, exchange, display or sell it; or

(B) Knowingly brings into this state, or causes to be brought or sent into this state, for sale or distribution, a visual recording of sexually explicit conduct involving a child; and

(b) Knows or is aware of and consciously disregards the fact that creation of the visual recording of sexually explicit conduct involved child abuse.

(2) Encouraging child sexual abuse in the first degree is a Class B felony.

(1) A person commits the crime of encouraging child sexual abuse in the second degree if the person:

(a)(A)(i) Knowingly possesses or controls, or knowingly accesses with the intent to view, a visual recording of sexually explicit conduct involving a child for the purpose of arousing or satisfying the sexual desires of the person or another person; or

(ii) Knowingly pays, exchanges or gives anything of value to obtain or view a visual recording of sexually explicit conduct involving a child for the purpose of arousing or satisfying the sexual desires of the person or another person; and

(B) Knows or is aware of and consciously disregards the fact that creation of the visual recording of sexually explicit conduct involved child abuse; or

(b)(A) Knowingly pays, exchanges or gives anything of value to observe sexually explicit conduct by a child or knowingly observes, for the purpose of arousing or gratifying the sexual desire of the person, sexually explicit conduct by a child; and
(B) Knows or is aware of and consciously disregards the fact that the conduct constitutes child abuse.

(2) Encouraging child sexual abuse in the second degree is a Class C felony.


(1) A person commits the crime of encouraging child sexual abuse in the third degree if the person:

(a)(A)(i) Knowingly possesses or controls, or knowingly accesses with the intent to view, a visual recording of sexually explicit conduct involving a child for the purpose of arousing or satisfying the sexual desires of the person or another person; or

(ii) Knowingly pays, exchanges or gives anything of value to obtain or view a visual recording of sexually explicit conduct involving a child for the purpose of arousing or satisfying the sexual desires of the person or another person; and

(B) Knows or fails to be aware of a substantial and unjustifiable risk that the creation of the visual recording of sexually explicit conduct involved child abuse; or

(b)(A) Knowingly pays, exchanges or gives anything of value to observe sexually explicit conduct by a child or knowingly observes, for the purpose of arousing or gratifying the sexual desire of the person, sexually explicit conduct by a child; and

(B) Knows or fails to be aware of a substantial and unjustifiable risk that the conduct constitutes child abuse.

(2) Encouraging child sexual abuse in the third degree is a Class A misdemeanor.


(1) A person commits the crime of possession of materials depicting sexually explicit conduct of a child in the first degree if the person:

(a) Knowingly possesses, accesses or views a visual depiction of sexually explicit conduct involving a child or a visual depiction of sexually explicit conduct that appears to involve a child; and

(b) Uses the visual depiction to induce a child to participate or engage in sexually explicit conduct.

(2) Possession of materials depicting sexually explicit conduct of a child in the first degree is a Class B felony.
(1) A person commits the crime of sexual assault of an animal if the person:

(a) Touches or contacts, or causes an object or another person to touch or contact, the mouth, anus or sex organs of an animal or animal carcass for the purpose of arousing or gratifying the sexual desire of a person; or

(b) Causes an animal or animal carcass to touch or contact the mouth, anus or sex organs of a person for the purpose of arousing or gratifying the sexual desire of a person.

(2) Subsection (1) of this section does not apply to the use of products derived from animals.

(3) Sexual assault of an animal is a Class A misdemeanor.

Pennsylvania

(a) Tier system established.--Sexual offenses shall be classified in a three-tiered system composed of Tier I sexual offenses, Tier II sexual offenses and Tier III sexual offenses.

(b) Tier I sexual offenses.--The following offenses shall be classified as Tier I sexual offenses:

(1) 18 Pa.C.S. § 2902(b) (relating to unlawful restraint).
(2) 18 Pa.C.S. § 2903(b) (relating to false imprisonment).
(3) 18 Pa.C.S. § 2904 (relating to interference with custody of children).
(4) 18 Pa.C.S. § 2910 (relating to luring a child into a motor vehicle or structure).
(5) 18 Pa.C.S. § 3124.2(a) (relating to institutional sexual assault).
(6) 18 Pa.C.S. § 3126(a)(1) (relating to indecent assault).
(7) (Reserved).
(9) 18 Pa.C.S. § 6312(d) (relating to sexual abuse of children).
(10) 18 Pa.C.S. § 7507.1. (relating to invasion of privacy).

(12) 18 U.S.C. § 2252(a)(4) (relating to certain activities relating to material involving the sexual exploitation of minors).

(13) 18 U.S.C. § 2252A (relating to certain activities relating to material constituting or containing child pornography).

(14) 18 U.S.C. § 2252B (relating to misleading domain names on the Internet).

(15) 18 U.S.C. § 2252C (relating to misleading words or digital images on the Internet).

(16) 18 U.S.C. § 2422(a) (relating to coercion and enticement).

(17) 18 U.S.C. § 2423(b) (relating to transportation of minors).

(18) 18 U.S.C. § 2423(c).


(20) 18 U.S.C. § 2425 (relating to use of interstate facilities to transmit information about a minor).

(21) A comparable military offense or similar offense under the laws of another jurisdiction or foreign country or under a former law of this Commonwealth.

(22) An attempt, conspiracy or solicitation to commit an offense listed in paragraph (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20) or (21).

(23) A conviction for a sexual offense in another jurisdiction or foreign country that is not set forth in this section, but nevertheless requires registration under a sexual offender statute in the jurisdiction or foreign country.

(c) **Tier II sexual offenses.**--The following offenses shall be classified as Tier II sexual offenses:

(1) 18 Pa.C.S. § 3122.1(a)(2) (relating to statutory sexual assault).

(1.1) 18 Pa.C.S. § 3124.2(a.2) and (a.3).

(1.2) 18 Pa.C.S. § 3126(a)(2), (3), (4), (5), (6) or (8).

(2) 18 Pa.C.S. § 5902(b.1) (relating to prostitution and related offenses).
(3) 18 Pa.C.S. § 5903(a)(3)(ii), (4)(ii), (5)(ii) or (6) (relating to obscene and other sexual materials and performances).

(4) 18 Pa.C.S. § 6312(b) and (c).

(5) 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).

(6) 18 Pa.C.S. § 6320 (relating to sexual exploitation of children).

(7) 18 U.S.C. § 1591 (relating to sex trafficking of children by force, fraud, or coercion).

(8) 18 U.S.C. § 2243 (relating to sexual abuse of a minor or ward).

(9) 18 U.S.C. § 2244 (relating to abusive sexual contact) where the victim is 13 years of age or older but under 18 years of age.


(11) 18 U.S.C. § 2251A (relating to selling or buying of children).

(12) 18 U.S.C. § 2252(a)(1), (2) or (3).


(14) 18 U.S.C. § 2421 (relating to transportation generally).


(17) A comparable military offense or similar offense under the laws of another jurisdiction or foreign country or under a former law of this Commonwealth.

(18) An attempt, conspiracy or solicitation to commit an offense listed in paragraph (1), (1.1), (1.2), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16) or (17).

(d) Tier III sexual offenses.--The following offenses shall be classified as Tier III sexual offenses:

(1) 18 Pa.C.S. § 2901(a.1) (relating to kidnapping).

(2) 18 Pa.C.S. § 3121 (relating to rape).
(3) 18 Pa.C.S. § 3122.1(b) (relating to statutory sexual assault).

(4) 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).

(5) 18 Pa.C.S. § 3124.1 (relating to sexual assault).

(6) 18 Pa.C.S. § 3124.2(a.1).

(7) 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).

(8) 18 Pa.C.S. § 3126(a)(7).

(9) 18 Pa.C.S. § 4302(b) (relating to incest).

(10) 18 U.S.C. § 2241 (relating to aggravated sexual abuse).


(12) 18 U.S.C. § 2244 where the victim is under 13 years of age.

(13) A comparable military offense or similar offense under the laws of another jurisdiction or country or under a former law of this Commonwealth.

(14) An attempt, conspiracy or solicitation to commit an offense listed in paragraph (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12) or (13).

(15) (Reserved).

(16) Two or more convictions of offenses listed as Tier I or Tier II sexual offenses.

18 PA. CONS. STAT. ANN. § 5903 (2014). Obscene and other sexual materials and performances
(a) Offenses defined.--No person, knowing the obscene character of the materials or performances involved, shall:

(1) display or cause or permit the display of any explicit sexual materials as defined in subsection (c) in or on any window, showcase, newsstand, display rack, billboard, display board, viewing screen, motion picture screen, marquee or similar place in such manner that the display is visible from any public street, highway, sidewalk, transportation facility or other public thoroughfare, or in any business or commercial establishment where minors, as a part of the general public or otherwise, are or will probably be exposed to view all or any part of such materials;

(2) sell, lend, distribute, transmit, exhibit, give away or show any obscene materials to any person 18 years of age or older or offer to sell, lend, distribute, transmit, exhibit or
give away or show, or have in his possession with intent to sell, lend, distribute, transmit, exhibit or give away or show any obscene materials to any person 18 years of age or older, or knowingly advertise any obscene materials in any manner;

(3)(i) design, copy, draw, photograph, print, utter, publish or in any manner manufacture or prepare any obscene materials; or

(ii) design, copy, draw, photograph, print, utter, publish or in any manner manufacture or prepare any obscene materials in which a minor is depicted;

(4)(i) write, print, publish, utter or cause to be written, printed, published or uttered any advertisement or notice of any kind giving information, directly or indirectly, stating or purporting to state where, how, from whom, or by what means any obscene materials can be purchased, obtained or had; or

(ii) write, print, publish, utter or cause to be written, printed, published or uttered any advertisement or notice of any kind giving information, directly or indirectly, stating or purporting to state where, how, from whom or by what means any obscene materials can be purchased, obtained or had in which a minor is included;

(5)(i) produce, present or direct any obscene performance or participate in a portion thereof that is obscene or that contributes to its obscenity; or

(ii) produce, present or direct any obscene performance or participate in a portion thereof that is obscene or that contributes to its obscenity if a minor is included;

(6) hire, employ, use or permit any minor child to do or assist in doing any act or thing mentioned in this subsection;

(7) knowingly take or deliver in any manner any obscene material into a State correctional institution, county prison, regional prison facility or any other type of correctional facility;

(8) possess any obscene material while such person is an inmate of any State correctional institution, county prison, regional prison facility or any other type of correctional facility; or

(9) knowingly permit any obscene material to enter any State correctional institution, county prison, regional prison facility or any other type of correctional facility if such person is a prison guard or other employee of any correctional facility described in this paragraph.

(a.1) Dissemination of explicit sexual material via an electronic communication.--No person, knowing the content of the advertisement to be explicit sexual materials as defined in subsection (c)(1) and (2), shall transmit or cause to be transmitted an
unsolicited advertisement in an electronic communication as defined in section 5702 (relating to definitions) to one or more persons within this Commonwealth that contains explicit sexual materials as defined in subsection (c)(1) and (2) without including in the advertisement the term “ADV-ADULT” at the beginning of the subject line of the advertisement.

(b) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Community.” For the purpose of applying the “contemporary community standards” in this section, community means the State.

“Knowing.” As used in subsections (a) and (a.1), knowing means having general knowledge of, or reason to know or a belief or ground for belief which warrants further inspection or inquiry of, the character and content of any material or performance described therein which is reasonably susceptible of examination by the defendant.

“Material.” Any literature, including any book, magazine, pamphlet, newspaper, storypaper, bumper sticker, comic book or writing; any figure, visual representation, or image, including any drawing, photograph, picture, videotape or motion picture.

“Minor.” An individual under 18 years of age.

“Nude.” Means showing the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or showing the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple.

“Obscene.” Any material or performance, if:

(1) the average person applying contemporary community standards would find that the subject matter taken as a whole appeals to the prurient interest;

(2) the subject matter depicts or describes in a patently offensive way, sexual conduct of a type described in this section; and

(3) the subject matter, taken as a whole, lacks serious literary, artistic, political, educational or scientific value.

“Performance.” Means any play, dance or other live exhibition performed before an audience.

“Sadomasochistic abuse.” Means, in a sexual context, flagellation or torture by or upon a person who is nude or clad in undergarments, a mask or in a bizarre costume or the condition of being fettered, bound or otherwise physically restrained on the part of one who is nude or so clothed.
“Sexual conduct.” Patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, including sexual intercourse, anal or oral sodomy and sexual bestiality; and patently offensive representations or descriptions of masturbation, excretory functions, sadomasochistic abuse and lewd exhibition of the genitals.

“Subject line.” The area of an electronic communication that contains a summary description of the content of the message.

“Transportation facility.” Any conveyance, premises or place used for or in connection with public passenger transportation, whether by air, rail, motor vehicle or any other method, including aircraft, watercraft, railroad cars, buses, and air, boat, railroad and bus terminals and stations.

(c) Dissemination to minors.--No person shall knowingly disseminate by sale, loan or otherwise explicit sexual materials to a minor. “Explicit sexual materials,” as used in this subsection, means materials which are obscene or:

(1) any picture, photograph, drawing, sculpture, motion picture film, videotape 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; or

(2) any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter enumerated in paragraph (1), 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) Admitting minor to show.--It shall be unlawful for any person knowingly to exhibit for 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 or performance which, in whole or in part, depicts nudity, sexual conduct, or sadomasochistic abuse and which is harmful to minors, except that the foregoing shall not apply to any minor accompanied by his parent.

(e) Definitions.--As used in subsections (c) and (d) of this section:


(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.
(3) “Sexual conduct” means acts of masturbation, homosexuality, sexual intercourse, sexual bestiality or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if such person be a female, breast.

(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, when it:

(i) predominantly appeals to the prurient, shameful, or morbid interest of minors; and

(ii) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and

(iii) taken as a whole, lacks serious literary, artistic, political, educational or scientific value 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:

(i) the character and content of any material or performance described herein which is reasonably susceptible of examination by the defendant; and

(ii) 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.

(f) Requiring sale as condition of business dealings.--No person shall knowingly require any distributor or retail seller as a condition to sale or delivery for resale or consignment of any literature, book, magazine, pamphlet, newspaper, storypaper, paper, comic book, writing, drawing, photograph, videotape, figure or image, or any written or printed matter, or any article or instrument to purchase or take by consignment for purposes of sale, resale or distribution any obscene literature, book, magazine, pamphlet, newspaper, storypaper, paper, comic book, writing, drawing, photograph, videotape, figure or image, or any written or printed matter of an obscene nature or any article or instrument of an obscene nature.
(g) **Injunction.**--The attorney for the Commonwealth may institute proceedings in equity in the court of common pleas of the county in which any person violates or clearly is about to violate this section for the purpose of enjoining such violation. The court shall issue an injunction only after written notice and hearing and only against the defendant to the action. The court shall hold a hearing within three days after demand by the attorney for the Commonwealth, one of which days must be a business day for the court, and a final decree shall be filed in the office of the prothonotary within 24 hours after the close of the hearing. A written memorandum supporting the decree shall be filed within five days of the filing of the decree. The attorney for the Commonwealth shall prove the elements of the violation beyond a reasonable doubt. The defendant shall have the right to trial by jury at the said hearing.

(h) **Criminal prosecution.**--

(1) Any person who violates subsection (a), (a.1) or (f) is guilty of a misdemeanor of the first degree. Violation of subsection (a) is a felony of the third degree if the offender has previously been convicted of a violation of subsection (a) or if the material was sold, distributed, prepared or published for the purpose of resale.

(2) Any person who violates subsection (c) or (d) is guilty of a felony of the third degree. Violation of subsection (c) or (d) is a felony of the second degree if the offender has previously been convicted of a violation of subsection (c) or (d).

(3) Findings made in an equity action shall not be binding in the criminal proceedings.

(i) **Right to jury trial.**--The right to trial by jury shall be preserved in all proceedings under this section.

(j) **Exemptions.**--Nothing in this section shall apply to any recognized historical society or museum accorded charitable status by the Federal Government, any county, city, borough, township or town library, any public library, any library of any school, college or university or any archive or library under the supervision and control of the Commonwealth or a political subdivision.

(k) **Ordinances or resolutions.**--Nothing in this chapter shall be construed to invalidate, supersede, repeal or preempt any ordinance or resolution of any political subdivision insofar as it is consistent with this chapter, and political subdivisions further retain the right to regulate any activities, displays, exhibitions or materials not specifically regulated by this chapter.

(l) **Penalty for attempt to evade prosecution.**--Any person who violates subsection (a.1) and attempts to avoid prosecution by knowingly including false or misleading information in the return address portion of the electronic communications such that the recipient would be unable to send a reply message to the original, authentic sender shall, in addition to any other penalty imposed, upon conviction, be sentenced to pay a fine of
not less than $100 nor more than $500 per message or to imprisonment for not more than 90 days, or both, for a first offense and a fine of not less than $500 nor more than $1,000 or to imprisonment for not more than one year, or both, for a second or subsequent offense.

(m) Concurrent jurisdiction to prosecute.--The Attorney General shall have the concurrent prosecutorial jurisdiction with the district attorney for cases arising under subsection (a.1) and may refer to the district attorney, with the district attorney's consent, any violation or alleged violation of subsection (a.1) which may come to the Attorney General's attention.

18 PA. CONS. STAT. ANN. § 6312 (2014). Sexual abuse of children
(a) Deleted by 2009, July 14, P.L. 63, No. 15, § 1, effective in 60 days [Sept. 14, 2009].

(b) Photographing, videotaping, depicting on computer or filming sexual acts.--

(1) Any person who causes or knowingly permits a child under the age of 18 years to engage in a prohibited sexual act or in the simulation of such act commits an offense if such person knows, has reason to know or intends that such act may be photographed, videotaped, depicted on computer or filmed.

(2) Any person who knowingly photographs, videotapes, depicts on computer or films a child under the age of 18 years engaging in a prohibited sexual act or in the simulation of such an act commits an offense.

(c) Dissemination of photographs, videotapes, computer depictions and films.--Any person who knowingly sells, distributes, delivers, disseminates, transfers, displays or exhibits to others, or who possesses for the purpose of sale, distribution, delivery, dissemination, transfer, display or exhibition to others, any book, magazine, pamphlet, slide, photograph, film, videotape, computer depiction or other material depicting a child under the age of 18 years engaging in a prohibited sexual act or in the simulation of such act commits an offense.

(d) Child pornography.--Any person who intentionally views or knowingly possesses or controls any book, magazine, pamphlet, slide, photograph, film, videotape, computer depiction or other material depicting a child under the age of 18 years engaging in a prohibited sexual act or in the simulation of such act commits an offense.

(d.1) Grading.--The offenses shall be graded as follows:

(1) Except as provided in paragraph (3), an offense under subsection (b) is a felony of the second degree.

(2)(i) Except as provided in paragraph (3), a first offense under subsection (c) or (d) is a felony of the third degree.
(ii) A second or subsequent offense under subsection (c) or (d) is a felony of the second degree.

(3) When a person commits an offense graded under paragraph (1) or (2)(i) and indecent contact with the child as defined in section 3101 (relating to definitions) is depicted, the grading of the offense shall be one grade higher than the grade specified in paragraph (1) or (2)(i).

(e) Evidence of age.--In the event a person involved in a prohibited sexual act is alleged to be a child under the age of 18 years, competent expert testimony shall be sufficient to establish the age of said person.

(e.1) Mistake as to age.--Under subsection (b) only, it is no defense that the defendant did not know the age of the child. Neither a misrepresentation of age by the child nor a bona fide belief that the person is over the specified age shall be a defense.

(f) Exceptions.--This section does not apply to any of the following:

(1) Any material that is viewed, possessed, controlled, brought or caused to be brought into this Commonwealth, or presented, for a bona fide educational, scientific, governmental or judicial purpose.

(2) Conduct prohibited under section 6321 (relating to transmission of sexually explicit images by minor), unless the conduct is specifically excluded by section 6321(d).

(3) An individual under 18 years of age who knowingly views, photographs, videotapes, depicts on a computer or films or possesses or intentionally views a visual depiction as defined in section 6321 of himself alone in a state of nudity as defined in section 6321.

(f.1) Criminal action.--

(1) A district attorney shall have the authority to investigate and to institute criminal proceedings for any violation of this section.

(2) In addition to the authority conferred upon the Attorney General by the act of October 15, 1980 (P.L. 950, No. 164), known as the Commonwealth Attorneys Act, the Attorney General shall have the authority to investigate and to institute criminal proceedings for any violation of this section or any series of violations of this section involving more than one county of this Commonwealth or involving any county of this Commonwealth and another state. No person charged with a violation of this section by the Attorney General shall have standing to challenge the authority of the Attorney General to investigate or prosecute the case, and, if any such challenge is made, the challenge shall be dismissed and no relief shall be available in the courts of this Commonwealth to the person making the challenge.
(g) **Definitions.**--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

*“Intentionally views.”* The deliberate, purposeful, voluntary viewing of material depicting a child under 18 years of age engaging in a prohibited sexual act or in the simulation of such act. The term shall not include the accidental or inadvertent viewing of such material.

*“Prohibited sexual act.”* Sexual intercourse as defined in section 3101 (relating to definitions), masturbation, sadism, masochism, bestiality, fellatio, cunnilingus, lewd exhibition of the genitals or nudity if such nudity is depicted for the purpose of sexual stimulation or gratification of any person who might view such depiction.

**18 PA. CONS. STAT. ANN. § 6318 (2014). Unlawful contact with minor**

(a) **Offense defined.**--A person commits an offense if he is intentionally in contact with a minor, or a law enforcement officer acting in the performance of his duties who has assumed the identity of a minor, for the purpose of engaging in an activity prohibited under any of the following, and either the person initiating the contact or the person being contacted is within this Commonwealth:

1. Any of the offenses enumerated in Chapter 31 (relating to sexual offenses).
2. Open lewdness as defined in section 5901 (relating to open lewdness).
3. Prostitution as defined in section 5902 (relating to prostitution and related offenses).
4. Obscene and other sexual materials and performances as defined in section 5903 (relating to obscene and other sexual materials and performances).
5. Sexual abuse of children as defined in section 6312 (relating to sexual abuse of children).
6. Sexual exploitation of children as defined in section 6320 (relating to sexual exploitation of children).

(b) **Grading.**--A violation of subsection (a) is:

1. an offense of the same grade and degree as the most serious underlying offense in subsection (a) for which the defendant contacted the minor; or
2. a felony of the third degree; whichever is greater.

(b.1) **Concurrent jurisdiction to prosecute.**--The Attorney General shall have concurrent prosecutorial jurisdiction with the district attorney for violations under this
section and any crime arising out of the activity prohibited by this section when the person charged with a violation of this section contacts a minor through the use of a computer, computer system or computer network. No person charged with a violation of this section by the Attorney General shall have standing to challenge the authority of the Attorney General to prosecute the case, and, if any such challenge is made, the challenge shall be dismissed and no relief shall be available in the courts of this Commonwealth to the person making the challenge.

(c) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Computer.” An electronic, magnetic, optical, hydraulic, organic or other high-speed data processing device or system which performs logic, arithmetic or memory functions and includes all input, output, processing, storage, software or communication facilities which are connected or related to the device in a computer system or computer network.

“Computer network.” The interconnection of two or more computers through the usage of satellite, microwave, line or other communication medium.

“Computer system.” A set of related, connected or unconnected computer equipment, devices and software.

“Contacts.” Direct or indirect contact or communication by any means, method or device, including contact or communication in person or through an agent or agency, through any print medium, the mails, a common carrier or communication common carrier, any electronic communication system and any telecommunications, wire, computer or radio communications device or system.

“Minor.” An individual under 18 years of age.

RHODE ISLAND

(a) “Aggravated offense” means and includes offenses involving sexual penetration of victims of any age through the use of force or the threat of use of force or offenses involving sexual penetration of victims who are fourteen (14) years of age or under.

(b) “Board”, “board of review”, or “sex offender board of review” means the sex offender board of review appointed by governor pursuant to § 11-37.1-6.

(c)(1) “Conviction” or “convicted” means and includes any instance where:

(i) A judgment of conviction has been entered against any person for any offense specified in subsection (e) or (k) of this section, regardless of whether an appeal is
pending; or

(ii) There has been a finding of guilty for any offense specified in subsection (e) or (k) of this section, regardless of whether an appeal is pending; or

(iii) There has been a plea of guilty or nolo contendere for any offense specified in subsection (e) or (k) of this section, regardless of whether an appeal is pending; or

(iv) There has been an admission of sufficient facts or a finding of delinquency for any offense specified in subsection (e) or (k) of this section, regardless of whether or not an appeal is pending.

(2) Provided, in the event that a conviction, as defined in this subsection, has been overturned, reversed, or otherwise vacated, the person who was the subject of the conviction shall no longer be required to register as required by this chapter and any records of a registration shall be destroyed. Provided, further that nothing in this section shall be construed to eliminate a registration requirement of a person who is again convicted of an offense for which registration is required by this chapter.

(d) [Deleted by P.L. 2003, ch. 162, § 1 and by P.L. 2003, ch. 170, § 1].

(e) “Criminal offense against a victim who is a minor” means and includes any of the following offenses or any offense in another jurisdiction which is substantially the equivalent of the following or for which the person is or would be required to register under 42 U.S.C. § 14071 or 18 U.S.C. § 4042(c):

(1) Kidnapping or false imprisonment of a minor, in violation of § 11-26-1.4, 11-26-1 or 11-26-2, where the victim of the offense is sixteen (16) years of age or older and under the age of eighteen (18) years;

(2) Enticement of a child in violation of § 11-26-1.5 with the intent to violate §§ 11-37-6, 11-37-8, 11-37-8.1, 11-37-8.3;

(3) Any violation of § 11-37-6, 11-37-8, 11-37-8.1, or 11-37-8.3;

(4) Any violation of § 11-1-10, where the underlying offense is a violation of chapter 34 of this title and the victim or person solicited to commit the offense is under the age of eighteen (18) years;

(5) Any violation of § 11-9-1(b) or (c);

(6) Any violation of § 11-9-1.3;

(7) Any violation of § 11-9-1.5;
(8) Any violation of § 11-37.1-10;

(9) Any violation of § 11-37-8.8;

(10) Any violation of § 11-64-2 where the victim is under the age of eighteen (18) years; or

(11) Murder in violation of § 11-23-1 where the murder was committed in the perpetration of, or attempted perpetration of, kidnapping and where the victim of the offense is under eighteen (18) years of age.

(f) “Designated state law enforcement agency” means the attorney general or his or her designee.

(g) “Employed, carries on a vocation” means and includes the definition of “employed, carries on a vocation” under 42 U.S.C. § 14071.

(h) “Institutions of higher education” means any university, two (2) or four (4) year college or community college.

(i) “Mental abnormality” means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of other persons.

(j) “Predator” means a person whose act(s) is (are) or was (were) directed at a stranger, or at a person with whom a relationship has been established or promoted for the primary purpose of victimization.

(k) “Sexually violent offense” means and includes any violation of § 11-37-2, 11-37-4, 11-37-6, 11-37-8, 11-37-8.1, 11-37-8.3, or 11-5-1 where the specified felony is sexual assault, or § 11-23-1 where the murder was committed in the perpetration of, or attempted perpetration of, rape or any degree of sexual assault or child molestation, or any offense in another jurisdiction which is substantially the equivalent of any offense listed in this subsection or for which the person is or would be required to register under 42 U.S.C. § 14071 or 18 U.S.C. § 4042(c).

(l) “Sexually violent predator” means a person who has been convicted of a sexually violent offense and who has a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offenses.

(m) “Student” means and includes the definition of “student” under 42 U.S.C. § 14071.

(n) “Parole board” means the parole board or its designee.
(a) Every person having the custody or control of any child under the age of sixteen (16) years who shall exhibit, use, or employ, or shall in any manner or under pretense sell, give away, let out or otherwise dispose of any child under the age of sixteen (16) years to any person for or in the vocation, occupation, service, or purpose of rope or wire walking, or as a gymnast, wrestler, contortionist, equestrian performer, acrobat, or rider upon any bicycle or mechanical contrivance, or in any dancing, theatrical, or musical exhibition unless it is in connection with churches, school or private instruction in dancing or music, or unless it is under the auspices of a Rhode Island society incorporated, or organized without incorporation for a purpose authorized by § 7-6-4; or for or in gathering or picking rags, or collecting cigar stumps, bones or refuse from markets, or in begging, or in any mendicant or wandering occupation, or in peddling in places injurious to the morals of the child; or for or in the exhibition of any child with a disability, or in any illegal, obscene, indecent, or immoral purpose, exhibition, or vocation, injurious to the health or morals or dangerous to the life or limb of the child, or who shall cause, procure or encourage any child under the age of sixteen (16) years to engage in that activity, or who, after being notified by an officer mentioned in § 11-9-3 to restrain the child from engaging in that activity, shall neglect or refuse to do so, shall be held guilty of a misdemeanor and shall, for every such offense, be imprisoned not exceeding one year, or be fined not exceeding two hundred fifty dollars ($250), or both, and shall forfeit any right which he or she may have to the custody of the child; provided, that the provisions of this section shall not apply to any child, not a resident of this state, who is engaged in any dancing, theatrical, or musical performance in this state and is accompanied by a parent, guardian, or tutor, when a permit for the appearance of the child is granted by the mayor of the city or the president of the town council of the town, where the performance is to be given; provided, further, that the provisions of this section shall not apply to any child, a resident of this state, who is engaged in any dancing, theatrical, or musical performance in this state on a day when the public schools are not in session in the town or city where the dancing, theatrical or musical performance shall be given (not however on Sunday) if the child is accompanied by a parent, guardian or tutor, when a permit for the appearance of the child is granted by the mayor of the city or the president of the town council of the town where the performance is to be given.

(b) Any person who shall in any manner or under any pretense sell, distribute, let out or otherwise permit any child under eighteen (18) years of age to be used in any book, magazine, pamphlet, or other publication, or in any motion picture film, photograph or pictorial representation, in a setting which taken as a whole suggests to the average person that the child has engaged in, or is about to engage in any sexual act, which shall include, but not be limited to, sodomy, oral copulation, sexual intercourse, masturbation, or bestiality, shall, upon conviction for the first offense be punished by imprisonment for not more than ten (10) years, or a fine of not more than ten thousand dollars ($10,000), or both; upon conviction of a subsequent offense, be punished by imprisonment for not more than fifteen (15) years, a fine of not more than fifteen thousand dollars ($15,000), or both.
(c) Every person who shall exhibit, use, employ or shall in any manner or under pretense so exhibit, use, or employ any child under the age of eighteen (18) years to any person for the purpose of prostitution or for any other lewd or indecent act shall be imprisoned not exceeding twenty (20) years, or be fined not exceeding twenty thousand dollars ($20,000), or both.


(a) Violations. It is a violation of this section for any person to:

(1) Knowingly produce any child pornography;

(2) Knowingly mail, transport, deliver or transfer by any means, including by computer, any child pornography;

(3) Knowingly reproduce any child pornography by any means, including the computer; or

(4) Knowingly possess any book, magazine, periodical, film, videotape, computer disk, computer file or any other material that contains an image of child pornography.

(b) Penalties.

(1) Whoever violates or attempts or conspires to violate subdivisions (a)(1), (a)(2) or (a)(3) of this section shall be subject to a fine of not more than five thousand dollars ($5,000), or imprisoned for not more than fifteen (15) years, or both.

(2) Whoever violates or attempts or conspires to violate subdivision (a)(4) of this section shall be subject to a fine of not more than five thousand dollars ($5,000), or imprisoned not more than five (5) years, or both.

(c) Definitions. For purposes of this section:

(1) “Child pornography” means any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct where:

(i) The production of such visual depiction involves the use of a minor engaging in sexually explicit conduct;

(ii) Such visual depiction is a digital image, computer image, or computer-generated image of a minor engaging in sexually explicit conduct; or

(iii) Such visual depiction has been created, adapted, or modified to display an identifiable minor engaging in sexually explicit conduct.
(2) “Computer” has the meaning given to that term in section 11-52-1;

(3) “Minor” means any person not having reached eighteen (18) years of age;

(4) “Identifiable minor.”

(i) Means a person:

(A)(I) Who was a minor at the time the visual depiction was created, adapted, or modified; or

(II) Whose image as a minor was used in creating, adapting, or modifying the visual depiction; and

(ii) Who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature; and

(B) Shall not be construed to require proof of the actual identity of the identifiable minor.

(5) “Producing” means producing, directing, manufacturing, issuing, publishing or advertising;

(6) “Sexually explicit conduct” means actual:

(i) Graphic sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, or lascivious sexual intercourse where the genitals, or pubic area of any person is exhibited;

(ii) Bestiality;

(iii) Masturbation;

(iv) Sadistic or masochistic abuse; or

(v) Graphic or lascivious exhibition of the genitals or pubic area of any person;

(7) “Visual depiction” includes undeveloped film and videotape and data stored on a computer disk or by electronic means, which is capable of conversion into a visual image;

(8) “Graphic,” when used with respect to a depiction of sexually explicit conduct, means that a viewer can observe any part of the genitals or pubic area of any depicted person or animal during any part of the time that the sexually explicit conduct is being depicted.
(d) **Affirmative defenses.**

(1) It shall be an affirmative defense to a charge of violating subdivision (a)(1), (a)(2), or (a)(3) of this section that:

(i) The alleged child pornography was produced using an actual person or persons engaging in sexually explicit conduct; and

(ii) Each such person was an adult at the time the material was produced; and

(iii) The defendant did not advertise, promote, present, describe or distribute the material in such a manner as to convey the impression that it is or contains a visual depiction of a minor engaging in sexually explicit conduct.

(2) It shall be an affirmative defense to a charge of violating subdivision (a)(4) of this section that the defendant:

(i) Possessed less than three (3) images of child pornography; and

(ii) Promptly and in good faith and without retaining or allowing any person, other than a law enforcement agency, to access any image or copy of it:

(A) Took reasonable steps to destroy each such image; or

(B) Reported the matter to a law enforcement agency and afforded that agency access to each such image.

(e) **Severability.** If any provision or provisions of this section, or the application of this section to any person or circumstance is held invalid by a court of competent authority, that invalidity does not affect other provisions or applications of this section which can be given effect without that invalid provision or provisions or application of the provision or provisions, and to this end the provisions of this section are declared to be separable and severable.

**R.I. Gen. Laws § 11-9-1.3 (2014). Electronically disseminating indecent material to minors prohibited**

(a) Definitions as used in this section:

(1) “Minor” means any person not having reached eighteen (18) years of age.

(2) “Computer” has the meaning given to that term in § 11–52–1.

(3) “Telecommunication device” means an analog or digital electronic device that processes data, telephone, video, or sound transmission as part of any system involved in
the sending and/or receiving at a distance of voice, sound, data, and/or video transmissions.

(4) “Indecent visual depiction” means any digital image or digital video depicting one or more persons engaging in sexually explicit conduct, is obscene as defined in § 11–31–1(b), and includes:

(i) Data stored on any computer, telecommunication device, or other electronic storage media that is capable of conversion into a visual image; or

(ii) Digital video depicting sexually explicit conduct transmitted live over a computer online service, Internet service, or local electronic bulletin board service. If a digital image or digital video is part of a larger work, that larger work shall be the subject for the purpose of § 11–31–1(b) analysis.

(5) “Sexually explicit conduct” means actual:

(i) Graphic sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, or lascivious sexual intercourse where the genitals or pubic area of any person is exhibited;

(ii) Bestiality;

(iii) Masturbation;

(iv) Sadistic or masochistic abuse; or

(v) Graphic or lascivious exhibition of the genitals or pubic area of any person.

(b) No person shall knowingly and intentionally use a computer or telecommunication device to transmit an indecent visual depiction to a person he or she knows is, or believes to be, a minor.

(c) No minor shall be charged under this section if his or her conduct falls within § 11–9–1.4, “Minor Electronically Disseminating Indecent Material to Another Person—“Sexting” Prohibited.”

(d) No person shall be charged under this section if the minor to whom the indecent visual depiction was transmitted was fifteen (15) years of age or older and the person transmitting the indecent visual depiction was not more then four (4) years older than the minor.

(e) The fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense under this section shall not constitute a defense to a prosecution under this section.
(f) Those in violation of this section shall be guilty of a felony and subject to imprisonment for not more than five (5) years, a fine of not more than five thousand dollars ($5,000), or both.

(g) Those in violation of this section shall be subject to sex offender registration requirements set forth in § 11–37.1–1 et seq., entitled “Sexual Offender Registration and Community Notification Act.”

(h) Nothing in this section shall be construed to impose liability upon the following entities as a result of content or information provided by another person:

1. An interactive computer service;
2. A provider of public or private mobile service; or
3. A telecommunications network provider.

**SOUTH CAROLINA**


(A) Any person, regardless of age, residing in the State of South Carolina who in this State has been convicted of, adjudicated delinquent for, pled guilty or nolo contendere to an offense described below, or who has been convicted, adjudicated delinquent, pled guilty or nolo contendere, or found not guilty by reason of insanity in any comparable court in the United States, or a foreign country, or who has been convicted, adjudicated delinquent, pled guilty or nolo contendere, or found not guilty by reason of insanity in the United States federal courts of a similar offense, or who has been convicted of, adjudicated delinquent for, pled guilty or nolo contendere, or found not guilty by reason of insanity to an offense for which the person was required to register in the state where the conviction or plea occurred, shall be required to register pursuant to the provisions of this article. A person who has been found not guilty by reason of insanity shall not be required to register pursuant to the provisions of this article unless and until the person is declared to no longer be insane or is ordered to register by the trial judge. A person who has been convicted, adjudicated delinquent, pled guilty or nolo contendere, or found not guilty by reason of insanity in any court in a foreign country may raise as a defense to prosecution for failure to register that the offense in the foreign country was not equivalent to any offense in this State for which he would be required to register and may raise as a defense that the conviction, adjudication, plea, or finding in the foreign country was based on a proceeding or trial in which the person was not afforded the due process of law as guaranteed by the Constitution of the United States and this State.
(B) For purposes of this article, a person who remains in this State for a total of thirty days during a twelve-month period is a resident of this State.

(C) For purposes of this article, a person who has been convicted of, pled guilty or nolo contendere to, or been adjudicated delinquent for any of the following offenses shall be referred to as an offender:

1. criminal sexual conduct in the first degree (Section 16-3-652);

2. criminal sexual conduct in the second degree (Section 16-3-653);

3. criminal sexual conduct in the third degree (Section 16-3-654);

4. criminal sexual conduct with minors, first degree (Section 16-3-655(A));

5. criminal sexual conduct with minors, second degree (Section 16-3-655(B)). If evidence is presented at the criminal proceeding and the court makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct, as contained in Section 16-3-655(B)(2) provided the offender is eighteen years of age or less, or consensual sexual conduct between persons under sixteen years of age, the convicted person is not an offender and is not required to register pursuant to the provisions of this article;

6. criminal sexual conduct with minors, third degree (Section 16-3-655(C));

7. engaging a child for sexual performance (Section 16-3-810);

8. producing, directing, or promoting sexual performance by a child (Section 16-3-820);

9. criminal sexual conduct: assaults with intent to commit (Section 16-3-656);

10. incest (Section 16-15-20);

11. buggery (Section 16-15-120);

12. peeping, voyeurism, or aggravated voyeurism (Section 16-17-470);

13. violations of Article 3, Chapter 15, Title 16 involving a minor;

14. a person, regardless of age, who has been convicted, adjudicated delinquent, pled guilty or nolo contendere in this State, or who has been convicted, adjudicated delinquent, pled guilty or nolo contendere in a comparable court in the United States, or who has been convicted, adjudicated delinquent, pled guilty or nolo contendere in the United States federal courts of indecent exposure or of a similar offense in other jurisdictions is required to register pursuant to the provisions of this article if the court...
makes a specific finding on the record that based on the circumstances of the case the convicted person should register as a sex offender;

(15) kidnapping (Section 16-3-910) of a person eighteen years of age or older except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense;

(16) kidnapping (Section 16-3-910) of a person under eighteen years of age except when the offense is committed by a parent;

(17) trafficking in persons (Section 16-3-930) except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense;

(18) criminal sexual conduct when the victim is a spouse (Section 16-3-658);

(19) sexual battery of a spouse (Section 16-3-615);

(20) sexual intercourse with a patient or trainee (Section 44-23-1150);

(21) criminal solicitation of a minor if the purpose or intent of the solicitation or attempted solicitation was to:

(a) persuade, induce, entice, or coerce the person solicited to engage or participate in sexual activity as defined in Section 16-15-375(5);

(b) perform a sexual activity in the presence of the person solicited (Section 16-15-342); or

(22) administring, distributing, dispensing, delivering, or aiding, abetting, attempting, or conspiring to administer, distribute, dispense, or deliver a controlled substance or gamma hydroxy butyrate to an individual with the intent to commit a crime listed in Section 44-53-370(f), except petit larceny or grand larceny.

(23) any other offense specified by Title I of the federal Adam Walsh Child Protection and Safety Act of 2006 (Pub. L. 109-248), the Sex Offender Registration and Notification Act (SORNA).

(D) Upon conviction, adjudication of delinquency, guilty plea, or plea of nolo contendere of a person of an offense not listed in this article, the presiding judge may order as a condition of sentencing that the person be included in the sex offender registry if good cause is shown by the solicitor.

(E) SLED shall remove a person's name and any other information concerning that person from the sex offender registry immediately upon notification by the Attorney
General that the person's adjudication, conviction, guilty plea, or plea of nolo contendere for an offense listed in subsection (C) was reversed, overturned, or vacated on appeal and a final judgment has been rendered.

(F) If an offender receives a pardon for the offense for which he was required to register, the offender must reregister as provided by Section 23-3-460 and may not be removed from the registry except:

(1) as provided by the provisions of subsection (E); or

(2) if the pardon is based on a finding of not guilty specifically stated in the pardon.

(G) If an offender files a petition for a writ of habeas corpus or a motion for a new trial pursuant to Rule 29(b), South Carolina Rules of Criminal Procedure, based on newly discovered evidence, the offender must reregister as provided by Section 23-3-460 and may not be removed from the registry except:

(1) as provided by the provisions of subsection (E); or

(2)(a) if the circuit court grants the offender's petition or motion and orders a new trial; and

(b) a verdict of acquittal is returned at the new trial or entered with the state's consent.

As used in this article:

(1) “Sexual performance” means any performance or part thereof that includes sexual conduct by a child younger than eighteen years of age.

(2) “Sexual conduct” means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, sado-masochistic abuse, or lewd exhibition of the genitals.

(3) “Performance” means any play, motion picture, photograph, dance, or other visual representation that is exhibited before an audience.

(4) “Promote” means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer or agree to do any of the above.

(a) It is unlawful for any person to employ, authorize, or induce a child younger than eighteen years of age to engage in a sexual performance. It is unlawful for a parent or legal guardian or custodian of a child younger than eighteen years of age to consent to the
participation by the child in a sexual performance.

(b) Any person violating the provisions of subsection (a) of this section is guilty of criminal sexual conduct of the second degree and upon conviction shall be punished as provided in § 16-3-653.

(a) It is unlawful for any person to produce, direct, or promote a performance that includes sexual conduct by a child younger than eighteen years of age.

(b) Any person violating the provisions of subsection (a) of this section is guilty of criminal sexual conduct of the third degree and upon conviction shall be punished as provided in § 16-3-654.

Whoever shall commit the abominable crime of buggery, whether with mankind or with beast, shall, on conviction, be guilty of felony and shall be imprisoned in the Penitentiary for five years or shall pay a fine of not less than five hundred dollars, or both, at the discretion of the court.

SOUTH DAKOTA

S.D. CODIFIED LAWS § 22-24B-1 (2014). Sex crimes defined
For the purposes of §§ 22-24B-2 to 22-24B-14, inclusive, a sex crime is any of the following crimes regardless of the date of the commission of the offense or the date of conviction:

(1) Rape as set forth in § 22-22-1;

(2) Felony sexual contact with a minor under sixteen as set forth in § 22-22-7 if committed by an adult;

(3) Sexual contact with a person incapable of consenting as set forth in § 22-22-7.2;

(4) Incest if committed by an adult;

(5) Possessing, manufacturing, or distributing child pornography as set forth in § 22-24A-3;

(6) Sale of child pornography as set forth in § 22-24A-1;

(7) Sexual exploitation of a minor as set forth in § 22-22-24.3;
(8) Kidnapping, as set forth in § 22-19-1, if the victim of the criminal act is a minor;

(9) Promotion of prostitution of a minor as set forth in subdivision 22-23-2(2);

(10) Criminal pedophilia as previously set forth in § 22-22-30.1;

(11) Felony indecent exposure as previously set forth in former § 22-24-1 or felony indecent exposure as set forth in § 22-24-1.2;

(12) Solicitation of a minor as set forth in § 22-24A-5;

(13) Felony indecent exposure as set forth in § 22-24-1.3;

(14) Bestiality as set forth in § 22-22-42;

(15) An attempt to commit any of the crimes listed in this section or any conspiracy or solicitation to commit any of the crimes listed in this section;

(16) Any crime committed in a place other than this state which would constitute a sex crime under this section if committed in this state;

(17) Any federal crime or court martial offense that would constitute a sex crime under federal law;

(18) Any crime committed in another state if that state also requires that anyone convicted of that crime register as a sex offender in that state; or

(19) If the victim is a minor:

(a) Any sexual acts between a jail employee and a detainee as set forth in § 22-22-7.6;

(b) Any sexual contact by a psychotherapist as set forth in § 22-22-28; or

(c) Any sexual penetration by a psychotherapist as set forth in § 22-22-29;

(20) Intentional exposure to HIV infection as set forth in subdivision (1) of § 22-18-31.

A person is guilty of sexual exploitation of a minor if the person causes or knowingly permits a minor to engage in an activity or the simulation of an activity that:

(1) Is harmful to minors;
(2) Involves nudity; or

(3) Is obscene.

Consent to performing these proscribed acts by a minor or a minor's parent, guardian, or custodian, or mistake as to the minor's age is not a defense to a charge of violating this section.

A violation of this section is a Class 6 felony. If a person is convicted of a second or subsequent violation of this section within fifteen years of the prior conviction, the violation a Class 5 felony.

The court shall order an assessment pursuant to § 22-22-1.3 of any person convicted of violating this section.


No person, for the purpose of that person's sexual gratification, may:

(1) Engage in a sexual act with an animal; or

(2) Coerce any other person to engage in a sexual act with an animal; or

(3) Use any part of the person's body or an object to sexually stimulate an animal; or

(4) Videotape a person engaging in a sexual act with an animal; or

(5) Kill or physically abuse an animal.

Any person who violates any provision of this section is guilty of the crime of bestiality. Bestiality is a Class 6 felony. However, if the person has been previously convicted of a sex crime pursuant to § 22-24B-1, any subsequent violation of this section is a Class 5 felony.


Any person who sells, or displays for sale, any book, magazine, pamphlet, slide, photograph, film, or electronic or digital media image depicting a minor engaging in a prohibited sexual act, or engaging in an activity that involves nudity, or in the simulation of any such act is guilty of a Class 6 felony.


(1) “Adult,” any person eighteen years of age or older;

(2) “Child pornography,” any image or visual depiction of a minor engaged in prohibited sexual acts;

(3) “Child” or “minor,” any person under the age of eighteen years;

(4) “Computer,” any electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions and includes any data storage facility or communications facility directly related to or operating in conjunction with such device, including wireless communication devices such as cellular phones. The term also includes any on-line service, internet service, or internet bulletin board;

(5) Deleted by SL 2005, ch 120, § 408

(6) “Digital media,” any electronic storage device, including a floppy disk or other magnetic storage device or any compact disc that has memory and the capacity to store audio, video, or written materials;

(7) “Harmful to minors,” any reproduction, imitation, characterization, description, visual depiction, exhibition, presentation, or representation, of whatever kind or form, depicting nudity, sexual conduct, or sexual excitement if it:

(a) Predominantly appeals to the prurient, shameful, or morbid interest of minors;

(b) Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and

(c) Taken as a whole, is without serious literary, artistic, political, or scientific value for minors.

This term does not include a mother's breast-feeding of her baby;

(8) “Masochism,” sexual gratification achieved by a person through, or the association of sexual activity with, submission or subjection to physical pain, suffering, humiliation, torture, or death;

(9) “Nudity,” the showing or the simulated 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 for the purpose of creating sexual excitement. This term does not include a mother's breast-feeding of her baby irrespective of whether or not the nipple is covered during or
incidental to feeding;

(10) “Obscene,” the status of material which:

(a) The average person, applying contemporary community standards, would find, taken as a whole, appeals to the prurient interest;

(b) Depicts or describes, in a patently offensive way, prohibited sexual acts; and

(c) Taken as a whole, lacks serious literary, artistic, political, or scientific value.

This term does not include a mother's breast-feeding of her baby;

(11) “Person,” includes individuals, children, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations;

(12) “Sadism,” sexual gratification achieved through, or the association of sexual activity with, the infliction of physical pain, suffering, humiliation, torture, or death;

(13) “Sadomasochistic abuse,” flagellation or torture by or upon a minor, or the condition of being fettered, bound, or otherwise physically restrained, for the purpose of deriving sexual satisfaction, or satisfaction brought about as a result of sadistic violence, from inflicting harm on another or receiving such harm oneself;

(14) “Sexual battery,” oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object. This term does not include an act done for a bona fide medical purpose;

(15) “Sexual bestiality,” any sexual act, actual or simulated, between a person and an animal involving the sex organ of the one and the mouth, anus, or vagina of the other;

(16) “Prohibited sexual act,” actual or simulated sexual intercourse, sadism, masochism, sexual bestiality, incest, masturbation, or sadomasochistic abuse; actual or simulated exhibition of the genitals, the pubic or rectal area, or the bare feminine breasts, in a lewd or lascivious manner; actual physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breast with the intent to arouse or gratify the sexual desire of either party; defecation or urination for the purpose of creating sexual excitement in the viewer; or any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed. The term includes encouraging, aiding, abetting or enticing any person to commit any such acts as provided in this subdivision. The term does not include a mother's breast-feeding of her baby;
(17) “Sexual excitement,” the condition of the human male or female genitals if in a state of sexual stimulation or arousal;

(18) “Sexually oriented material,” any book, article, magazine, publication, visual depiction or written matter of any kind or any drawing, etching, painting, photograph, motion picture film, or sound recording that depicts sexual activity, actual or simulated, involving human beings or human beings and animals, that exhibits uncovered human genitals or the pubic region in a lewd or lascivious manner, or that exhibits human male genitals in a discernibly turgid state, even if completely and opaquely covered;

(19) “Simulated,” the explicit depiction of conduct described in subdivision (16) of this section that creates the appearance of such conduct and that exhibits any uncovered portion of the breasts, genitals, or anus;

(20) “Visual depiction,” any developed and undeveloped film, photograph, slide and videotape, and any photocopy, drawing, printed or written material, and any data stored on computer disk, digital media, or by electronic means that are capable of conversion into a visual image.

A person is guilty of possessing, manufacturing, or distributing child pornography if the person:

(1) Creates any visual depiction of a minor engaging in a prohibited sexual act, or in the simulation of such an act;

(2) Causes or knowingly permits the creation of any visual depiction of a minor engaged in a prohibited sexual act, or in the simulation of such an act; or

(3) Knowingly possesses, distributes, or otherwise disseminates any visual depiction of a minor engaging in a prohibited sexual act, or in the simulation of such an act.
Consent to performing these proscribed acts by a minor or a minor's parent, guardian, or custodian, or mistake as to the minor's age is not a defense to a charge of violating this section.
A violation of this section is a Class 4 felony. If a person is convicted of a second or subsequent violation of this section within fifteen years of the prior conviction, the violation is a Class 3 felony.
The court shall order an assessment pursuant to § 22-22-1.3 of any person convicted of violating this section.
TENNESSEE

As used in this part, unless the context otherwise requires:


(2) “Conviction” means a judgment entered by a Tennessee court upon a plea of guilty, a plea of nolo contendere, a finding of guilt by a jury or the court notwithstanding any pending appeal or habeas corpus proceeding arising from the judgment. “Conviction” includes, but is not limited to, a conviction by a federal court or military tribunal, including a court-martial conducted by the armed forces of the United States, and a conviction, whether upon a plea of guilty, a plea of nolo contendere or a finding of guilt by a jury or the court in any other state of the United States, other jurisdiction or other country. A conviction, whether upon a plea of guilty, a plea of nolo contendere or a finding of guilt by a jury or the court for an offense committed in another jurisdiction that would be classified as a sexual offense or a violent sexual offense if committed in this state shall be considered a conviction for the purposes of this part. An adjudication in another state for a delinquent act committed in another jurisdiction that would be classified as a violent juvenile sexual offense under this section, if committed in this state, shall be considered a conviction for the purposes of this part. “Convictions,” for the purposes of this part, also include a plea taken in conjunction with § 40-35-313 or its equivalent in any other jurisdiction. “Conviction” also includes a juvenile delinquency adjudication for a violent juvenile sexual offense if the offense occurs on or after July 1, 2011;

(3) “Designated law enforcement agency” means any law enforcement agency that has jurisdiction over the primary or secondary residence, place of physical presence, place of employment, school or institution of higher education where the student is enrolled or, for offenders on supervised probation or parole, the department of correction or court ordered probation officer;

(4) “Employed or practices a vocation” means any full-time or part-time employment in the state, with or without compensation, or employment that involves counseling, coaching, teaching, supervising, volunteering or working with minors in any way, regardless of the period of employment, whether the employment is financially compensated, volunteered or performed for the purpose of any government or education benefit;

(5) “Institution of higher education” means a public or private:

(A) Community college;

(B) College;
(C) University; or

(D) Independent postsecondary institution;

(6) “Law enforcement agency of any institution of higher education” means any campus law enforcement arrangement authorized by § 49-7-118;

(7) “Local law enforcement agency” means:

(A) Within the territory of a municipality, the municipal police department;

(B) Within the territory of a county having a metropolitan form of government, the metropolitan police department; or

(C) Within the unincorporated territory of a county, the sheriff's office;

(8) “Minor” means any person under eighteen (18) years of age;

(9) “Month” means a calendar month;

(10) “Offender” means sexual offender, violent sexual offender and violent juvenile sexual offender, unless otherwise designated. An offender who qualifies both as a sexual offender and a violent sexual offender or as a violent juvenile sexual offender and as a violent sexual offender shall be considered a violent sexual offender;

(11) “Parent” means any biological parent, adoptive parent or step-parent, and includes any legal or court-appointed guardian or custodian; however, “parent” shall not include step-parent if the offender's victim was a minor less than thirteen (13) years of age;

(12) “Primary residence” means a place where the person abides, lodges, resides or establishes any other living accommodations in this state for five (5) consecutive days;

(13) “Register” means the initial registration of an offender, or the re-registration of an offender after deletion or termination from the SOR;

(14) “Registering agency” means a sheriff's office, municipal police department, metropolitan police department, campus law enforcement agency, the Tennessee department of correction, a private contractor with the Tennessee department of correction or the board;

(15) “Relevant information deemed necessary to protect the public” means that information set forth in § 40-39-206(d)(1)-(15);

(16) “Report” means appearance before the proper designated law enforcement agency for any of the purposes set out in this part;
(17) “Resident” means any person who abides, lodges, resides or establishes any other living accommodations in this state, including establishing a physical presence in this state;

(18) “Secondary residence” means a place where the person abides, lodges, resides or establishes any other living accommodations in this state for a period of fourteen (14) or more days in the aggregate during any calendar year and that is not the person's primary residence; for a person whose primary residence is not in this state, a place where the person is employed, practices a vocation or is enrolled as a student for a period of fourteen (14) or more days in the aggregate during any calendar year; or a place where the person routinely abides, lodges or resides for a period of four (4) or more consecutive or nonconsecutive days in any month and that is not the person's primary residence, including any out-of-state address;

(19) “Sexual offender” means a person who has been convicted in this state of committing a sexual offense or has another qualifying conviction;

(20) “Sexual offense” means:

(A) The commission of any act that, on or after November 1, 1989, constitutes the criminal offense of:

(i) Sexual battery, under § 39-13-505;

(ii) Statutory rape, under § 39-13-506, if the defendant has one (1) or more prior convictions for mitigated statutory rape under § 39-13-506(a), statutory rape under § 39-13-506(b) or aggravated statutory rape under § 39-13-506(c), or if the judge orders the person to register as a sexual offender pursuant to § 39-13-506(d);

(iii) Aggravated prostitution, under § 39-13-516, provided the offense occurred prior to July 1, 2010;

(iv) Sexual exploitation of a minor, under § 39-17-1003;

(v) False imprisonment where the victim is a minor, under § 39-13-302, except when committed by a parent of the minor;

(vi) Kidnapping, where the victim is a minor, under § 39-13-303, except when committed by a parent of the minor;

(vii) Indecent exposure, under § 39-13-511, upon a third or subsequent conviction;

(viii) Solicitation of a minor, under § 39-13-528 when the offense is classified as a Class D felony, Class E felony or a misdemeanor;
(ix) Spousal sexual battery, for those committing the offense prior to June 18, 2005, under former § 39-13-507;

(x) Attempt, under § 39-12-101, to commit any of the offenses enumerated in this subdivision (20)(A);

(xi) Solicitation, under § 39-12-102, to commit any of the offenses enumerated in this subdivision (20)(A);

(xii) Conspiracy, under § 39-12-103, to commit any of the offenses enumerated in this subdivision (20)(A);

(xiii) Criminal responsibility, under § 39-11-402 (2), to commit any of the offenses enumerated in this subdivision (20)(A);

(xiv) Facilitating the commission, under § 39-11-403, to commit any of the offenses enumerated in this subdivision (20)(A);

(xv) Being an accessory after the fact, under § 39-11-411, to commit any of the offenses enumerated in this subdivision (20)(A);

(xvi) Aggravated statutory rape, under § 39-13-506(c);

(xvii) Soliciting sexual exploitation of a minor—exploitation of a minor by electronic means, under § 39-13-529;

(xviii) Promotion of prostitution, under § 39-13-515;

(xix) Patronizing prostitution where the victim is a minor, under § 39-13-514;

(xx) Observation without consent, under § 39-13-607, upon a third or subsequent conviction;

(xx) Observation without consent, under § 39-13-607 when the offense is classified as a Class E felony; or

(xxii) Unlawful photographing under § 39-13-605 when the offense is classified as a Class E or Class D felony.

(B) The commission of any act, that prior to November 1, 1989, constituted the criminal offense of:

(i) Sexual battery, under § 39-2-607 [repealed];
(ii) Statutory rape, under § 39-2-605 [repealed], only if the facts of the conviction satisfy the definition of aggravated statutory rape;

(iii) Assault with intent to commit rape or attempt to commit sexual battery, under § 39-2-608 [repealed];

(iv) Incest, under § 39-4-306 [repealed];

(v) Use of a minor for obscene purposes, under § 39-6-1137 [repealed];

(vi) Promotion of performance including sexual conduct by a minor, under § 39-6-1138 [repealed];

(vii) Criminal sexual conduct in the first degree, under § 39-3703 [repealed];

(viii) Criminal sexual conduct in the second degree, under § 39-3704 [repealed];

(ix) Criminal sexual conduct in the third degree, under § 39-3705 [repealed];

(x) Kidnapping where the victim is a minor, under § 39-2-303 [repealed], except when committed by a parent of the minor;

(xi) Solicitation, under § 39-1-401 [repealed] or § 39-118(b) [repealed], to commit any of the offenses enumerated in this subdivision (20)(B);

(xii) Attempt, under § 39-1-501 [repealed], § 39-605 [repealed], or § 39-606 [repealed], to commit any of the offenses enumerated in this subdivision (20)(B);

(xiii) Conspiracy, under § 39-1-601 [repealed] or § 39-1104 [repealed], to commit any of the offenses enumerated in this subdivision (20)(B); or

(xiv) Accessory before or after the fact, or aider and abettor, under title 39, chapter 1, part 3 [repealed], to any of the offenses enumerated in this subdivision (20)(B);

(21) “SOR” means the TBI's centralized record system of offender registration, verification and tracking information;

(22) “Student” means a person who is enrolled on a full-time or part-time basis in any public or private educational institution, including any secondary school, trade or professional institution or institution of higher learning;

(23) “TBI” means the Tennessee bureau of investigation;

(24) “TBI registration form” means the Tennessee sexual offender registration, verification and tracking form;
(25) “TDOC” means the Tennessee department of correction;

(26) “TIES” means the Tennessee information enforcement system;

(27)(A) “Violent juvenile sexual offender” means a person fourteen (14) years of age or more but less than eighteen (18) years of age who has been adjudicated delinquent in this state for any act that constitutes a violent juvenile sexual offense as defined in this section;

(B) At the time of adjudication of a qualifying offense, such offender shall become a violent sexual offender and this part governing violent sexual offenders shall be applicable to such violent juvenile sexual offender, unless otherwise set out in this part;

(28)(A) “Violent juvenile sexual offense” means an adjudication of delinquency, for any act committed on or after July 1, 2011, that, if committed by an adult, constitutes the criminal offense of:

(i) Aggravated rape, under § 39-13-502;

(ii) Rape, under § 39-13-503;

(iii) Rape of a child, under § 39-13-522, provided the victim is at least four (4) years younger than the offender;

(iv) Aggravated rape of a child, under § 39-13-531; or

(v) Criminal attempt, under § 39-12-101, to commit any of the offenses enumerated in this subdivision (28)(A);

(B) “Violent juvenile sexual offense” also means an adjudication of delinquency, for any act committed on or after July 1, 2014, that, if committed by an adult, constitutes the criminal offense of:

(i) Aggravated sexual battery, under § 39-13-504;

(ii) Criminal attempt, under § 39-12-101, to commit any of the offenses enumerated in this subdivision (28)(B);

(29) “Violent sexual offender” means a person who has been convicted in this state of committing a violent sexual offense or has another qualifying conviction;

(30) “Violent sexual offense” means the commission of any act that constitutes the criminal offense of:
(A) Aggravated rape, under § 39-2-603 [repealed] or § 39-13-502;

(B) Rape, under § 39-2-604 [repealed] or § 39-13-503;

(C) Aggravated sexual battery, under § 39-2-606 [repealed] or § 39-13-504;

(D) Rape of a child, under § 39-13-522;

(E) Attempt to commit rape, under § 39-2-608 [repealed];

(F) Aggravated sexual exploitation of a minor, under § 39-17-1004;

(G) Especially aggravated sexual exploitation of a minor under § 39-17-1005;

(H) Aggravated kidnapping where the victim is a minor, under § 39-13-304, except when committed by a parent of the minor;

(I) Especially aggravated kidnapping where the victim is a minor, under § 39-13-305, except when committed by a parent of the minor;

(J) Sexual battery by an authority figure, under § 39-13-527;

(K) Solicitation of a minor, under § 39-13-528 when the offense is classified as a Class B or Class C felony;

(L) Spousal rape, under § 39-13-507(b)(1) [repealed];

(M) Aggravated spousal rape, under § 39-13-507 (c)(1) [repealed];

(N) Criminal exposure to HIV, under § 39-13-109(a)(1);

(O) Statutory rape by an authority figure, under § 39-13-532;

(P) Criminal attempt, under § 39-12-101, § 39-12-501 [repealed], § 39-605 [repealed], or § 39-606 [repealed], to commit any of the offenses enumerated in this subdivision (30);

(Q) Solicitation, under § 39-12-102, to commit any of the offenses enumerated in this subdivision (30);

(R) Conspiracy, under § 39-12-103, to commit any of the offenses enumerated in this subdivision (30);

(S) Criminal responsibility, under § 39-11-402 (2), to commit any of the offenses enumerated in this subdivision (30);
(T) Facilitating the commission, under § 39-11-403, to commit any of the offenses enumerated in this subdivision (30);

(U) Being an accessory after the fact, under § 39-11-411, to commit any of the offenses enumerated in this subdivision (30);

(V) Incest, under § 39-15-302;

(W) Aggravated rape of a child under § 39-13-531;

(X) Aggravated prostitution, under § 39-13-516; provided, that the offense occurs on or after July 1, 2010;

(Y) Trafficking for a commercial sex act, under § 39-13-309; or

(Z) Promotion of prostitution, under § 39-13-515, where the person has a prior conviction for promotion of prostitution;

(31) “Within forty-eight (48) hours” means a continuous forty-eight-hour period, not including Saturdays, Sundays or federal or state holidays; and

(32) “Offender against children” means any sexual offender, violent sexual offender or violent juvenile sexual offender if the victim in one (1) or more of the offender's crimes was a child of twelve (12) years of age or less.


(a) It is an offense for a person eighteen (18) years of age or older, by means of oral, written or electronic communication, electronic mail or Internet service, including webcam communications, directly or through another, to intentionally command, hire, persuade, induce or cause a minor to engage in simulated sexual activity that is patently offensive or in sexual activity, where such simulated sexual activity or sexual activity is observed by that person or by another.

(b) It is unlawful for any person eighteen (18) years of age or older, directly or by means of electronic communication, electronic mail or Internet service, including webcam communications, to intentionally:

(1) Engage in simulated sexual activity that is patently offensive or in sexual activity for the purpose of having the minor view the simulated sexual activity or sexual activity, including circumstances where the minor is in the presence of the person, or where the minor views such activity via electronic communication, including electronic mail, Internet service and webcam communications;

(2) Display to a minor, or expose a minor to, any material containing simulated sexual activity that is patently offensive or sexual activity if the purpose of the display can
reasonably be construed as being for the sexual arousal or gratification of the minor or
the person displaying the material; or

(3) Display to a law enforcement officer posing as a minor, and whom the person making
the display reasonably believes to be less than eighteen (18) years of age, any material
containing simulated sexual activity that is patently offensive or sexual activity, if the
purpose of the display can reasonably be construed as being for the sexual arousal or
gratification of the intended minor or the person displaying the material.

(4)(A) Except as provided in subdivision (b)(4)(B), it is an exception to the application of
this subsection (b) that the victim is at least fifteen (15) but less than eighteen (18) years
of age and the defendant is no more than four (4) years older than the victim.

(B) Subdivision (b)(4)(A) shall not apply or be an exception to the application of
subdivision (b)(4)(A), if the defendant intentionally commanded, hired, induced or
caused the victim to violate this subsection (b).


(d) A person is subject to prosecution in this state under this statute for any conduct that
originates in this state, or for any conduct that originates by a person located outside this
state, where the conduct involved a minor located in this state or the solicitation of a law
enforcement officer posing as a minor located in this state.

(e) As used in this section:

(1) “Community” means the judicial district, as defined by § 16-2-506, in which a
violation is alleged to have occurred;

(2) “Material” means:

(A) Any picture, drawing, photograph, undeveloped film or film negative, motion picture
film, videocassette tape or other pictorial representation;

(B) Any statue, figure, theatrical production or electrical reproduction;

(C) Any image stored on a computer hard drive, a computer disk of any type, or any other
medium designed to store information for later retrieval; or

(D) Any image transmitted to a computer or other electronic media or video screen, by
telephone line, cable, satellite transmission, or other method that is capable of further
transmission, manipulation, storage or accessing, even if not stored or saved at the time
of transmission;
(3) “Patently offensive” means that which goes substantially beyond customary limits of candor in describing or representing such matters; and

(4) “Sexual activity” means any of the following acts:

(A) Vaginal, anal or oral intercourse, whether done with another person or an animal;

(B) Masturbation, whether done alone or with another human or an animal;

(C) Patently offensive, as determined by contemporary community standards, physical contact with or touching of a person's clothed or unclothed genitals, pubic area, buttocks or breasts in an act of apparent sexual stimulation or sexual abuse;

(D) Sadomasochistic abuse, including flagellation, torture, physical restraint, domination or subordination by or upon a person for the purpose of sexual gratification of any person;

(E) The insertion of any part of a person's body or of any object into another person's anus or vagina, except when done as part of a recognized medical procedure by a licensed professional;

(F) Patently offensive, as determined by contemporary community standards, conduct, representations, depictions or descriptions of excretory functions; or

(G) Lascivious exhibition of the female breast or the genitals, buttocks, anus or pubic or rectal area of any person.

(f)(1) A violation of subsection (a) is a Class B felony.

(2) A violation of subsection (b) is a Class E felony; provided, that, if the minor is less than thirteen (13) years of age, the violation is a Class C felony.

(g) It shall not be a defense to a violation of this section that a minor victim of the offense consented to the conduct that constituted the offense.

The following definitions apply in §§ 39-17-1002 -- 39-17-1007, unless the context otherwise requires:

(1) “Community” means the judicial district, as defined by § 16-2-506, in which a violation is alleged to have occurred;

(2) “Material” means:
(A) Any picture, drawing, photograph, undeveloped film or film negative, motion picture film, videocassette tape or other pictorial representation;

(B) Any statue, figure, theatrical production or electrical reproduction;

(C) Any image stored on a computer hard drive, a computer disk of any type, or any other medium designed to store information for later retrieval; or

(D) Any image transmitted to a computer or other electronic media or video screen, by telephone line, cable, satellite transmission, or other method that is capable of further transmission, manipulation, storage or accessing, even if not stored or saved at the time of transmission;

(3) “Minor” means any person who has not reached eighteen (18) years of age;

(4) “Patently offensive” means that which goes substantially beyond customary limits of candor in describing or representing such matters;

(5) “Performance” means any play, motion picture, photograph, dance, or other visual representation that can be exhibited before an audience of one (1) or more persons;

(6) “Promote” means to finance, produce, direct, manufacture, issue, publish, exhibit or advertise, or to offer or agree to do those things;

(7) “Prurient interest” means a shameful or morbid interest in sex; and

(8) “Sexual activity” means any of the following acts:

(A) Vaginal, anal or oral intercourse, whether done with another person or an animal;

(B) Masturbation, whether done alone or with another human or an animal;

(C) Patently offensive, as determined by contemporary community standards, physical contact with or touching of a person's clothed or unclothed genitals, pubic area, buttocks or breasts in an act of apparent sexual stimulation or sexual abuse;

(D) Sadomasochistic abuse, including flagellation, torture, physical restraint, domination or subordination by or upon a person for the purpose of sexual gratification of any person;

(E) The insertion of any part of a person's body or of any object into another person's anus or vagina, except when done as part of a recognized medical procedure by a licensed professional;
(F) Patently offensive, as determined by contemporary community standards, conduct, representations, depictions or descriptions of excretory functions; or

(G) Lascivious exhibition of the female breast or the genitals, buttocks, anus or pubic or rectal area of any person.


(a) It is unlawful for any person to knowingly possess material that includes a minor engaged in:

(1) Sexual activity; or

(2) Simulated sexual activity that is patently offensive.

(b) A person possessing material that violates subsection (a) may be charged in a separate count for each individual image, picture, drawing, photograph, motion picture film, videocassette tape, or other pictorial representation. Where the number of materials possessed is greater than fifty (50), the person may be charged in a single count to enhance the class of offense under subsection (d).

(c) In a prosecution under this section, the trier of fact may consider the title, text, visual representation, Internet history, physical development of the person depicted, expert medical testimony, expert computer forensic testimony, and any other relevant evidence, in determining whether a person knowingly possessed the material, or in determining whether the material or image otherwise represents or depicts that a participant is a minor.

(d) A violation of this section is a Class D felony; however, if the number of individual images, materials, or combination of images and materials, that are possessed is more than fifty (50), then the offense shall be a Class C felony. If the number of individual images, materials, or combination of images and materials, exceeds one hundred (100), the offense shall be a Class B felony.

(e) In a prosecution under this section, the state is not required to prove the actual identity or age of the minor.

(f) It shall not be a defense to a violation of this section that a minor victim of the offense consented to the conduct that constituted the offense.


(a)(1) It is unlawful for a person to knowingly promote, sell, distribute, transport, purchase or exchange material, or possess with the intent to promote, sell, distribute, transport, purchase or exchange material, that includes a minor engaged in:

(A) Sexual activity; or
(B) Simulated sexual activity that is patently offensive.

(2) A person who violates subdivision (a)(1) may be charged in a separate count for each individual image, picture, drawing, photograph, motion picture film, videocassette tape, or other pictorial representation. Where the number of materials involved in a violation under subdivision (a)(1) is greater than twenty-five (25), the person may be charged in a single count to enhance the class of offense under subdivision (a)(4).

(3) In a prosecution under this section, the trier of fact may consider the title, text, visual representation, Internet history, physical development of the person depicted, expert medical testimony, expert computer forensic testimony, and any other relevant evidence, in determining whether a person knowingly promoted, sold, distributed, transported, purchased, exchanged or possessed the material for these purposes, or in determining whether the material or image otherwise represents or depicts that a participant is a minor.

(4) A violation of this section is a Class C felony; however, if the number of individual images, materials, or combination of images and materials that are promoted, sold, distributed, transported, purchased, exchanged or possessed, with intent to promote, sell, distribute, transport, purchase or exchange, is more than twenty-five (25), then the offense shall be a Class B felony.

(b)(1) It is unlawful for a person to knowingly promote, sell, distribute, transport, purchase or exchange material that is obscene, as defined in § 39-17-901, or possess material that is obscene, with the intent to promote, sell, distribute, transport, purchase or exchange the material, which includes a minor engaged in:

(A) Sexual activity; or

(B) Simulated sexual activity that is patently offensive.

(2) A person who violates subdivision (b)(1) may be charged in a separate count for each individual image, picture, drawing, photograph, motion picture film, videocassette tape, or other pictorial representation. Where the number of materials involved in a violation under subdivision (b)(1) is greater than twenty-five (25), the person may be charged in a single count to enhance the class of offense under subdivision (b)(4).

(3) In a prosecution under this section, the trier of fact may consider the title, text, visual representation, Internet history, physical development of the person depicted, expert medical testimony, expert computer forensic testimony, and any other relevant evidence, in determining whether a person knowingly promoted, sold, distributed, transported, purchased, exchanged or possessed the material for these purposes, or in determining whether the material or image otherwise represents or depicts that a participant is a minor.
(4) A violation of this section is a Class C felony; however, if the number of individual images, materials, or combination of images and materials, that are promoted, sold, distributed, transported, purchased, exchanged or possessed, with intent to promote, sell, distribute, transport, purchase or exchange, is more than twenty-five (25), then the offense shall be a Class B felony.

(c) In a prosecution under this section, the state is not required to prove the actual identity or age of the minor.

(d) A person is subject to prosecution in this state under this section for any conduct that originates in this state, or for any conduct that originates by a person located outside this state, where the person promoted, sold, distributed, transported, purchased, exchanged or possessed, with intent to promote, sell, distribute, transport, purchase or exchange material within this state.

(e) It shall not be a defense to a violation of subsection (a) that the minor victim of the offense consented to the conduct that constituted the offense.


(a) It is unlawful for a person to knowingly promote, employ, use, assist, transport or permit a minor to participate in the performance of, or in the production of, acts or material that includes the minor engaging in:

(1) Sexual activity; or

(2) Simulated sexual activity that is patently offensive.

(b) A person violating subsection (a) may be charged in a separate count for each individual performance, image, picture, drawing, photograph, motion picture film, videocassette tape, or other pictorial representation.

(c) In a prosecution under this section, the trier of fact may consider the title, text, visual representation, Internet history, physical development of the person depicted, expert medical testimony, expert computer forensic testimony, and any other relevant evidence, in determining whether a person knowingly promoted, employed, used, assisted, transported or permitted a minor to participate in the performance of or in the production of acts or material for these purposes, or in determining whether the material or image otherwise represents or depicts that a participant is a minor.

(d) A violation of this section is a Class B felony. Nothing in this section shall be construed as limiting prosecution for any other sexual offense under this chapter, nor shall a joint conviction under this section and any other related sexual offense, even if arising out of the same conduct, be construed as limiting any applicable punishment,
including consecutive sentencing under § 40-35-115, or the enhancement of sentence under § 40-35-114.

(e) In a prosecution under this section, the state is not required to prove the actual identity or age of the minor.

(f) A person is subject to prosecution in this state under this section for any conduct that originates in this state, or for any conduct that originates by a person located outside this state, where the person promoted, employed, assisted, transported or permitted a minor to engage in the performance of, or production of, acts or material within this state.

(g) It shall not be a defense to a violation of subsection (a) that the minor victim of the offense consented to the conduct that constituted the offense.

TENNESSEE


In this chapter:

(1) “Department” means the Department of Public Safety.

(2) “Local law enforcement authority” means, as applicable, the office of the chief of police of a municipality, the office of the sheriff of a county in this state, or a centralized registration authority.

(3) “Penal institution” means a confinement facility operated by or under a contract with any division of the Texas Department of Criminal Justice, a confinement facility operated by or under contract with the Texas Youth Commission, or a juvenile secure pre-adjudication or post-adjudication facility operated by or under a local juvenile probation department, or a county jail.

(4) “Released” means discharged, paroled, placed in a nonsecure community program for juvenile offenders, or placed on juvenile probation, community supervision, or mandatory supervision.

(5) “Reportable conviction or adjudication” means a conviction or adjudication, including an adjudication of delinquent conduct or a deferred adjudication, that, regardless of the pendency of an appeal, is a conviction for or an adjudication for or based on:

(A) a violation of Section 21.02 (Continuous sexual abuse of young child or children), 21.11 (Indecency with a child), 22.011 (Sexual assault), 22.021 (Aggravated sexual assault), or 25.02 (Prohibited sexual conduct), Penal Code;
(B) a violation of Section 43.05 (Compelling prostitution), 43.25 (Sexual performance by a child), or 43.26 (Possession or promotion of child pornography), Penal Code;

(C) a violation of Section 20.04(a)(4) (Aggravated kidnapping), Penal Code, if the actor committed the offense or engaged in the conduct with intent to violate or abuse the victim sexually;

(D) a violation of Section 30.02 (Burglary), Penal Code, if the offense or conduct is punishable under Subsection (d) of that section and the actor committed the offense or engaged in the conduct with intent to commit a felony listed in Paragraph (A) or (C);

(E) a violation of Section 20.02 (Unlawful restraint), 20.03 (Kidnapping), or 20.04 (Aggravated kidnapping), Penal Code, if, as applicable:

(i) the judgment in the case contains an affirmative finding under Article 42.015; or

(ii) the order in the hearing or the papers in the case contain an affirmative finding that the victim or intended victim was younger than 17 years of age;

(F) the second violation of Section 21.08 (Indecent exposure), Penal Code, but not if the second violation results in a deferred adjudication;

(G) an attempt, conspiracy, or solicitation, as defined by Chapter 15, Penal Code, to commit an offense or engage in conduct listed in Paragraph (A), (B), (C), (D), (E), or (K);

(H) a violation of the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice for or based on the violation of an offense containing elements that are substantially similar to the elements of an offense listed under Paragraph (A), (B), (C), (D), (E), (G), (J), or (K), but not if the violation results in a deferred adjudication;

(I) the second violation of the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice for or based on the violation of an offense containing elements that are substantially similar to the elements of the offense of indecent exposure, but not if the second violation results in a deferred adjudication;

(J) a violation of Section 33.021 (Online solicitation of a minor), Penal Code; or

(K) a violation of Section 20A.02(a)(3), (4), (7), or (8) (Trafficking of persons), Penal Code.

(6) “Sexually violent offense” means any of the following offenses committed by a person 17 years of age or older:
(A) an offense under Section 21.02 (Continuous sexual abuse of young child or children), 21.11(a)(1) (Indecency with a child), 22.011 (Sexual assault), or 22.021 (Aggravated sexual assault), Penal Code;

(B) an offense under Section 43.25 (Sexual performance by a child), Penal Code;

(C) an offense under Section 20.04(a)(4) (Aggravated kidnapping), Penal Code, if the defendant committed the offense with intent to violate or abuse the victim sexually;

(D) an offense under Section 30.02 (Burglary), Penal Code, if the offense is punishable under Subsection (d) of that section and the defendant committed the offense with intent to commit a felony listed in Paragraph (A) or (C) of Subdivision (5); or

(E) an offense under the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice if the offense contains elements that are substantially similar to the elements of an offense listed under Paragraph (A), (B), (C), or (D).

(7) “Residence” includes a residence established in this state by a person described by Article 62.152(e).

(8) “Public or private institution of higher education” includes a college, university, community college, or technical or trade institute.

(9) “Authority for campus security” means the authority with primary law enforcement jurisdiction over property under the control of a public or private institution of higher education, other than a local law enforcement authority.

(10) “Extrajurisdictional registrant” means a person who:

(A) is required to register as a sex offender under:

(i) the laws of another state with which the department has entered into a reciprocal registration agreement;

(ii) federal law or the Uniform Code of Military Justice; or

(iii) the laws of a foreign country; and

(B) is not otherwise required to register under this chapter because:

(i) the person does not have a reportable conviction for an offense under the laws of the other state, federal law, the laws of the foreign country, or the Uniform Code of Military Justice containing elements that are substantially similar to the elements of an offense

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requiring registration under this chapter; or

(ii) the person does not have a reportable adjudication of delinquent conduct based on a violation of an offense under the laws of the other state, federal law, or the laws of the foreign country containing elements that are substantially similar to the elements of an offense requiring registration under this chapter.

(11) “Centralized registration authority” means a mandatory countywide registration location designated under Article 62.0045.

(12) “Online identifier” means electronic mail address information or a name used by a person when sending or receiving an instant message, social networking communication, or similar Internet communication or when participating in an Internet chat. The term includes an assumed name, nickname, pseudonym, moniker, or user name established by a person for use in connection with an electronic mail address, chat or instant chat room platform, commercial social networking site, or online picture-sharing service.


(a) In this section:

(1) “Sexual performance” means any performance or part thereof that includes sexual conduct by a child younger than 18 years of age.

(2) “Sexual conduct” means sexual contact, actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, sado-masochistic abuse, or lewd exhibition of the genitals, the anus, or any portion of the female breast below the top of the areola.

(3) “Performance” means any play, motion picture, photograph, dance, or other visual representation that can be exhibited before an audience of one or more persons.

(4) “Produce” with respect to a sexual performance includes any conduct that directly contributes to the creation or manufacture of the sexual performance.

(5) “Promote” means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer or agree to do any of the above.

(6) “Simulated” means the explicit depiction of sexual conduct that creates the appearance of actual sexual conduct and during which a person engaging in the conduct exhibits any uncovered portion of the breasts, genitals, or buttocks.

(7) “Deviate sexual intercourse” and “sexual contact” have the meanings assigned by Section 43.01.
(b) A person commits an offense if, knowing the character and content thereof, he
employs, authorizes, or induces a child younger than 18 years of age to engage in sexual
conduct or a sexual performance. A parent or legal guardian or custodian of a child
younger than 18 years of age commits an offense if he consents to the participation by the
child in a sexual performance.

(c) An offense under Subsection (b) is a felony of the second degree, except that the
offense is a felony of the first degree if the victim is younger than 14 years of age at the
time the offense is committed.

(d) A person commits an offense if, knowing the character and content of the material, he
produces, directs, or promotes a performance that includes sexual conduct by a child
younger than 18 years of age.

(e) An offense under Subsection (d) is a felony of the third degree, except that the offense
is a felony of the second degree if the victim is younger than 14 years of age at the time
the offense is committed.

(f) It is an affirmative defense to a prosecution under this section that:

1. the defendant was the spouse of the child at the time of the offense;

2. the conduct was for a bona fide educational, medical, psychological, psychiatric,
judicial, law enforcement, or legislative purpose; or

3. the defendant is not more than two years older than the child.

(g) When it becomes necessary for the purposes of this section or Section 43.26 to
determine whether a child who participated in sexual conduct was younger than 18 years
of age, the court or jury may make this determination by any of the following methods:

1. personal inspection of the child;

2. inspection of the photograph or motion picture that shows the child engaging in the
sexual performance;

3. oral testimony by a witness to the sexual performance as to the age of the child based
on the child's appearance at the time;

4. expert medical testimony based on the appearance of the child engaging in the sexual
performance; or

5. any other method authorized by law or by the rules of evidence at common law.
(a) A person commits an offense if:

(1) the person knowingly or intentionally possesses, or knowingly or intentionally accesses with intent to view, visual material that visually depicts a child younger than 18 years of age at the time the image of the child was made who is engaging in sexual conduct, including a child who engages in sexual conduct as a victim of an offense under Section 20A.02(a)(5), (6), (7), or (8); and

(2) the person knows that the material depicts the child as described by Subdivision (1).

(b) In this section:

(1) “Promote” has the meaning assigned by Section 43.25.

(2) “Sexual conduct” has the meaning assigned by Section 43.25.

(3) “Visual material” means:

(A) any film, photograph, videotape, negative, or slide or any photographic reproduction that contains or incorporates in any manner any film, photograph, videotape, negative, or slide; or

(B) any disk, diskette, or other physical medium that allows an image to be displayed on a computer or other video screen and any image transmitted to a computer or other video screen by telephone line, cable, satellite transmission, or other method.

(c) The affirmative defenses provided by Section 43.25(f) also apply to a prosecution under this section.

(d) An offense under Subsection (a) is a felony of the third degree.

(e) A person commits an offense if:

(1) the person knowingly or intentionally promotes or possesses with intent to promote material described by Subsection (a)(1); and

(2) the person knows that the material depicts the child as described by Subsection (a)(1).

(f) A person who possesses visual material that contains six or more identical visual depictions of a child as described by Subsection (a)(1) is presumed to possess the material with the intent to promote the material.

(g) An offense under Subsection (e) is a felony of the second degree.
(h) It is a defense to prosecution under Subsection (a) or (e) that the actor is a law enforcement officer or a school administrator who:

(1) possessed or accessed the visual material in good faith solely as a result of an allegation of a violation of Section 43.261;

(2) allowed other law enforcement or school administrative personnel to possess or access the material only as appropriate based on the allegation described by Subdivision (1); and

(3) took reasonable steps to destroy the material within an appropriate period following the allegation described by Subdivision (1).

**UTAH**

**UTAH CODE ANN. § 77-41-102 (2014). Definitions**

As used in this chapter:

(1) “Bureau” means the bureau of Criminal Identification of the Department of Public Safety established in section 53-10-201.

(2) “Business day” means a day on which state offices are open for regular business.

(3) “Certificate of eligibility” means a document issued by the Bureau of Criminal Identification showing that the offender has met the requirements of Section 77-41-112.

(4) “Department” means the Department of Corrections.

(5) “Division” means the Division of Juvenile Justice Services.

(6) “Employed” or “carries on a vocation” includes employment that is full time or part time, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

(7) “Indian Country” means:

(a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, regardless of the issuance of any patent, and includes rights-of-way running through the reservation;

(b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory, and whether or not within the limits of a state; and
(c) all Indian allotments, including the Indian allotments to which the Indian titles have not been extinguished, including rights-of-way running through the allotments.

(8) “Jurisdiction” means any state, Indian Country, United States Territory, or any property under the jurisdiction of the United States military, Canada, the United Kingdom, Australia, or New Zealand.

(9) “Kidnap offender” means any person other than a natural parent of the victim who:

(a) has been convicted in this state of a violation of:

(i) Subsection 76-5-301(1)(c) or (d), kidnapping;

(ii) Section 76-5-301.1, child kidnapping;

(iii) Section 76-5-302, aggravated kidnapping;

(iv) Section 76-5-310, aggravated human trafficking, on or after May 10, 2011; or

(v) attempting, soliciting, or conspiring to commit any felony offense listed in Subsections (9)(a)(i) through (iv);

(b) has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection (9)(a) and who is:

(i) a Utah resident; or

(ii) not a Utah resident, but who, in any 12 month period, is in this state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(c)(i) is required to register as an offender in any other jurisdiction, or who is required to register as an offender by any state, federal, or military court; and

(ii) in any 12 month period, is in this state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(d) is a nonresident regularly employed or working in this state, or who is a student in this state, and was convicted of one or more offenses listed in Subsection (9), or any substantially equivalent offense in another jurisdiction, or as a result of the conviction, is required to register in the person's state of residence;

(e) is found not guilty by reason of insanity in this state or in any other jurisdiction of one or more offenses listed in Subsection (9); or
(f) is adjudicated delinquent based on one or more offenses listed in Subsection (9)(a) and who has been committed to the division for secure confinement for that offense and remains in the division's custody 30 days prior to the person's 21st birthday.

(10) “Natural parent” means a minor's biological or adoptive parent, and includes the minor's noncustodial parent.

(11) “Offender” means a kidnap offender as defined in Subsection (9) or a sex offender as defined in Subsection (16).

(12) “Online identifier” or “Internet identifier”:

(a) means any electronic mail, chat, instant messenger, social networking, or similar name used for Internet communication; and

(b) does not include date of birth, Social Security number, PIN number, or Internet passwords.

(13) “Primary residence” means the location where the offender regularly resides, even if the offender intends to move to another location or return to another location at any future date.

(14) “Register” means to comply with the requirements of this chapter and administrative rules of the department made under this chapter.

(15) “Secondary residence” means any real property that the offender owns or has a financial interest in, or any location where, in any 12 month period, the offender stays overnight a total of 10 or more nights when not staying at the offender's primary residence.

(16) “Sex offender” means any person:

(a) convicted in this state of:

(i) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor;

(ii) Section 76-5b-202, sexual exploitation of a vulnerable adult, on or after May 10, 2011;

(iii) a felony violation of Section 76-5-401, unlawful sexual activity with a minor;

(iv) Section 76-5-401.1, sexual abuse of a minor;

(v) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;
(vi) Section 76-5-402, rape;

(vii) Section 76-5-402.1, rape of a child;

(viii) Section 76-5-402.2, object rape;

(ix) Section 76-5-402.3, object rape of a child;

(x) a felony violation of Section 76-5-403, forcible sodomy;

(xi) Section 76-5-403.1, sodomy on a child;

(xii) Section 76-5-404, forcible sexual abuse;

(xiii) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child;

(xiv) Section 76-5-405, aggravated sexual assault;

(xv) Section 76-5-412, custodial sexual relations, when the person in custody is younger than 18 years of age, if the offense is committed on or after May 10, 2011;

(xvi) Section 76-5b-201, sexual exploitation of a minor;

(xvii) Section 76-7-102, incest;

(xviii) Section 76-9-702, lewdness, if the person has been convicted of the offense four or more times;

(xix) Section 76-9-702.1, sexual battery, if the person has been convicted of the offense four or more times;

(xx) any combination of convictions of Section 76-9-702, lewdness, and of Section 76-9-702.1, sexual battery, that total four or more convictions;

(xxi) Section 76-9-702.5, lewdness involving a child;

(xxii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;

(xxiii) Section 76-10-1306, aggravated exploitation of prostitution; or

(xxiv) attempting, soliciting, or conspiring to commit any felony offense listed in Subsection (16)(a);
(b) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection (16)(a) and who is:

(i) a Utah resident; or

(ii) not a Utah resident, but who, in any 12 month period, is in this state for a total of 10 or more days, regardless of whether the offender intends to permanently reside in this state;

(c)(i) who is required to register as an offender in any other jurisdiction, or who is required to register as an offender by any state, federal, or military court; and

(ii) who, in any 12 month period, is in the state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(d) who is a nonresident regularly employed or working in this state or who is a student in this state and was convicted of one or more offenses listed in Subsection (16)(a), or any substantially equivalent offense in any jurisdiction, or as a result of the conviction, is required to register in the person's jurisdiction of residence;

(e) who is found not guilty by reason of insanity in this state, or in any other jurisdiction of one or more offenses listed in Subsection (16)(a); or

(f) who is adjudicated delinquent based on one or more offenses listed in Subsection (16)(a) and who has been committed to the division for secure confinement for that offense and remains in the division's custody 30 days prior to the person's 21st birthday.

(17) “Traffic offense” does not include a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

(18) “Vehicle” means any motor vehicle, aircraft, or watercraft subject to registration in any jurisdiction.

**Utah Code Ann. § 76-4-401 (2014). Enticing a minor--Elements--Penalties**

(1) As used in this section:

(a) “Minor” means a person who is under the age of 18.

(b) “Text messaging” means a communication in the form of electronic text or one or more electronic images sent by the actor from a telephone, computer, or other electronic communication device to another person's telephone, computer, or other electronic communication device by addressing the communication to the person's telephone number or other electronic communication access code or number.
(2)(a) A person commits enticement of a minor when the person knowingly uses the Internet or text messaging to solicit, seduce, lure, or entice a minor, or to attempt to solicit, seduce, lure, or entice a minor, or another person that the actor believes to be a minor, to engage in any sexual activity which is a violation of state criminal law.

(b) A person commits enticement of a minor when the person knowingly uses the Internet or text messaging to:

(i) initiate contact with a minor or a person the actor believes to be a minor; and

(ii) subsequently to the action under Subsection (2)(b)(i), by any electronic or written means, solicits, seduces, lures, or entices, or attempts to solicit, seduce, lure, or entice the minor or a person the actor believes to be the minor to engage in any sexual activity which is a violation of state criminal law.

(3) It is not a defense to the crime of enticing a minor under Subsection (2), or an attempt to commit this offense, that a law enforcement officer or an undercover operative who is working with a law enforcement agency was involved in the detection or investigation of the offense.

(4) Enticement of a minor under Subsection (2)(a) or (b) is punishable as follows:

(a) enticement to engage in sexual activity which would be a first degree felony for the actor is a:

(i) second degree felony upon the first conviction for violation of this Subsection (4)(a); and

(ii) first degree felony punishable by imprisonment for an indeterminate term of not fewer than three years and which may be for life, upon a second or any subsequent conviction for a violation of this Subsection (4)(a);

(b) enticement to engage in sexual activity which would be a second degree felony for the actor is a third degree felony;

(c) enticement to engage in sexual activity which would be a third degree felony for the actor is a class A misdemeanor;

(d) enticement to engage in sexual activity which would be a class A misdemeanor for the actor is a class B misdemeanor; and

(e) enticement to engage in sexual activity which would be a class B misdemeanor for the actor is a class C misdemeanor.
(5)(a) When a person who commits a felony violation of this section has been previously convicted of an offense under Subsection (5)(b), the court may not in any way shorten the prison sentence, and the court may not:

(i) grant probation;

(ii) suspend the execution or imposition of the sentence;

(iii) enter a judgment for a lower category of offense; or

(iv) order hospitalization.

(b) The sections referred to in Subsection (5)(a) are:

(i) Section 76-4-401, enticing a minor;

(ii) Section 76-5-301.1, child kidnapping;

(iii) Section 76-5-402, rape;

(iv) Section 76-5-402.1, rape of a child;

(v) Section 76-5-402.2, object rape;

(vi) Section 76-5-402.3, object rape of a child;

(vii) Subsection 76-5-403(2), forcible sodomy;

(viii) Section 76-5-403.1, sodomy on a child;

(ix) Section 76-5-404, forcible sexual abuse;

(x) Section 76-5-404.1, sexual abuse of a child and aggravated sexual abuse of a child;

(xi) Section 76-5-405, aggravated sexual assault;

(xii) any offense in any other state or federal jurisdiction which constitutes or would constitute a crime in Subsections (5)(b)(i) through (xi); or

(xiii) the attempt, solicitation, or conspiracy to commit any of the offenses in Subsections (5)(b)(i) through (xii).

**UTAH CODE ANN. § 76-5b-103 (2014). Definitions**

As used in this chapter:
(1) “Child pornography” means any visual depiction, including any live performance, photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where:

(a) the production of the visual depiction involves the use of a minor engaging in sexually explicit conduct;

(b) the visual depiction is of a minor engaging in sexually explicit conduct; or

(c) the visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct.

(2) “Distribute” means the selling, exhibiting, displaying, wholesaling, retailing, providing, giving, granting admission to, or otherwise transferring or presenting child pornography or vulnerable adult pornography with or without consideration.

(3) “Identifiable minor” means a person:

(a)(i) who was a minor at the time the visual depiction was created, adapted, or modified; or

(ii) whose image as a minor was used in creating, adapting, or modifying the visual depiction; and

(b) who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a birthmark, or other recognizable feature.

(4) “Identifiable vulnerable adult” means a person:

(a)(i) who was a vulnerable adult at the time the visual depiction was created, adapted, or modified; or

(ii) whose image as a vulnerable adult was used in creating, adapting, or modifying the visual depiction; and

(b) who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a birthmark, or other recognizable feature.

(5) “Lacks capacity to consent” is as defined in Subsection 76-5-111(1).

(6) “Live performance” means any act, play, dance, pantomime, song, or other activity performed by live actors in person.

(7) “Minor” means a person younger than 18 years of age.
(8) “Nudity or partial nudity” means any state of dress or undress in which the human genitals, pubic region, buttocks, or the female breast, at a point below the top of the areola, is less than completely and opaquely covered.

(9) “Produce” means:

(a) the photographing, filming, taping, directing, producing, creating, designing, or composing of child pornography or vulnerable adult pornography; or

(b) the securing or hiring of persons to engage in the photographing, filming, taping, directing, producing, creating, designing, or composing of child pornography or vulnerable adult pornography.

(10) “Sexually explicit conduct” means actual or simulated:

(a) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(b) masturbation;

(c) bestiality;

(d) sadistic or masochistic activities;

(e) lascivious exhibition of the genitals, pubic region, buttocks, or female breast of any person;

(f) the visual depiction of nudity or partial nudity for the purpose of causing sexual arousal of any person;

(g) the fondling or touching of the genitals, pubic region, buttocks, or female breast; or

(h) the explicit representation of the defecation or urination functions.

(11) “Simulated sexually explicit conduct” means a feigned or pretended act of sexually explicit conduct which duplicates, within the perception of an average person, the appearance of an actual act of sexually explicit conduct.

(12) “Vulnerable adult” is as defined in Subsection 76-5-111(1).

(13) “Vulnerable adult pornography” means any visual depiction, including any live performance, photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where:
(a) the production of the visual depiction involves the use of a vulnerable adult engaging in sexually explicit conduct;

(b) the visual depiction is of a vulnerable adult engaging in sexually explicit conduct; or

(c) the visual depiction has been created, adapted, or modified to appear that an identifiable vulnerable adult is engaging in sexually explicit conduct.

UTAH CODE ANN. § 76-5b-201 (2014). Sexual exploitation of a minor--Offenses

(1) A person is guilty of sexual exploitation of a minor:

(a) when the person:

(i) knowingly produces, possesses, or possesses with intent to distribute child pornography; or

(ii) intentionally distributes or views child pornography; or

(b) if the person is a minor's parent or legal guardian and knowingly consents to or permits the minor to be sexually exploited as described in Subsection (1)(a).

(2) Sexual exploitation of a minor is a second degree felony.

(3) It is a separate offense under this section:

(a) for each minor depicted in the child pornography; and

(b) for each time the same minor is depicted in different child pornography.

(4) It is an affirmative defense to a charge of violating this section that no person under 18 years of age was actually depicted in the visual depiction or used in producing or advertising the visual depiction.

(5) In proving a violation of this section in relation to an identifiable minor, proof of the actual identity of the identifiable minor is not required.

(6) This section may not be construed to impose criminal or civil liability on:

(a) any entity or an employee, director, officer, or agent of an entity when acting within the scope of employment, for the good faith performance of:

(i) reporting or data preservation duties required under any federal or state law; or
(ii) implementing a policy of attempting to prevent the presence of child pornography on any tangible or intangible property, or of detecting and reporting the presence of child pornography on the property; or

(b) any law enforcement officer acting within the scope of a criminal investigation.

VERMONT
VT. STAT. ANN. tit. 13, § 5401 (2014). Definitions
As used in this subchapter:

(1) “Address” means the actual location of the sex offender's dwelling, including the street address, if any.

(2) “Department” means the Department of Public Safety.

(3) “Local law enforcement agency” means the municipal police department or statutorily established college or university police department. If the municipality, college, or university has no police department, the law enforcement agency that serves the municipality, college, or university.

(4) “Mental abnormality” means a congenital or acquired condition that affects the emotional or volitional capacity of a person in a manner that predisposes the person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of other persons.

(5) “Minor” means a person under the age of 18 years.

(6) “Personality disorder” means a condition where a person exhibits personality traits which are inflexible and maladaptive and cause either significant functional impairment or subjective distress.

(7) “Predatory” means an act directed at a stranger, or a person with whom a relationship has been established or promoted for the primary purpose of victimization.

(8) “Release” means release from confinement or custody or placement into the community for any reason, including release on bail pending appeal, probation, parole, furlough, work release, early release, alternative sanctions, house arrest, daily interrupt, community placement or completion of sentence. It shall also mean probation or parole supervision of an out-of-state sex offender under an interstate agreement or compact.

(9) “Registry” means the Sex Offender Registry maintained by the Department of Public Safety.

(10) “Sex offender” means:
(A) A person who is convicted in any jurisdiction of the United States, including a state, territory, commonwealth, the District of Columbia, or military, federal, or tribal court of any of the following offenses:

(i) sexual assault as defined in 13 V.S.A. § 3252.

(ii) aggravated sexual assault as defined in 13 V.S.A. § 3253.

(iii) lewd and lascivious conduct as defined in 13 V.S.A. § 2601.

(iv) sexual abuse of a vulnerable adult as defined in 13 V.S.A. § 1379.

(v) second or subsequent conviction for voyeurism as defined in 13 V.S.A. § 2605(b) or (c).

(vi) kidnapping with intent to commit sexual assault as defined in 13 V.S.A. § 2405(a)(1)(D).

(vii) aggravated sexual assault of a child in violation of section 3253a of this title; and

(viii) human trafficking in violation of subdivisions 2652(a)(1)-(4) of this title;

(ix) aggravated human trafficking in violation of subdivision 2653(a)(4) of this title; and

(x) a federal conviction in federal court for any of the following offenses:


(II) Aggravated sexual abuse as defined in 18 U.S.C. § 2241.

(III) Sexual abuse as defined in 18 U.S.C. § 2242.

(IV) Sexual abuse of a minor or ward as defined in 18 U.S.C. § 2243.

(V) Abusive sexual contact as defined in 18 U.S.C. § 2244.

(VI) Offenses resulting in death as defined in 18 U.S.C. § 2245.


(VIII) Selling or buying of children as defined in 18 U.S.C. § 2251A.

(IX) Material involving the sexual exploitation of minors as defined in 18 U.S.C. § 2252.
(X) Material containing child pornography as defined in 18 U.S.C. § 2252A.


(XII) Transportation of a minor for illegal sexual activity as defined in 18 U.S.C. § 2421.


(XIV) Transportation of minors for illegal sexual activity, travel with the intent to engage in illicit sexual conduct with a minor, and engaging in illicit sexual conduct in foreign places as defined in 18 U.S.C. § 2423.

(XV) Transmitting information about a minor to further criminal sexual conduct as defined in 18 U.S.C. § 2425.

(XVI) Trafficking in persons as defined in 18 U.S.C. sections 2251-2252(a), 2260, or 2421-2423 if the violation included sexual abuse, aggravated sexual abuse, or the attempt to commit aggravated sexual abuse.

(xi) an attempt to commit any offense listed in this subdivision (A).

(B) A person who is convicted of any of the following offenses against a victim who is a minor, except that, for purposes of this subdivision, conduct which is criminal only because of the age of the victim shall not be considered an offense for purposes of the Registry if the perpetrator is under the age of 18 and the victim is at least 12 years old:

(i) any offense listed in subdivision (A) of this subdivision (10).

(ii) kidnapping as defined in 13 V.S.A. § 2405(a)(1)(D).

(iii) lewd and lascivious conduct with a child as defined in 13 V.S.A. § 2602.

(iv) slave traffic as defined in 13 V.S.A. § 2635.

(v) sexual exploitation of children as defined in 13 V.S.A. chapter 64.

(vi) procurement or solicitation as defined in 13 V.S.A. § 2632(a)(6).

(vii) aggravated sexual assault of a child as defined in 13 V.S.A. § 3253a.

(viii) sex trafficking of children or sex trafficking by force, fraud, or coercion as defined in 13 V.S.A. § 2635a.
(ix) sexual exploitation of a minor as defined in 13 V.S.A. § 3258.

(x) an attempt to commit any offense listed in this subdivision (B).

(C) A person who takes up residence within this State, other than within a correctional facility, and who has been convicted in any jurisdiction of the United States, including a state, territory, commonwealth, the District of Columbia, or military, federal, or tribal court, for a sex crime the elements of which would constitute a crime under subdivision (A) or (B) of this subdivision (10) if committed in this State.

(D) A person 18 years of age or older who resides in this State, other than in a correctional facility, and who is currently or, prior to taking up residence within this State, was required to register as a sex offender in any jurisdiction of the United States, including a state, territory, commonwealth, the District of Columbia, or military, federal, or tribal court; except that, for purposes of this subdivision, conduct which is criminal only because of the age of the victim shall not be considered an offense for purposes of the registry if the perpetrator is under the age of 18 and the victim is at least 12 years old.

(E) A nonresident sex offender who crosses into Vermont and who is employed, carries on a vocation, or is a student.

(11) “Sexually violent offense” means sexual assault or aggravated sexual assault, as described in sections 3252 and 3253 of this title, or a comparable offense in another jurisdiction of the United States, or any attempt to commit sexual assault, aggravated sexual assault, or a comparable offense in another jurisdiction of the United States.

(12) “Sexually violent predator” means a person who is a sex offender, who has been convicted of a sexually violent offense, as defined in subdivision (11) of this section, and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offenses.

(13) “Employed, carries on a vocation” includes employment that is full-time or part-time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially compensated, volunteered, or for the purpose of governmental or educational benefit.

(14) “Student” means a person who is enrolled on a full-time or part-time basis in any public or private educational institution in Vermont, including any secondary school, trade or professional institution, or institution of higher learning.

(15) “Conviction” means a judgment of guilt following a verdict or finding of guilt, a plea of guilty, a plea of nolo contendere, an Alford Plea, or a judgment of guilt pursuant to a deferred sentence. A sex offender whose sentence is deferred shall have no duty to register after successful completion of the terms of the deferred sentence agreement for the duration specified in the agreement.
(16) “Risk” means the degree of dangerousness that a sex offender poses to others. “High-risk” means a high degree of dangerousness that a sex offender poses to others. Dangerousness includes the probability of a sexual reoffense.

**VT. STAT. ANN. tit. 13, § 2821 (2014). Definitions**

As used in this chapter:

(1) “Child” means any person under the age of 16 years.

(2) “Sexual conduct” means any of the following:

(A) any conduct involving contact between the penis and the vulva, the penis and the penis, the penis and the anus, the mouth and the penis, the mouth and the anus, the vulva and the vulva or the mouth and the vulva;

(B) any intrusion, however slight, by any part of a person's body or any object into the genital or anal opening of another with the intent of arousing, appealing to, or gratifying the lust, passions or sexual desire of any person;

(C) any intentional touching, not through the clothing, of the genitals, anus or breasts of another with the intent of arousing, appealing to, or gratifying the lust, passions or sexual desire of any person;

(D) masturbation;

(E) bestiality; or

(F) sadomasochistic abuse for sexual purposes.

(3) “Performance” means:

(A) an event which is photographed, filmed or visually recorded; or

(B) a play, dance or other visual presentation or exhibition before an audience.

(4) “Sexual performance” means any performance or any part of a performance, which includes sexual conduct by a child.

(5) “Promote” means to procure, issue, manufacture, publish, sell, give, provide, lend, mail, deliver, distribute, disseminate, circulate, present, exhibit, advertise, or offer to do the same, by any means, including electronic transmission.
(a) No person shall, with knowledge of the character and content, promote a sexual performance by a child or a performance which contains a lewd exhibition of the genitals, anus or breasts of a child, or hire, employ, procure, use, cause or induce a child to engage in such a performance.

(b) In any prosecution arising under this section, the defendant may raise as an affirmative defense that before the child participated in the sexual performance, the defendant, in good faith, had a reasonable and factual basis to conclude that the child had in fact attained the age of 16; and the defendant did not rely solely upon the oral allegations or representations of the child as to his or her age.

VT. STAT. ANN. tit. 13, § 2824 (2014). Promoting a recording of sexual conduct
(a) No person may, with knowledge of the character and content, promote any photograph, film or visual recording of sexual conduct by a child, or of a lewd exhibition of a child's genitals or anus. This subsection does not apply to paintings, drawings, or to non-visual or written descriptions of sexual conduct.

(b) In any prosecution arising under this section, the defendant may raise any of the following affirmative defenses:

(1) that the recording was promoted for a bona fide medical, psychological, social work, legislative, judicial or law enforcement purpose, by or to a physician, psychologist, social worker, legislator, judge, prosecutor, law enforcement officer, or other person having such a bona fide interest in the subject matter.

(2) that the defendant was a bona fide school, museum or public library, or was a person acting in the course of employment as an employee or official of such an organization or of a retail outlet affiliated with and serving the educational or intended purpose of that school, museum or library.

(3) that the defendant in good faith had a reasonable basis to conclude that the child in fact had attained the age of 16 when the recording was made.

(a) No person shall, with knowledge of the character and content, possess any photograph, film or visual depiction, including any depiction which is stored electronically, of sexual conduct by a child or of a clearly lewd exhibition of a child's genitals or anus.

(b) This section does not apply:

(1) if the depiction was possessed for a bona fide medical, psychological, social work, legislative, judicial or law enforcement purpose, by a physician, psychologist, social worker, legislator, judge, prosecutor, law enforcement officer, or other person having
such a bona fide interest in the subject matter;

(2) if the person was a bona fide school, museum or public library, or was a person acting in the course of employment as an employee or official of such an organization or of a retail outlet affiliated with and serving the educational or intended purpose of that school, museum or library;

(3) to paintings, drawings, or nonvisual or written descriptions of sexual conduct.

(c) In any prosecution arising under this section, the defendant may raise any of the following affirmative defenses, which shall be proven by a preponderance of the evidence:

(1) that the defendant in good faith had a reasonable basis to conclude that the child in fact had attained the age of 16 when the depiction was made;

(2) that the defendant in good faith took reasonable steps, whether successful or not, to destroy or eliminate the depiction.

**VIRGINIA**

VA. CODE ANN. § 9.1-902 (2014). *Offenses requiring registration*

A. For purposes of this chapter:

“Offense for which registration is required” includes:

1. Any offense listed in subsection B;

2. Criminal homicide;

3. Murder;

4. A sexually violent offense;

5. Any offense similar to those listed in subdivisions 1 through 4 under the laws of any foreign country or any political subdivision thereof, the United States or any political subdivision thereof; and

6. Any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted.

B. The offenses included under this subsection include any violation of, attempted violation of, or conspiracy to violate:
1. § 18.2-63; unless registration is required pursuant to subdivision E 1; § 18.2-64.1; former § 18.2-67.2:1; § 18.2-90 with the intent to commit rape; former § 18.1-88 with the intent to commit rape; any felony violation of § 18.2-346; any violation of subdivision (4) of § 18.2-355; subsection B or C of § 18.2-374.1:1; former subsection D of § 18.2-374.1:1 as it was in effect from July 1, 1994, through June 30, 2007; former clause (iv) of subsection B of § 18.2-374.3 as it was in effect on June 30, 2007; or subsection B, C, or D of § 18.2-374.3; or a third or subsequent conviction of (i) § 18.2-67.4, (ii) § 18.2-67.4:2, (iii) subsection C of § 18.2-67.5, or (iv) § 18.2-386.1.

If the offense was committed on or after July 1, 2006, § 18.2-91 with the intent to commit any felony offense listed in this section; subsection A of § 18.2-374.1:1; or a felony under § 18.2-67.5:1.

2. Where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, subsection A of § 18.2-47, clause (i) of § 18.2-48, § 18.2-67.4, subsection C of § 18.2-67.5, § 18.2-361, § 18.2-366, or a felony violation of former § 18.1-191.

3. § 18.2-370.6.

C. “Criminal homicide” means a homicide in conjunction with a violation of, attempted violation of, or conspiracy to violate clause (i) of § 18.2-371 or § 18.2-371.1, when the offenses arise out of the same incident.

D. “Murder” means a violation of, attempted violation of, or conspiracy to violate § 18.2-31 or § 18.2-32 where the victim is (i) under 15 years of age or (ii) where the victim is at least 15 years of age but under 18 years of age and the murder is related to an offense listed in this section or a violation of former § 18.1-21 where the victim is (a) under 15 years of age or (b) at least 15 years of age but under 18 years of age and the murder is related to an offense listed in this section.

E. “Sexually violent offense” means a violation of, attempted violation of, or conspiracy to violate:

1. Clause (ii) and (iii) of § 18.2-48, former § 18.1-38 with the intent to defile or, for the purpose of concubinage or prostitution, a felony violation of subdivision (2) or (3) of former § 18.1-39 that involves assisting or aiding in such an abduction, § 18.2-61, former § 18.1-44 when such act is accomplished against the complaining witness's will, by force, or through the use of the complaining witness's mental incapacity or physical helplessness, or if the victim is under 13 years of age, subsection A of § 18.2-63 where the perpetrator is more than five years older than the victim, § 18.2-67.1, § 18.2-67.2, § 18.2-67.3, former § 18.1-215 when the complaining witness is under 13 years of age, § 18.2-67.4 where the perpetrator is 18 years of age or older and the victim is under the age of six, subsections A and B of § 18.2-67.5, § 18.2-370, subdivision (1), (2), or (4) of former § 18.1-213, former § 18.1-214, or § 18.2-370.1 or § 18.2-374.1; or
2. § 18.2-63, § 18.2-64.1, former § 18.2-67.2:1, § 18.2-90 with the intent to commit rape or, where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, subsection A of § 18.2-47, § 18.2-67.4, subsection C of § 18.2-67.5, clause (i) of § 18.2-48, § 18.2-361, § 18.2-366, or subsection C of § 18.2-374.1:1. An offense listed under this subdivision shall be deemed a sexually violent offense only if the person has been convicted or adjudicated delinquent of any two or more such offenses, provided that person had been at liberty between such convictions or adjudications;

3. If the offense was committed on or after July 1, 2006, § 18.2-91 with the intent to commit any felony offense listed in this section. An offense listed under this subdivision shall be deemed a sexually violent offense only if the person has been convicted or adjudicated delinquent of any two or more such offenses, provided that the person had been at liberty between such convictions or adjudications; or


F. “Any offense listed in subsection B,” “criminal homicide” as defined in this section, “murder” as defined in this section, and “sexually violent offense” as defined in this section includes (i) any similar offense under the laws of any foreign country or any political subdivision thereof, the United States or any political subdivision thereof or (ii) any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted.

G. Juveniles adjudicated delinquent shall not be required to register; however, where the offender is a juvenile over the age of 13 at the time of the offense who is tried as a juvenile and is adjudicated delinquent on or after July 1, 2005, of any offense for which registration is required, the court may, in its discretion and upon motion of the attorney for the Commonwealth, find that the circumstances of the offense require offender registration. In making its determination, the court shall consider all of the following factors that are relevant to the case: (i) the degree to which the delinquent act was committed with the use of force, threat or intimidation, (ii) the age and maturity of the complaining witness, (iii) the age and maturity of the offender, (iv) the difference in the ages of the complaining witness and the offender, (v) the nature of the relationship between the complaining witness and the offender, (vi) the offender's prior criminal history, and (vii) any other aggravating or mitigating factors relevant to the case. The attorney for the Commonwealth may file such a motion at any time during which the offender is within the jurisdiction of the court for the offense that is the basis for such motion. Prior to any hearing on such motion, the court shall appoint a qualified and competent attorney-at-law to represent the offender unless an attorney has been retained and appears on behalf of the offender or counsel has already been appointed.
H. Prior to entering judgment of conviction of an offense for which registration is required if the victim of the offense was a minor, physically helpless, or mentally incapacitated, when the indictment, warrant, or information does not allege that the victim of the offense was a minor, physically helpless, or mentally incapacitated, the court shall determine by a preponderance of the evidence whether the victim of the offense was a minor, physically helpless, or mentally incapacitated, as defined in § 18.2-67.10, and shall also determine the age of the victim at the time of the offense if it determines the victim to be a minor. When such a determination is required, the court shall advise the defendant of its determination and of the defendant's right to make a motion to withdraw a plea of guilty or nolo contendere pursuant to § 19.2-296. If the court grants the defendant's motion to withdraw his plea of guilty or of nolo contendere, his case shall be heard by another judge, unless the parties agree otherwise. Failure to make such determination or so advise the defendant does not otherwise invalidate the underlying conviction.

VA. CODE ANN. § 18.2-63 (2014). Carnal knowledge of child between thirteen and fifteen years of age
A. If any person carnally knows, without the use of force, a child thirteen years of age or older but under fifteen years of age, such person shall be guilty of a Class 4 felony.

B. If any person carnally knows, without the use of force, a child thirteen years of age or older but under fifteen years of age who consents to sexual intercourse and the accused is a minor and such consenting child is three years or more the accused's junior, the accused shall be guilty of a Class 6 felony. If such consenting child is less than three years the accused's junior, the accused shall be guilty of a Class 4 misdemeanor.

In calculating whether such child is three years or more a junior of the accused minor, the actual dates of birth of the child and the accused, respectively, shall be used.

C. For the purposes of this section, (i) a child under the age of thirteen years shall not be considered a consenting child and (ii) “carnal knowledge” includes the acts of sexual intercourse, cunnilingus, fellatio, anilingus, anal intercourse, and animate and inanimate object sexual penetration.

VA. CODE ANN. § 18.2-64.1 (2014). Carnal knowledge of certain minors
If any person providing services, paid or unpaid, to juveniles under the purview of the Juvenile and Domestic Relations District Court Law, or to juveniles who have been committed to the custody of the State Department of Juvenile Justice, carnally knows, without the use of force, any minor fifteen years of age or older, when such minor is confined or detained in jail, is detained in any facility mentioned in § 16.1-249, or has been committed to the custody of the Department of Juvenile Justice pursuant to § 16.1-278.8, knowing or having good reason to believe that (i) such minor is in such confinement or detention status, (ii) such minor is a ward of the Department of Juvenile Justice, or (iii) such minor is on probation, furlough, or leave from or has escaped or
absconded from such confinement, detention, or custody, he shall be guilty of a Class 6 felony.
For the purposes of this section, “carnal knowledge” includes the acts of sexual intercourse, cunnilingus, fellatio, analltingus, anal intercourse, and animate and inanimate object sexual penetration.

VA. CODE ANN. § 18.2-67.2 (2014). Object sexual penetration; penalty

A. An accused shall be guilty of inanimate or animate object sexual penetration if he or she penetrates the labia majora or anus of a complaining witness, whether or not his or her spouse, other than for a bona fide medical purpose, or causes such complaining witness to so penetrate his or her own body with an object or causes a complaining witness, whether or not his or her spouse, to engage in such acts with any other person or to penetrate, or to be penetrated by, an animal, and

1. The complaining witness is less than 13 years of age; or

2. The act is accomplished against the will of the complaining witness, by force, threat or intimidation of or against the complaining witness or another person, or through the use of the complaining witness's mental incapacity or physical helplessness.

B. Inanimate or animate object sexual penetration is a felony punishable by confinement in the state correctional facility for life or for any term not less than five years; and in addition:

1. For a violation of subdivision A 1, where the offender is more than three years older than the victim, if done in the commission of, or as part of the same course of conduct as, or as part of a common scheme or plan as a violation of (i) subsection A of § 18.2-47 or § 18.2-48, (ii) § 18.2-89, 18.2-90, or 18.2-91, or (iii) § 18.2-51.2, the punishment shall include a mandatory minimum term of confinement of 25 years; or

2. For a violation of subdivision A 1 where it is alleged in the indictment that the offender was 18 years of age or older at the time of the offense, the punishment shall include a mandatory minimum term of confinement for life.

The mandatory minimum terms of confinement prescribed for violations of this section shall be served consecutively with any other sentence. If the term of confinement imposed for any violation of subdivision A 1, where the offender is more than three years older than the victim, is for a term less than life imprisonment, the judge shall impose, in addition to any active sentence, a suspended sentence of no less than 40 years. This suspended sentence shall be suspended for the remainder of the defendant's life, subject to revocation by the court.

In any case deemed appropriate by the court, all or part of any sentence imposed for a violation under this section against a spouse may be suspended upon the defendant's completion of counseling or therapy, if not already provided, in the manner prescribed.
under § 19.2-218.1 if, after consideration of the views of the complaining witness and such other evidence as may be relevant, the court finds such action will promote maintenance of the family unit and will be in the best interest of the complaining witness.

C. Upon a finding of guilt under this section, when a spouse is the complaining witness in any case tried by the court without a jury, the court, without entering a judgment of guilt, upon motion of the defendant who has not previously had a proceeding against him for violation of this section dismissed pursuant to this subsection and with the consent of the complaining witness and the attorney for the Commonwealth, may defer further proceedings and place the defendant on probation pending completion of counseling or therapy, if not already provided, in the manner prescribed under § 19.2-218.1. If the defendant fails to so complete such counseling or therapy, the court may make final disposition of the case and proceed as otherwise provided. If such counseling is completed as prescribed under § 19.2-218.1, the court may discharge the defendant and dismiss the proceedings against him if, after consideration of the views of the complaining witness and such other evidence as may be relevant, the court finds such action will promote maintenance of the family unit and be in the best interest of the complaining witness.

VA. CODE ANN. § 18.2-361 (2014). Crimes against nature; penalty
A. If any person carnally knows in any manner any brute animal or voluntarily submits to such carnal knowledge, he is guilty of a Class 6 felony.

B. Any person who performs or causes to be performed cunnilingus, fellatio, anilingus, or anal intercourse upon or by his daughter or granddaughter, son or grandson, brother or sister, or father or mother is guilty of a Class 5 felony. However, if a parent or grandparent commits any such act with his child or grandchild and such child or grandchild is at least 13 but less than 18 years of age at the time of the offense, such parent or grandparent is guilty of a Class 3 felony.

C. For the purposes of this section, parent includes step-parent, grandparent includes step-grandparent, child includes step-child, and grandchild includes step-grandchild.

VA. CODE ANN. § 18.2-370 (2014). Taking indecent liberties with children; penalties
A. Any person 18 years of age or over, who, with lascivious intent, knowingly and intentionally commits any of the following acts with any child under the age of 15 years is guilty of a Class 5 felony:

(1) Expose his or her sexual or genital parts to any child to whom such person is not legally married or propose that any such child expose his or her sexual or genital parts to such person; or

(2) Repealed.
Propose that any such child feel or fondle his own sexual or genital parts or the sexual or genital parts of such person or propose that such person feel or fondle the sexual or genital parts of any such child; or

Propose to such child the performance of an act of sexual intercourse, anal intercourse, cunnilingus, fellatio, or anilingus or any act constituting an offense under § 18.2-361; or

Entice, allure, persuade, or invite any such child to enter any vehicle, room, house, or other place, for any of the purposes set forth in the preceding subdivisions of this subsection.

B. Any person 18 years of age or over who, with lascivious intent, knowingly and intentionally receives money, property, or any other remuneration for allowing, encouraging, or enticing any person under the age of 18 years to perform in or be a subject of sexually explicit visual material as defined in § 18.2-374.1 or who knowingly encourages such person to perform in or be a subject of sexually explicit material is guilty of a Class 5 felony.

C. Any person who is convicted of a second or subsequent violation of this section is guilty of a Class 4 felony, provided that (i) the offenses were not part of a common act, transaction or scheme; (ii) the accused was at liberty as defined in § 53.1-151 between each conviction; and (iii) it is admitted, or found by the jury or judge before whom the person is tried, that the accused was previously convicted of a violation of this section.

D. Any parent, step-parent, grandparent, or step-grandparent who commits a violation of either this section or clause (v) or (vi) of subsection A of § 18.2-370.1 (i) upon his child, step-child, grandchild, or step-grandchild who is at least 15 but less than 18 years of age is guilty of a Class 5 felony or (ii) upon his child, step-child, grandchild, or step-grandchild less than 15 years of age is guilty of a Class 4 felony.

VA. CODE ANN. § 18.2-370.1 (2014). Taking indecent liberties with child by person in custodial or supervisory relationship; penalties

A. Any person 18 years of age or older who, except as provided in § 18.2-370, maintains a custodial or supervisory relationship over a child under the age of 18 and is not legally married to such child and such child is not emancipated who, with lascivious intent, knowingly and intentionally (i) proposes that any such child feel or fondle the sexual or genital parts of such person or that such person feel or handle the sexual or genital parts of the child; or (ii) proposes to such child the performance of an act of sexual intercourse, anal intercourse, cunnilingus, fellatio, or anilingus or any act constituting an offense under § 18.2-361; or (iii) exposes his or her sexual or genital parts to such child; or (iv) proposes that any such child expose his or her sexual or genital parts to such person; or (v) proposes to the child that the child engage in sexual intercourse, sodomy or fondling of sexual or genital parts with another person; or (vi) sexually abuses the child as defined in subdivision 6 of § 18.2-67.10 is guilty of a Class 6 felony.
B. Any person who is convicted of a second or subsequent violation of this section is guilty of a Class 5 felony, provided that (i) the offenses were not part of a common act, transaction or scheme; (ii) the accused was at liberty as defined in § 53.1-151 between each conviction; and (iii) it is admitted, or found by the jury or judge before whom the person is tried, that the accused was previously convicted of a violation of this section.

VA. CODE ANN. § 18.2-374.1 (2014). Production, publication, sale, financing, etc., of child pornography; presumption as to age; severability
A. For purposes of this article and Article 4 (§ 18.2-362 et seq.) of this chapter, “child pornography” means sexually explicit visual material which utilizes or has as a subject an identifiable minor. An identifiable minor is a person who was a minor at the time the visual depiction was created, adapted, or modified; or whose image as a minor was used in creating, adapting or modifying the visual depiction; and who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature; and shall not be construed to require proof of the actual identity of the identifiable minor.

For the purposes of this article and Article 4 (§ 18.2-362 et seq.) of this chapter, the term “sexually explicit visual material” means a picture, photograph, drawing, sculpture, motion picture film, digital image, including such material stored in a computer's temporary Internet cache when three or more images or streaming videos are present, or similar visual representation which depicts sexual bestiality, a lewd exhibition of nudity, as nudity is defined in § 18.2-390, or sexual excitement, sexual conduct or sadomasochistic abuse, as also defined in § 18.2-390, or a book, magazine or pamphlet which contains such a visual representation. An undeveloped photograph or similar visual material may be sexually explicit material notwithstanding that processing or other acts may be required to make its sexually explicit content apparent.

B. A person shall be guilty of production of child pornography who:

1. Accosts, entices or solicits a person less than 18 years of age with intent to induce or force such person to perform in or be a subject of child pornography; or

2. Produces or makes or attempts or prepares to produce or make child pornography; or

3. Who knowingly takes part in or participates in the filming, photographing, or other production of child pornography by any means; or

4. Knowingly finances or attempts or prepares to finance child pornography.

5. Repealed.

B1. Repealed.
C1. Any person who violates this section, when the subject of the child pornography is a child less than 15 years of age, shall be punished by not less than five years nor more than 30 years in a state correctional facility. However, if the person is at least seven years older than the subject of the child pornography the person shall be punished by a term of imprisonment of not less than five years nor more than 30 years in a state correctional facility, five years of which shall be a mandatory minimum term of imprisonment. Any person who commits a second or subsequent violation of this section where the person is at least seven years older than the subject shall be punished by a term of imprisonment of not less than 15 years nor more than 40 years, 15 years of which shall be a mandatory minimum term of imprisonment.

C2. Any person who violates this section, when the subject of the child pornography is a person at least 15 but less than 18 years of age, shall be punished by not less than one year nor more than 20 years in a state correctional facility. However, if the person is at least seven years older than the subject of the child pornography the person shall be punished by term of imprisonment of not less than three years nor more than 30 years in a state correctional facility, three years of which shall be a mandatory minimum term of imprisonment. Any person who commits a second or subsequent violation of this section when he is at least seven years older than the subject shall be punished by a term of imprisonment of not less than 10 years nor more than 30 years, 10 years of which shall be a mandatory minimum term of imprisonment.

C3. The mandatory minimum terms of imprisonment prescribed for violations of this section shall be served consecutively with any other sentence.

D. For the purposes of this section it may be inferred by text, title or appearance that a person who is depicted as or presents the appearance of being less than 18 years of age in sexually explicit visual material is less than 18 years of age.

E. Venue for a prosecution under this section may lie in the jurisdiction where the unlawful act occurs or where any sexually explicit visual material associated with a violation of this section is produced, reproduced, found, stored, or possessed.

F. The provisions of this section shall be severable and, if any of its provisions shall be held unconstitutional by a court of competent jurisdiction, then the decision of such court shall not affect or impair any of the remaining provisions.

A. Any person who knowingly possesses child pornography is guilty of a Class 6 felony.

B. Any person who commits a second or subsequent violation of subsection A is guilty of a Class 5 felony.
C. Any person who (i) reproduces by any means, including by computer, sells, gives away, distributes, electronically transmits, displays with lascivious intent, purchases, or possesses with intent to sell, give away, distribute, transmit, or display child pornography with lascivious intent or (ii) commands, entreats, or otherwise attempts to persuade another person to send, submit, transfer or provide to him any child pornography in order to gain entry into a group, association, or assembly of persons engaged in trading or sharing child pornography shall be punished by not less than five years nor more than 20 years in a state correctional facility. Any person who commits a second or subsequent violation under this subsection shall be punished by a term of imprisonment of not less than five years nor more than 20 years in a state correctional facility, five years of which shall be a mandatory minimum term of imprisonment. The mandatory minimum terms of imprisonment prescribed for violations of this section shall be served consecutively with any other sentence.

D. Any person who intentionally operates an Internet website for the purpose of facilitating the payment for access to child pornography is guilty of a Class 4 felony.

E. All child pornography shall be subject to lawful seizure and forfeiture pursuant to § 19.2-386.31.

F. For purposes of this section it may be inferred by text, title or appearance that a person who is depicted as or presents the appearance of being less than 18 years of age in sexually explicit visual material is less than 18 years of age.

G. Venue for a prosecution under this section may lie in the jurisdiction where the unlawful act occurs or where any child pornography is produced, reproduced, found, stored, received, or possessed in violation of this section.

H. The provisions of this section shall not apply to any such material that is possessed for a bona fide medical, scientific, governmental, law-enforcement, or judicial purpose by a physician, psychologist, scientist, attorney, employee of a law-enforcement agency, judge, or clerk who possesses such material in the course of conducting his professional duties as such.

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(1)(a) Any adult or juvenile residing whether or not the person has a fixed residence, or who is a student, is employed, or carries on a vocation in this state who has been found to have committed or has been convicted of any sex offense or kidnapping offense, or who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing any sex offense or kidnapping offense, shall register with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation, or as otherwise
specified in this section. When a person required to register under this section is in
 custody of the state department of corrections, the state department of social and health
 services, a local division of youth services, or a local jail or juvenile detention facility as
 a result of a sex offense or kidnapping offense, the person shall also register at the time of
 release from custody with an official designated by the agency that has jurisdiction over
 the person.

(b) Any adult or juvenile who is required to register under (a) of this subsection must give
 notice to the county sheriff of the county with whom the person is registered within three
 business days:

(i) Prior to arriving at a school or institution of higher education to attend classes;

(ii) Prior to starting work at an institution of higher education; or

(iii) After any termination of enrollment or employment at a school or institution of
 higher education.

(2)(a) A person required to register under this section must provide the following
 information when registering: (i) Name and any aliases used; (ii) complete and accurate
 residential address or, if the person lacks a fixed residence, where he or she plans to stay;
 (iii) date and place of birth; (iv) place of employment; (v) crime for which convicted; (vi)
 date and place of conviction; (vii) social security number; (viii) photograph; and (ix)
 fingerprints.

(b) A person may be required to update any of the information required in this subsection
 in conjunction with any address verification conducted by the county sheriff or as part of
 any notice required by this section.

(c) A photograph or copy of an individual's fingerprints may be taken at any time to
 update an individual's file.

(3)(a) Offenders shall register with the county sheriff within the following deadlines:

(i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex offense on,
 before, or after February 28, 1990, and who, on or after July 28, 1991, are in custody, as a
 result of that offense, of the state department of corrections, the state department of social
 and health services, a local division of youth services, or a local jail or juvenile detention
 facility, and (B) kidnapping offenders who on or after July 27, 1997, are in custody of the
 state department of corrections, the state department of social and health services, a local
 division of youth services, or a local jail or juvenile detention facility, must register at the
 time of release from custody with an official designated by the agency that has
 jurisdiction over the offender. The agency shall within three days forward the registration
 information to the county sheriff for the county of the offender's anticipated residence.
 The offender must also register within three business days from the time of release with
the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The agency that has jurisdiction over the offender shall provide notice to the offender of the duty to register.

When the agency with jurisdiction intends to release an offender with a duty to register under this section, and the agency has knowledge that the offender is eligible for developmental disability services from the department of social and health services, the agency shall notify the division of developmental disabilities of the release. Notice shall occur not more than thirty days before the offender is to be released. The agency and the division shall assist the offender in meeting the initial registration requirement under this section. Failure to provide such assistance shall not constitute a defense for any violation of this section.

(ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 28, 1991. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (3)(a)(ii) as of July 28, 1991, or a kidnapping offender required to register as of July 27, 1997, shall not relieve the offender of the duty to register or to reregister following a change in residence.

(iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on or after July 23, 1995, and kidnapping offenders who, on or after July 27, 1997, as a result of that offense are in the custody of the United States bureau of prisons or other federal or military correctional agency for sex offenses committed before, on, or after February 28, 1990, or kidnapping offenses committed on, before, or after July 27, 1997, must register within three business days from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. Sex offenders who, on July 23, 1995, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of
July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (3)(a)(iii) as of July 23, 1995, or a kidnapping offender required to register as of July 27, 1997 shall not relieve the offender of the duty to register or to reregister following a change in residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation.

(iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders who are convicted of a sex offense on or after July 28, 1991, for a sex offense that was committed on or after February 28, 1990, and kidnapping offenders who are convicted on or after July 27, 1997, for a kidnapping offense that was committed on or after July 27, 1997, but who are not sentenced to serve a term of confinement immediately upon sentencing, shall report to the county sheriff to register within three business days of being sentenced.

(v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON RESIDENTS. Sex offenders and kidnapping offenders who move to Washington state from another state or a foreign country that are not under the jurisdiction of the state department of corrections, the indeterminate sentence review board, or the state department of social and health services at the time of moving to Washington, must register within three business days of establishing residence or reestablishing residence if the person is a former Washington resident. The duty to register under this subsection applies to sex offenders convicted under the laws of another state or a foreign country, federal or military statutes for offenses committed before, on, or after February 28, 1990, or Washington state for offenses committed before, on, or after February 28, 1990, and to kidnapping offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington state for offenses committed before, on, or after July 27, 1997. Sex offenders and kidnapping offenders from other states or a foreign country who, when they move to Washington, are under the jurisdiction of the department of corrections, the indeterminate sentence review board, or the department of social and health services must register within three business days of moving to Washington. The agency that has jurisdiction over the offender shall notify the offender of the registration requirements before the offender moves to Washington.

(vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult or juvenile who has been found not guilty by reason of insanity under chapter 10.77 RCW of (A) committing a sex offense on, before, or after February 28, 1990, and who, on or after July 23, 1995, is in custody, as a result of that finding, of the state department of social and health services, or (B) committing a kidnapping offense on, before, or after July 27, 1997, and who on or after July 27, 1997, is in custody, as a result of that finding, of the state department of social and health services, must register within three business days from the time of release with the county sheriff for the county of the person's residence. The state department of social and health services shall provide notice to the adult or juvenile in its custody of the duty to register. Any adult or juvenile who has been found not guilty by reason of insanity of committing a sex offense on, before, or after February 28, 1990, but who was released before July 23, 1995, or any adult or juvenile
who has been found not guilty by reason of insanity of committing a kidnapping offense but who was released before July 27, 1997, shall be required to register within three business days of receiving notice of this registration requirement.

(vii) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person who lacks a fixed residence and leaves the county in which he or she is registered and enters and remains within a new county for twenty-four hours is required to register with the county sheriff not more than three business days after entering the county and provide the information required in subsection (2)(a) of this section.

(viii) OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE UNDER SUPERVISION. Offenders who lack a fixed residence and who are under the supervision of the department shall register in the county of their supervision.

(ix) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND SCHOOL IN ANOTHER STATE. Offenders required to register in Washington, who move to another state, or who work, carry on a vocation, or attend school in another state shall register a new address, fingerprints, and photograph with the new state within three business days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. The person must also send written notice within three business days of moving to the new state or to a foreign country to the county sheriff with whom the person last registered in Washington state. The county sheriff shall promptly forward this information to the Washington state patrol.

(b) The county sheriff shall not be required to determine whether the person is living within the county.

(c) An arrest on charges of failure to register, service of an information, or a complaint for a violation of RCW 9A.44.132, or arraignment on charges for a violation of RCW 9A.44.132, constitutes actual notice of the duty to register. Any person charged with the crime of failure to register under RCW 9A.44.132 who asserts as a defense the lack of notice of the duty to register within three business days following actual notice of the duty through arrest, service, or arraignment. Failure to register as required under this subsection (3)(c) constitutes grounds for filing another charge of failing to register. Registering following arrest, service, or arraignment on charges shall not relieve the offender from criminal liability for failure to register prior to the filing of the original charge.

(d) The deadlines for the duty to register under this section do not relieve any sex offender of the duty to register under this section as it existed prior to July 28, 1991.

(4)(a) If any person required to register pursuant to this section changes his or her residence address within the same county, the person must provide, by certified mail,
with return receipt requested or in person, signed written notice of the change of address to the county sheriff within three business days of moving.

(b) If any person required to register pursuant to this section moves to a new county, the person must register with that county sheriff within three business days of moving. Within three business days, the person must also provide, by certified mail, with return receipt requested or in person, signed written notice of the change of address in the new county to the county sheriff with whom the person last registered. The county sheriff with whom the person last registered shall promptly forward the information concerning the change of address to the county sheriff for the county of the person's new residence. Upon receipt of notice of change of address to a new state, the county sheriff shall promptly forward the information regarding the change of address to the agency designated by the new state as the state's offender registration agency.

(5)(a) Any person required to register under this section who lacks a fixed residence shall provide signed written notice to the sheriff of the county where he or she last registered within three business days after ceasing to have a fixed residence. The notice shall include the information required by subsection (2)(a) of this section, except the photograph and fingerprints. The county sheriff may, for reasonable cause, require the offender to provide a photograph and fingerprints. The sheriff shall forward this information to the sheriff of the county in which the person intends to reside, if the person intends to reside in another county.

(b) A person who lacks a fixed residence must report weekly, in person, to the sheriff of the county where he or she is registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. The person must keep an accurate accounting of where he or she stays during the week and provide it to the county sheriff upon request. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

(c) If any person required to register pursuant to this section does not have a fixed residence, it is an affirmative defense to the charge of failure to register, that he or she provided written notice to the sheriff of the county where he or she last registered within three business days of ceasing to have a fixed residence and has subsequently complied with the requirements of subsections (3)(a)(vii) or (viii) and (5) of this section. To prevail, the person must prove the defense by a preponderance of the evidence.

(6) A sex offender subject to registration requirements under this section who applies to change his or her name under RCW 4.24.130 or any other law shall submit a copy of the application to the county sheriff of the county of the person's residence and to the state patrol not fewer than five days before the entry of an order granting the name change. No sex offender under the requirement to register under this section at the time of application shall be granted an order changing his or her name if the court finds that doing so will interfere with legitimate law enforcement interests, except that no order shall be denied.
when the name change is requested for religious or legitimate cultural reasons or in recognition of marriage or dissolution of marriage. A sex offender under the requirement to register under this section who receives an order changing his or her name shall submit a copy of the order to the county sheriff of the county of the person's residence and to the state patrol within three business days of the entry of the order.

(7) Except as may otherwise be provided by law, nothing in this section shall impose any liability upon a peace officer, including a county sheriff, or law enforcement agency, for failing to release information authorized under this section.

Unless the context clearly indicates otherwise, the definitions in this section apply throughout this chapter.

(1) An “internet session” means a period of time during which an internet user, using a specific internet protocol address, visits or is logged into an internet site for an uninterrupted period of time.

(2) To “photograph” means to make a print, negative, slide, digital image, motion picture, or videotape. A “photograph” means anything tangible or intangible produced by photographing.

(3) “Visual or printed matter” means any photograph or other material that contains a reproduction of a photograph.

(4) “Sexually explicit conduct” means actual or simulated:

(a) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals;

(b) Penetration of the vagina or rectum by any object;

(c) Masturbation;

(d) Sadomasochistic abuse;

(e) Defecation or urination for the purpose of sexual stimulation of the viewer;

(f) Depiction of the genitals or unclothed pubic or rectal areas of any minor, or the unclothed breast of a female minor, for the purpose of sexual stimulation of the viewer. For the purposes of this subsection (4)(f), it is not necessary that the minor know that he or she is participating in the described conduct, or any aspect of it; and
(g) Touching of a person's clothed or unclothed genitals, pubic area, buttocks, or breast area for the purpose of sexual stimulation of the viewer.

(5) “Minor” means any person under eighteen years of age.

(6) “Live performance” means any play, show, skit, dance, or other exhibition performed or presented to or before an audience of one or more, with or without consideration.


(1) A person is guilty of sexual exploitation of a minor if the person:

(a) Compels a minor by threat or force to engage in sexually explicit conduct, knowing that such conduct will be photographed or part of a live performance;

(b) Aids, invites, employs, authorizes, or causes a minor to engage in sexually explicit conduct, knowing that such conduct will be photographed or part of a live performance; or

(c) Being a parent, legal guardian, or person having custody or control of a minor, permits the minor to engage in sexually explicit conduct, knowing that the conduct will be photographed or part of a live performance.

(2) Sexual exploitation of a minor is a class B felony punishable under chapter 9A.20 RCW.


(1)(a) A person commits the crime of dealing in depictions of a minor engaged in sexually explicit conduct in the first degree when he or she:

(i) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells a visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e); or

(ii) Possesses with intent to develop, duplicate, publish, print, disseminate, exchange, or sell any visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e).

(b) Dealing in depictions of a minor engaged in sexually explicit conduct in the first degree is a class B felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each depiction or image of visual or printed matter constitutes a separate offense.
(2)(a) A person commits the crime of dealing in depictions of a minor engaged in sexually explicit conduct in the second degree when he or she:

(i) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells any visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g); or

(ii) Possesses with intent to develop, duplicate, publish, print, disseminate, exchange, or sell any visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g).

(b) Dealing in depictions of a minor engaged in sexually explicit conduct in the second degree is a class C felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each incident of dealing in one or more depictions or images of visual or printed matter constitutes a separate offense.

(1)(a) A person commits the crime of sending or bringing into the state depictions of a minor engaged in sexually explicit conduct in the first degree when he or she knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, a visual or printed matter that depicts a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e).

(b) Sending or bringing into the state depictions of a minor engaged in sexually explicit conduct in the first degree is a class B felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each depiction or image of visual or printed matter constitutes a separate offense.

(2)(a) A person commits the crime of sending or bringing into the state depictions of a minor engaged in sexually explicit conduct in the second degree when he or she knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, any visual or printed matter that depicts a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g).

(b) Sending or bringing into the state depictions of a minor engaged in sexually explicit conduct in the second degree is a class C felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each incident of sending or bringing into the state one or more depictions or images of visual or printed matter constitutes a separate offense.

(1)(a) A person commits the crime of possession of depictions of a minor engaged in sexually explicit conduct in the first degree when he or she knowingly possesses a visual or printed matter depicting a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e).

(b) Possession of depictions of a minor engaged in sexually explicit conduct in the first degree is a class B felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each depiction or image of visual or printed matter constitutes a separate offense.

(2)(a) A person commits the crime of possession of depictions of a minor engaged in sexually explicit conduct in the second degree when he or she knowingly possesses any visual or printed matter depicting a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g).

(b) Possession of depictions of a minor engaged in sexually explicit conduct in the second degree is a class C felony punishable under chapter 9A. 20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each incident of possession of one or more depictions or images of visual or printed matter constitutes a separate offense.


(1) A person who intentionally views over the internet visual or printed matter depicting a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e) is guilty of viewing depictions of a minor engaged in sexually explicit conduct in the first degree, a class B felony punishable under chapter 9A.20 RCW.

(2) A person who intentionally views over the internet visual or printed matter depicting a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g) is guilty of viewing depictions of a minor engaged in sexually explicit conduct in the second degree, a class C felony punishable under chapter 9A.20 RCW.

(3) For the purposes of determining whether a person intentionally viewed over the internet a visual or printed matter depicting a minor engaged in sexually explicit conduct in subsection (1) or (2) of this section, the trier of fact shall consider the title, text, and content of the visual or printed matter, as well as the internet history, search terms, thumbnail images, downloading activity, expert computer forensic testimony, number of visual or printed matter depicting minors engaged in sexually explicit conduct, defendant's access to and control over the electronic device and its contents upon which the visual or printed matter was found, or any other relevant evidence. The state must
prove beyond a reasonable doubt that the viewing was initiated by the user of the computer where the viewing occurred.

(4) For the purposes of this section, each separate internet session of intentionally viewing over the internet visual or printed matter depicting a minor engaged in sexually explicit conduct constitutes a separate offense.


(1) A person is guilty of animal cruelty in the first degree when, except as authorized in law, he or she intentionally (a) inflicts substantial pain on, (b) causes physical injury to, or (c) kills an animal by a means causing undue suffering, or forces a minor to inflict unnecessary pain, injury, or death on an animal.

(2) A person is guilty of animal cruelty in the first degree when, except as authorized by law, he or she, with criminal negligence, starves, dehydrates, or suffocates an animal and as a result causes: (a) Substantial and unjustifiable physical pain that extends for a period sufficient to cause considerable suffering; or (b) death.

(3) A person is guilty of animal cruelty in the first degree when he or she:

(a) Knowingly engages in any sexual conduct or sexual contact with an animal;

(b) Knowingly causes, aids, or abets another person to engage in any sexual conduct or sexual contact with an animal;

(c) Knowingly permits any sexual conduct or sexual contact with an animal to be conducted on any premises under his or her charge or control;

(d) Knowingly engages in, organizes, promotes, conducts, advertises, aids, abets, participates in as an observer, or performs any service in the furtherance of an act involving any sexual conduct or sexual contact with an animal for a commercial or recreational purpose; or

(e) Knowingly photographs or films, for purposes of sexual gratification, a person engaged in a sexual act or sexual contact with an animal.

(4) Animal cruelty in the first degree is a class C felony.

(5) In addition to the penalty imposed in subsection (4) of this section, the court may order that the convicted person do any of the following:

(a) Not harbor or own animals or reside in any household where animals are present;

(b) Participate in appropriate counseling at the defendant's expense;
(c) Reimburse the animal shelter or humane society for any reasonable costs incurred for the care and maintenance of any animals taken to the animal shelter or humane society as a result of conduct proscribed in subsection (3) of this section.

(6) Nothing in this section may be considered to prohibit accepted animal husbandry practices or accepted veterinary medical practices by a licensed veterinarian or certified veterinary technician.

(7) If the court has reasonable grounds to believe that a violation of this section has occurred, the court may order the seizure of all animals involved in the alleged violation as a condition of bond of a person charged with a violation.

(8) For purposes of this section:

(a) “Animal” means every creature, either alive or dead, other than a human being.

(b) “Sexual conduct” means any touching or fondling by a person, either directly or through clothing, of the sex organs or anus of an animal or any transfer or transmission of semen by the person upon any part of the animal, for the purpose of sexual gratification or arousal of the person.

(c) “Sexual contact” means any contact, however slight, between the mouth, sex organ, or anus of a person and the sex organ or anus of an animal, or any intrusion, however slight, of any part of the body of the person into the sex organ or anus of an animal, or any intrusion of the sex organ or anus of the person into the mouth of the animal, for the purpose of sexual gratification or arousal of the person.

(d) “Photographs” or “films” means the making of a photograph, motion picture film, videotape, digital image, or any other recording, sale, or transmission of the image.

WEST VIRGINIA
(a) The provisions of this article apply both retroactively and prospectively.

(b) Any person who has been convicted of an offense or an attempted offense or has been found not guilty by reason of mental illness, mental retardation or addiction of an offense under any of the following provisions of chapter sixty-one of this code or under a statutory provision of another state, the United States Code or the Uniform Code of Military Justice which requires proof of the same essential elements shall register as set forth in subsection (d) of this section and according to the internal management rules promulgated by the superintendent under authority of section twenty-five, article two of this chapter:

(1) Article eight-a;
(2) Article eight-b, including the provisions of former section six of said article, relating to the offense of sexual assault of a spouse, which was repealed by an Act of the Legislature during the year 2000 legislative session;

(3) Article eight-c;

(4) Sections five and six, article eight-d;

(5) Section fourteen, article two;

(6) Sections six, seven, twelve and thirteen, article eight; or

(7) Section fourteen-b, article three-c, as it relates to violations of those provisions of chapter sixty-one listed in this subsection.

c) Any person who has been convicted of a criminal offense and the sentencing judge made a written finding that the offense was sexually motivated shall also register as set forth in this article.

d) Persons required to register under the provisions of this article shall register in person at the West Virginia State Police detachment responsible for covering the county of his or her residence, and in doing so, provide or cooperate in providing, at a minimum, the following when registering:

(1) The full name of the registrant, including any aliases, nicknames or other names used by the registrant;

(2) The address where the registrant intends to reside or resides at the time of registration, the address of any habitable real property owned or leased by the registrant that he or she regularly visits: Provided, That a post office box may not be provided in lieu of a physical residential address, the name and address of the registrant's employer or place of occupation at the time of registration, the names and addresses of any anticipated future employers or places of occupation, the name and address of any school or training facility the registrant is attending at the time of registration and the names and addresses of any schools or training facilities the registrant expects to attend;

(3) The registrant's Social Security number;

(4) A full-face photograph of the registrant at the time of registration;

(5) A brief description of the crime or crimes for which the registrant was convicted;

(6) Fingerprints and palm prints;
(7) Information related to any motor vehicle, trailer or motor home owned or regularly operated by a registrant, including vehicle make, model, color and license plate number: Provided, That for the purposes of this article, the term “trailer” shall mean travel trailer, fold-down camping trailer and house trailer as those terms are defined in section one, article one, chapter seventeen-a of this code;

(8) Information relating to any Internet accounts the registrant has and the screen names, user names or aliases the registrant uses on the Internet; and

(9) Information related to any telephone or electronic paging device numbers that the registrant has or uses, including, but not limited to, residential, work and mobile telephone numbers.

(e)(1) On the date that any person convicted or found not guilty by reason of mental illness, mental retardation or addiction of any of the crimes listed in subsection (b) of this section, hereinafter referred to as a “qualifying offense”, including those persons who are continuing under some post-conviction supervisory status, are released, granted probation or a suspended sentence, released on parole, probation, home detention, work release, conditional release or any other release from confinement, the Commissioner of Corrections, regional jail administrator, city official or sheriff operating a jail or Secretary of the Department of Health and Human Resources who releases the person and any parole or probation officer who releases the person or supervises the person following the release, shall obtain all information required by subsection (d) of this section prior to the release of the person, inform the person of his or her duty to register and send written notice of the release of the person to the State Police within three business days of receiving the information. The notice must include the information required by said subsection. Any person having a duty to register for a qualifying offense shall register upon conviction, unless that person is confined or incarcerated, in which case he or she shall register within three business days of release, transfer or other change in disposition status. Any person currently registered who is incarcerated for any offense shall re-register within three business days of his or her release.

(2) Notwithstanding any provision of this article to the contrary, a court of this state shall, upon presiding over a criminal matter resulting in conviction or a finding of not guilty by reason of mental illness, mental retardation or addiction of a qualifying offense, cause, within seventy-two hours of entry of the commitment or sentencing order, the transmittal to the sex offender registry for inclusion in the registry all information required for registration by a registrant as well as the following nonidentifying information regarding the victim or victims:

(A) His or her sex;

(B) His or her age at the time of the offense; and

(C) The relationship between the victim and the perpetrator.
The provisions of this paragraph do not relieve a person required to register pursuant to this section from complying with any provision of this article.

(f) For any person determined to be a sexually violent predator, the notice required by subsection (d) of this section must also include:

(1) Identifying factors, including physical characteristics;

(2) History of the offense; and

(3) Documentation of any treatment received for the mental abnormality or personality disorder.

(g) At the time the person is convicted or found not guilty by reason of mental illness, mental retardation or addiction in a court of this state of the crimes set forth in subsection (b) of this section, the person shall sign in open court a statement acknowledging that he or she understands the requirements imposed by this article. The court shall inform the person so convicted of the requirements to register imposed by this article and shall further satisfy itself by interrogation of the defendant or his or her counsel that the defendant has received notice of the provisions of this article and that the defendant understands the provisions. The statement, when signed and witnessed, constitutes prima facie evidence that the person had knowledge of the requirements of this article. Upon completion of the statement, the court shall provide a copy to the registry. Persons who have not signed a statement under the provisions of this subsection and who are subject to the registration requirements of this article must be informed of the requirement by the State Police whenever the State Police obtain information that the person is subject to registration requirements.

(h) The State Police shall maintain a central registry of all persons who register under this article and shall release information only as provided in this article. The information required to be made public by the State Police by subdivision (2), subsection (b), section five of this article is to be accessible through the Internet. No information relating to telephone or electronic paging device numbers a registrant has or uses may be released through the Internet.

(i) For the purpose of this article, “sexually violent offense” means:

(1) Sexual assault in the first degree as set forth in section three, article eight-b, chapter sixty-one of this code or of a similar provision in another state, federal or military jurisdiction;

(2) Sexual assault in the second degree as set forth in section four, article eight-b, chapter sixty-one of this code or of a similar provision in another state, federal or military jurisdiction;
(3) Sexual assault of a spouse as set forth in the former provisions of section six, article eight-b, chapter sixty-one of this code, which was repealed by an Act of the Legislature during the 2000 legislative session, or of a similar provision in another state, federal or military jurisdiction;

(4) Sexual abuse in the first degree as set forth in section seven, article eight-b, chapter sixty-one of this code or of a similar provision in another state, federal or military jurisdiction.

(j) For purposes of this article, the term “sexually motivated” means that one of the purposes for which a person committed the crime was for any person's sexual gratification.

(k) For purposes of this article, the term “sexually violent predator” means a person who has been convicted or found not guilty by reason of mental illness, mental retardation or addiction of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offenses.

(l) For purposes of this article, the term “mental abnormality” means a congenital or acquired condition of a person, that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of other persons.

(m) For purposes of this article, the term “predatory act” means an act directed at a stranger or at a person with whom a relationship has been established or promoted for the primary purpose of victimization.

(n) For the purposes of this article, the term “business days” means days exclusive of Saturdays, Sundays and legal holidays as defined in section one, article two, chapter two of this code.

For the purposes of this article:

(a) “Minor” means any child under eighteen years of age.

(b) “Knowledge” means knowing or having reasonable cause to know which warrants further inspection or inquiry.

(c) “Sexually explicit conduct” includes any of the following, whether actually performed or simulated:
(1) Genital to genital intercourse;

(2) Fellatio;

(3) Cunnilingus;

(4) Anal intercourse;

(5) Oral to anal intercourse;

(6) Bestiality;

(7) Masturbation;

(8) Sadomasochistic abuse, including, but not limited to, flagellation, torture or bondage;

(9) Excretory functions in a sexual context; or

(10) Exhibition of the genitals, pubic or rectal areas of any person in a sexual context.

(d) “Person” means an individual, partnership, firm, association, corporation or other legal entity.


(a) Any person who causes or knowingly permits, uses, persuades, induces, entices or coerces such minor to engage in or uses such minor to do or assist in any sexually explicit conduct shall be guilty of a felony when such person has knowledge that any such act is being photographed or filmed. Upon conviction thereof, such person shall be fined not more than ten thousand dollars, or imprisoned in the penitentiary not more than ten years, or both fined and imprisoned.

(b) Any person who photographs or films such minor engaging in any sexually explicit conduct shall be guilty of a felony, and, upon conviction thereof, shall be fined not more than ten thousand dollars, or imprisoned in the penitentiary not more than ten years, or both fined and imprisoned.

(c) Any parent, legal guardian or person having custody and control of a minor, who photographs or films such minor in any sexually explicit conduct or causes or knowingly permits, uses, persuades, induces, entices or coerces such minor child to engage in or assist in any sexually explicit act shall be guilty of a felony when such person has knowledge that any such act may be photographed or filmed. Upon conviction thereof, such person shall be fined not more than ten thousand dollars, or imprisoned in the penitentiary not more than ten years, or both fined and imprisoned.
(a) Any person who, knowingly and willfully, sends or causes to be sent or distributes, exhibits, possesses, electronically accesses with intent to view or displays or transports any material visually portraying a minor engaged in any sexually explicit conduct is guilty of a felony.

(b) Any person who violates the provisions of subsection (a) of this section when the conduct involves fifty or fewer images shall, upon conviction, be imprisoned in a state correctional facility for not more than two years or fined not more than $2,000 or both.

(c) Any person who violates the provisions of subsection (a) of this section when the conduct involves more than fifty but fewer than six hundred images shall, upon conviction, be imprisoned in a state correctional facility for not less than two nor more than ten years or fined not more than $5,000, or both.

(d) Notwithstanding the provisions of subsections (b) and (c) of this section any person who violates the provisions of subsection (a) of this section when the conduct involves six hundred or more images or depicts violence against a child or a child engaging in bestiality shall, upon conviction, be imprisoned in a state correctional facility for not less than five nor more than fifteen years or fined not more than $25,000, or both.

(e) For purposes of this section each video clip, movie or similar recording of five minutes or less shall constitute seventy-five images. A video clip, movie or similar recording of a duration longer than five minutes shall be deemed to constitute seventy-five images for every two minutes in length it exceeds five minutes.

In this article, unless a different meaning is plainly required:

(1) “Abuse” means the infliction upon a minor of physical injury by other than accidental means.

(2) “Child” means any person under eighteen years of age not otherwise emancipated by law.

(3) “Controlled substance” means controlled substance as that term is defined in subsection (d), section one hundred one, article one, chapter sixty-a of this code.

(4) “Custodian” means a person over the age of fourteen years who has or shares actual physical possession or care and custody of a child on a full-time or temporary basis, regardless of whether such person has been granted custody of the child by any contract, agreement or legal proceeding. “Custodian” shall also include, but not be limited to, the spouse of a parent, guardian or custodian, or a person cohabiting with a parent, guardian or custodian in the relationship of husband and wife, where such spouse or other person
shares actual physical possession or care and custody of a child with the parent, guardian or custodian.

(5) “Guardian” means a person who has care and custody of a child as the result of any contract, agreement or legal proceeding.

(6) “Gross neglect” means reckless or intentional conduct, behavior or inaction by a parent, guardian or custodian that evidences a clear disregard for a minor child's health, safety or welfare.

(7) “Neglect” means the unreasonable failure by a parent, guardian or custodian of a minor child to exercise a minimum degree of care to assure the minor child's physical safety or health. For purposes of this article, the following do not constitute “neglect” by a parent, guardian or custodian:

(A) Permitting a minor child to participate in athletic activities or other similar activities that if done properly are not inherently dangerous, regardless of whether that participation creates a risk of bodily injury;

(B) Exercising discretion in choosing a lawful method of educating a minor child; or

(C) Exercising discretion in making decisions regarding the nutrition and medical care provided to a minor child based upon religious conviction or reasonable personal belief.

(8) “Parent” means the biological father or mother of a child, or the adoptive mother or father of a child.

(9) “Sexual contact” means sexual contact as that term is defined in section one, article eight-b, chapter sixty-one of this code.

(10) “Sexual exploitation” means an act whereby:

(A) A parent, custodian, guardian or other person in a position of trust to a child, whether for financial gain or not, persuades, induces, entices or coerces the child to engage in sexually explicit conduct as that term is defined in section one, article eight-c, chapter sixty-one of this code; or

(B) A parent, guardian, custodian or other person in a position of trust in relation to a child persuades, induces, entices or coerces the child to display his or her sex organs for the sexual gratification of the parent, guardian, custodian, person in a position of trust or a third person, or to display his or her sex organs under circumstances in which the parent, guardian, custodian or other person in a position of trust knows such display is likely to be observed by others who would be affronted or alarmed.
(11) “Sexual intercourse” means sexual intercourse as that term is defined in section one, article eight-b, chapter sixty-one of this code.

(12) “Sexual intrusion” means sexual intrusion as that term is defined in section one, article eight-b, chapter sixty-one of this code.

(13) A “person in a position of trust in relation to a child” refers to any person who is acting in the place of a parent and charged with any of a parent's rights, duties or responsibilities concerning a child or someone responsible for the general supervision of a child's welfare, or any person who by virtue of their occupation or position is charged with any duty or responsibility for the health, education, welfare, or supervision of the child.

W. Va. Code Ann. § 61-8D-5 (2014). Sexual abuse by a parent, guardian, custodian or person in a position of trust to a child; parent, guardian, custodian or person in a position of trust allowing sexual abuse to be inflicted upon a child; displaying of sex organs by a parent, guardian, or custodian; penalties
(a) In addition to any other offenses set forth in this code, the Legislature hereby declares a separate and distinct offense under this subsection, as follows: If any parent, guardian or custodian of or other person in a position of trust in relation to a child under his or her care, custody or control, shall engage in or attempt to engage in sexual exploitation of, or in sexual intercourse, sexual intrusion or sexual contact with, a child under his or her care, custody or control, notwithstanding the fact that the child may have willingly participated in such conduct, or the fact that the child may have consented to such conduct or the fact that the child may have suffered no apparent physical injury or mental or emotional injury as a result of such conduct, then such parent, guardian, custodian or person in a position of trust shall be guilty of a felony and, upon conviction thereof, shall be imprisoned in a correctional facility not less than ten nor more than twenty years, or fined not less than $500 nor more than $5,000 and imprisoned in a correctional facility not less than ten years nor more than twenty years.

(b) Any parent, guardian, custodian or other person in a position of trust in relation to the child who knowingly procures, authorizes, or induces another person to engage in or attempt to engage in sexual exploitation of, or sexual intercourse, sexual intrusion or sexual contact with, a child under the care, custody or control of such parent, guardian, custodian or person in a position of trust when such child is less than sixteen years of age, notwithstanding the fact that the child may have willingly participated in such conduct or the fact that the child may have suffered no apparent physical injury or mental or emotional injury as a result of such conduct, such parent, guardian, custodian or person in a position of trust shall be guilty of a felony and, upon conviction thereof, shall be imprisoned in a correctional facility not less than five years nor more than fifteen years, or fined not less than $1,000 nor more than $10,000 and imprisoned in a correctional facility not less than five years nor more than fifteen years.
(c) Any parent, guardian, custodian or other person in a position of trust in relation to the child who knowingly procures, authorizes, or induces another person to engage in or attempt to engage in sexual exploitation of, or sexual intercourse, sexual intrusion or sexual contact with, a child under the care, custody or control of such parent, guardian, custodian or person in a position of trust when such child is sixteen years of age or older, notwithstanding the fact that the child may have consented to such conduct or the fact that the child may have suffered no apparent physical injury or mental or emotional injury as a result of such conduct, then such parent, guardian, custodian or person in a position of trust shall be guilty of a felony and, upon conviction thereof, shall be imprisoned in a correctional facility not less than one year nor more than five years.

(d) The provisions of this section shall not apply to a custodian or person in a position of trust whose age exceeds the age of the child by less than four years.

W. Va. Code Ann. § 61-8D-6 (2011). Sending, distributing, exhibiting, possessing, displaying or transporting material by a parent, guardian or custodian, depicting a child engaged in sexually explicit conduct; penalty

Any parent, guardian or custodian who, with knowledge, sends or causes to be sent, or distributes, exhibits, possesses, displays or transports, any material visually portraying a child under his or her care, custody or control engaged in any sexually explicit conduct, is guilty of a felony, and, upon conviction thereof, shall be imprisoned in the penitentiary not more than two years, and fined not less than four hundred dollars nor more than four thousand dollars.

WISCONSIN

WIS. STAT. ANN. § 301.45 (2014). Sex offender registration

(1d) Definitions. In this section:

(a) “Employed or carrying on a vocation” means employment or vocational activity that is full-time or part-time for a continuous period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially compensated, volunteered or for the purpose of government or educational benefit.

(am) “Found to have committed a sex offense by another jurisdiction” means any of the following:

1. Convicted or found not guilty or not responsible by reason of mental disease or defect for a violation of a law of another state that is comparable to a sex offense.

2. Convicted or found not guilty by reason of mental disease or defect for a violation of a federal law that is comparable to a sex offense.
3. Convicted or found not guilty or not responsible by reason of mental disease or defect in the tribal court of a federally recognized American Indian tribe or band for a violation that is comparable to a sex offense.

4. Sentenced or found not guilty by reason of mental disease or defect by a court martial for a violation that is comparable to a sex offense.

(b) “Sex offense” means a violation, or the solicitation, conspiracy, or attempt to commit a violation, of s. 940.22(2), 940.225(1), (2) or (3), 944.06, 948.02(1) or (2), 948.025, 948.05, 948.051, 948.055, 948.06, 948.07(1) to (4), 948.075, 948.08, 948.085, 948.095, 948.11(2)(a) or (am), 948.12, 948.13, or 948.30, of s. 940.302(2) if s. 940.302(2)(a)1.b. applies, or of s. 940.30 or 940.31 if the victim was a minor and the person who committed the violation was not the victim's parent.

(c) “Student” means a person who is enrolled on a full-time or part-time basis in any public, private, or tribal educational institution, including a secondary school, a business, trade, technical or vocational school, or an institution of higher education.

(1g) Who is covered. Except as provided in subs. (1m) and (1p), a person shall comply with the reporting requirements under this section if he or she meets one or more of the following criteria:

(a) Is convicted or adjudicated delinquent on or after December 25, 1993, for a sex offense.

(b) Is in prison, a juvenile correctional facility, or a secured residential care center for children and youth or is on probation, extended supervision, parole, supervision, or aftercare supervision on or after December 25, 1993, for a sex offense.

(bm) Is in prison, a juvenile correctional facility, or a secured residential care center for children and youth or is on probation, extended supervision, parole, supervision, or aftercare supervision on or after December 25, 1993, for a violation, or for the solicitation, conspiracy, or attempt to commit a violation, of a law of this state that is comparable to a sex offense.

(c) Is found not guilty or not responsible by reason of mental disease or defect on or after December 25, 1993, and committed under s. 51.20 or 971.17 for a sex offense.

(d) Is in institutional care or on conditional transfer under s. 51.35(1) or conditional release under s. 971.17 on or after December 25, 1993, for a sex offense.

(dd) Is in institutional care or on conditional transfer under s. 51.35(1) or conditional release under s. 971.17 on or after December 25, 1993, for a violation, or for the solicitation, conspiracy or attempt to commit a violation, of a law of this state that is comparable to a sex offense.
(dh) Is on parole, extended supervision, or probation in this state from another state under s. 304.13 (1m), 304.135, or 304.16 on or after December 25, 1993, for a violation, or for the solicitation, conspiracy, or attempt to commit a violation, of the law of another state that is comparable to a sex offense.

(dj) Is a juvenile in this state on or after May 9, 2000, and is on supervision in this state from another state pursuant to the interstate compact on the placement of juveniles under s. 938.988 for a violation of a law of another state that is comparable to a sex offense.

(dL) Is placed on lifetime supervision under s. 939.615 on or after June 26, 1998.

(dp) Is in institutional care under, or on parole from, a commitment for specialized treatment under ch. 975 on or after December 25, 1993.

(dt) Is in institutional care or on supervised release under ch. 980 on or after June 2, 1994.

(e) Is ordered by a court under s. 51.20(13)(ct)1m., 938.34(15m)(am), 938.345(3), 971.17(1m)(b)1m. or 973.048(1m) to comply with the reporting requirements under this section.

(em) Was required to register under s. 301.45(1)(a), 1997 stats., based on a finding that he or she was in need of protection or services and is ordered to continue complying with the requirements of this section by a court acting under 1999 Wisconsin Act 89, section 107(1)(e).

(f) On or after December 1, 2000, is registered as a sex offender in another state or is registered as a sex offender with the federal bureau of investigation under 42 USC 14072 and is a resident of this state, a student in this state or employed or carrying on a vocation in this state.

(g) Has been found to have committed a sex offense by another jurisdiction and, on or after December 1, 2000, is a resident of this state, a student in this state or employed or carrying on a vocation in this state. This paragraph does not apply if 10 years have passed since the date on which the person was released from prison or placed on parole, probation, extended supervision or other supervised release for the sex offense.

(1m) Exception to registration requirement; underage sexual activity. (a) A person is not required to comply with the reporting requirements under this section if all of the following apply:

1. The person meets the criteria under sub. (1g)(a) to (dd) based on any violation, or on the solicitation, conspiracy or attempt to commit any violation, of s. 948.02(1) or (2), 948.025, or 948.085(2).
1g. The violation, or the solicitation, conspiracy or attempt to commit the violation, of s. 948.02(1) or (2), 948.025, or 948.085(2) did not involve sexual intercourse, as defined in s. 948.01(6), either by the use or threat of force or violence or with a victim under the age of 12 years.

2. At the time of the violation, or of the solicitation, conspiracy or attempt to commit the violation, of s. 948.02(1) or (2), 948.025, or 948.085(2), the person had not attained the age of 19 years and was not more than 4 years older or not more than 4 years younger than the child.

3. It is not necessary, in the interest of public protection, to require the person to comply with the reporting requirements under this section.

(b) If a person believes that he or she is not required under par. (a) to comply with the reporting requirements under this section and the person is not before the court under s. 51.20(13)(ct), 938.34(15m), 971.17(1m)(b) or 973.048, the person may move a court to make a determination of whether the person satisfies the criteria specified in par. (a). A motion made under this paragraph shall be filed with the circuit court for the county in which the person was convicted, adjudicated delinquent or found not guilty or not responsible by reason of mental disease or defect.

(be) A person who files a motion under par. (b) or s. 51.20 (13) (ct) 2m., 938.34 (15m) (bm), 971.17 (1m) (b) 2m. or 973.048 (2m) requesting a determination of whether the person is required to comply with the reporting requirements under this section shall send a copy of the motion to the district attorney for the county in which the motion is filed. The district attorney shall make a reasonable attempt to contact the victim of the crime that is the subject of the person's motion to inform the victim of his or her right to make or provide a statement under par. (bv).

(bm) A court shall hold a hearing on a motion made by a person under par. (b) or s. 51.20 (13) (ct) 2m., 938.34 (15m) (bm), 971.17 (1m) (b) 2m. or 973.048 (2m) requesting a determination of whether the person is required to comply with the reporting requirements under this section. The district attorney who receives a copy of a motion under par. (be) may appear at the hearing.

(bv) Before deciding a motion filed under par. (b) or s. 51.20 (13) (ct) 2m., 938.34 (15m) (bm), 971.17 (1m) (b) 2m. or 973.048 (2m) requesting a determination of whether the person is required to comply with the reporting requirements under this section, the court shall allow the victim of the crime that is the subject of the motion to make a statement in court at the hearing under par. (bm) or to submit a written statement to the court. A statement under this paragraph must be relevant to whether the person satisfies the criteria specified in par. (a).

(d)1. Before deciding a motion filed by a person under par. (b) or s. 51.20 (13) (ct) 2m., 938.34 (15m) (bm), 971.17 (1m) (b) 2m. or 973.048 (2m) requesting a determination of
whether the person is required to comply with the reporting requirements under this section, a court may request the person to be examined by a physician, psychologist or other expert approved by the court. If the person refuses to undergo an examination requested by the court under this subdivision, the court shall deny the person's motion without prejudice.

2. If a person is examined by a physician, psychologist or other expert under subd. 1., the physician, psychologist or other expert shall file a report of his or her examination with the court, and the court shall provide copies of the report to the person and, if he or she requests a copy, to the district attorney. The contents of the report shall be confidential until the physician, psychologist or other expert has testified at the hearing held under par. (bm). The report shall contain an opinion regarding whether it would be in the interest of public protection to have the person register under this section and the basis for that opinion.

3. A person who is examined by a physician, psychologist or other expert under subd. 1. is responsible for paying the cost of the services provided by the physician, psychologist or other expert, except that if the person is indigent the cost of the services provided by the physician, psychologist or other expert shall be paid by the county. If the person claims or appears to be indigent, the court shall refer the person to the authority for indigency determinations under s. 977.07 (1), except that the person shall be considered indigent without another determination under s. 977.07 (1) if the person is represented by the state public defender or by a private attorney appointed under s. 977.08.

(e) At the hearing held under par. (bm), the person who filed the motion under par. (b) or s. 51.20 (13) (ct) 2m., 938.34 (15m) (bm), 971.17 (1m) (b) 2m. or 973.048 (2m) has the burden of proving by clear and convincing evidence that he or she satisfies the criteria specified in par. (a). In deciding whether the person has satisfied the criterion specified in par. (a) 3., the court may consider any of the following:

1. The ages, at the time of the violation, of the person and of the child with whom the person had sexual contact or sexual intercourse.

2. The relationship between the person and the child with whom the person had sexual contact or sexual intercourse.

3. Whether the violation resulted in bodily harm, as defined in s. 939.22 (4), to the child with whom the person had sexual contact or sexual intercourse.

4. Whether the child with whom the person had sexual contact or sexual intercourse suffered from a mental illness or mental deficiency that rendered the child temporarily or permanently incapable of understanding or evaluating the consequences of his or her actions.

5. The probability that the person will commit other violations in the future.
6. The report of the examination conducted under par. (d).

7. Any other factor that the court determines may be relevant to the particular case.

(1p) Exception to registration requirement; privacy-related offenses. (a) If a person is covered under sub. (1g) based solely on an order that was entered under s. 938.34(15m)(am) or 973.048(1m) in connection with a delinquency adjudication or a conviction for a violation of s. 942.08(2)(b), (c), or (d), the person is not required to comply with the reporting requirements under this section if the delinquency adjudication is expunged under s. 938.355(4m)(b) or if the conviction is expunged under s. 973.015(1m)(b).

(b) If a person is covered under sub. (1g) based solely on an order that was entered under s. 51.20(13)(ct)1m., 938.34(15m)(am), 938.345(3)(a), 971.17(1m)(b)1m., or 973.048(1m) in connection with a violation, or the solicitation, conspiracy, or attempt to commit a violation, of s. 942.09, and the court provided in the order that the person be released from the requirement to comply with the reporting requirements under this section upon satisfying the conditions of the court order under s. 51.20(13)(ct)1m. or the dispositional order under subch. VI of ch. 938, upon the termination or expiration of a commitment order under s. 971.17, or upon successful completion of the sentence or probation as provided under s. 973.048(1m)(b), whichever is applicable, and the person satisfies the conditions of the court order under s. 51.20(13)(ct)1m. or the dispositional order under subch. VI of ch. 938, the commitment order under s. 971.17 is terminated or expires, or the person successfully completes the sentence or probation, whichever is applicable, the person is no longer required to comply with the reporting requirements under this section.

(2) What information must be provided, by whom and when. (a) The department shall maintain a registry of all persons subject to sub. (1g). The registry shall contain all of the following with respect to each person:

1. The person's name, including any aliases used by the person.

2. Information sufficient to identify the person, including date of birth, gender, race, height, weight and hair and eye color.

3. The statute the person violated that subjects the person to the requirements of this section, the date of conviction, adjudication or commitment, and the county or, if the state is not this state, the state in which the person was convicted, adjudicated or committed.

3m. a. Any sex offense that was dismissed as part of a plea agreement if the sentencing court ordered that the offender be subject to the registration requirements of this section.

b. Any sex offense that was dismissed as part of a plea agreement if the adjudicating court ordered that the juvenile be subject to the registration requirements of this section.
4. Whichever of the following is applicable:

a. The date the person was placed on probation, supervision, conditional release, conditional transfer or supervised release.

b. The date the person was or is to be released from confinement, whether on parole, extended supervision or otherwise, or discharged or terminated from a sentence or commitment.

c. The date the person entered the state.

d. The date the person was ordered to comply with this section.

5. All addresses at which the person is or will be residing.

6. The name of the agency supervising the person, if applicable, and the office or unit and telephone number of the office or unit that is responsible for the supervision of the person.

6m. The name or number of every electronic mail account the person uses, the Internet address of every Web site the person creates or maintains, every Internet user name the person uses, and the name and Internet address of every public or private Internet profile the person creates, uses, or maintains. The department may not place the information provided under this subdivision on any registry that the public may view but shall maintain the information in its records on the person. This subdivision applies only to an account, Web site, Internet address, or Internet profile the person creates, uses, or maintains for his or her personal, family, or household use.

8. The name and address of the place at which the person is or will be employed.

9. The name and location of any school in which the person is or will be enrolled.

9m. For a person covered under sub. (1g)(dt), a notation concerning the treatment that the person has received for his or her mental disorder, as defined in s. 980.01(2).

10. The most recent date on which the information in the registry was updated.

(b) If the department has supervision over a person subject to sub. (1g), the department shall enter into the registry under this section the information specified in par. (a) concerning the person.

(c) If the department of health services has supervision over a person subject to sub. (1g), that department, with the assistance of the person, shall provide the information specified in par. (a) to the department of corrections in accordance with the rules under sub. (8).
(d) A person subject to sub. (1g) who is not under the supervision of the department of corrections or the department of health services shall provide the information specified in par. (a) to the department of corrections in accordance with the rules under sub. (8). If the person is unable to provide an item of information specified in par. (a), the department of corrections may request assistance from a circuit court or the department of health services in obtaining that item of information. A circuit court and the department of health services shall assist the department of corrections when requested to do so under this paragraph.

(e) The department of health services shall provide the information required under par. (c) or the person subject to sub. (1g) shall provide the information required under par. (d) in accordance with whichever of the following is applicable:

1. Within 10 days after the person is placed on probation, supervision, aftercare supervision, conditional release or supervised release.

1m. If the person is being released from a prison sentence and placed on parole or extended supervision, before he or she is released.

2. If the person is on parole, extended supervision, probation, or other supervision from another state under s. 304.13(1m), 304.135, 304.16, or 938.988, before the person enters this state.

2m. If the person is registered as a sex offender in another state or is registered as a sex offender with the federal bureau of investigation under 42 USC 14072, within 10 days after the person enters this state to take up residence or begin school, employment or his or her vocation.

2t. If the person has been found to have committed a sex offense by another jurisdiction and subd. 2m. does not apply, within 10 days after the person enters this state to take up residence or begin school, employment or his or her vocation.

3. No later than 10 days before the person is terminated or discharged from a commitment.

4. If the person is being released from prison because he or she has reached the expiration date of his or her sentence, no later than 10 days before being released from prison.

5. If subd. 1., 1m., 2., 2m., 2t., 3. or 4. does not apply, within 10 days after the person is sentenced or receives a disposition.

(f) The department may require a person covered under sub. (1g) to provide the department with his or her fingerprints, a recent photograph of the person and any other information required under par. (a) that the person has not previously provided. The
department may require the person to report to a place designated by the department, including an office or station of a law enforcement agency, for the purpose of obtaining the person's fingerprints, the photograph or other information.

(g) The department may send a person subject to sub. (1g) a notice or other communication requesting the person to verify the accuracy of any information contained in the registry. A person subject to sub. (1g) who receives a notice or communication sent by the department under this paragraph shall, no later than 10 days after receiving the notice or other communication, provide verification of the accuracy of the information to the department in the form and manner specified by the department.

(h) The department shall notify any person who is subject to sub. (1g) of the prohibition under s. 948.14.

(3) Annual registration requirements. (a) A person covered under sub. (1g) is subject to the annual registration requirements under par. (b) as follows:

1. If the person has been placed on probation or supervision, he or she is subject to this subsection upon being placed on probation or supervision.

1m. If the person is on parole, extended supervision, probation, or other supervision from another state under s. 304.13(1m), 304.135, 304.16, or 938.988, he or she is subject to this subsection upon entering this state.

1r. If the person is registered as a sex offender in another state or is registered as a sex offender with the federal bureau of investigation under 42 USC 14072, within 10 days after the person enters this state to take up residence or begin school, employment or his or her vocation.

1t. If the person has been found to have committed a sex offense by another jurisdiction and subd. 1r. does not apply, within 10 days after the person enters this state to take up residence or begin school, employment or his or her vocation.

2. If the person has been sentenced to prison or placed in a juvenile correctional facility or a secured residential care center for children and youth, he or she is subject to this subsection upon being released on parole, extended supervision, or aftercare supervision.

2m. If the person has been sentenced to prison and is being released from prison because he or she has reached the expiration date of his or her sentence, before being released from prison.

3. If the person has been committed under s. 51.20 or 971.17, he or she is subject to this subsection upon being placed on conditional release under s. 971.17 or on a conditional transfer under s. 51.35(1) or, if he or she was not placed on conditional release or on a
conditional transfer, before he or she is terminated under s. 971.17(5) or discharged under s. 51.35(4) or 971.17(6).

3g. If the person has been committed for specialized treatment under ch. 975, he or she is subject to this subsection upon being released on parole under s. 975.10 or, if he or she was not released on parole, before being discharged from the commitment under s. 975.09 or 975.12.

3r. If the person has been committed under ch. 980, he or she is subject to this subsection upon being placed on supervised release under s. 980.06(2), 1997 stats., or s. 980.08 or, if he or she was not placed on supervised release, before being discharged under s. 980.10, 2003 stats., or s. 980.09 (4).

4. If subd. 1., 1m., 1r., 1t., 2., 2m., 3., 3g. or 3r. does not apply, the person is subject to this subsection after he or she is sentenced or receives a disposition.

(b)1. Except as provided in subd. 1m., a person who is subject to par. (a) shall notify the department once each calendar year, as directed by the department, of his or her current information specified in sub. (2)(a). The department shall annually notify registrants of their need to comply with this requirement. If the registrant is a person under the age of 18, the department may also annually notify the registrant's parent, guardian or legal custodian of the registrant's need to comply with this requirement.

1m. A person who is subject to lifetime registration under sub. (5)(b)2. or (5m)(b)4. shall notify the department once each 90 days, as directed by the department, of his or her current information specified in sub. (2)(a). Every 90 days, the department shall notify registrants subject to this subdivision of their need to comply with this requirement. If the registrant subject to this subdivision is a person under the age of 18, the department may also notify the registrant's parent, guardian or legal custodian every 90 days of the registrant's need to comply with this requirement.

2. The department shall notify a person who is being released from prison in this state because he or she has reached the expiration date of his or her sentence and who is covered under sub. (1g) of the need to comply with the requirements of this section. Also, probation, extended supervision, and parole agents, aftercare agents, and agencies providing supervision shall notify any client who is covered under sub. (1g) of the need to comply with the requirements of this section at the time that the client is placed on probation, extended supervision, parole, supervision, or aftercare supervision or, if the client is on probation, extended supervision, parole, or other supervision from another state under s. 304.13(1m), 304.135, 304.16, or 938.988, when the client enters this state.

3. The department of health services shall notify a person who is being placed on conditional release, supervised release, conditional transfer or parole, or is being terminated or discharged from a commitment, under s. 51.20, 51.35 or 971.17 or ch. 975.
or 980 and who is covered under sub. (1g) of the need to comply with the requirements of this section.

3m. After notifying a person under subd. 2. or 3. of the need to comply with this section, the person who is providing the notification shall require the person who is covered under sub. (1g) to read and sign a form stating that he or she has been informed of the requirements of this section.

4. It is not a defense to liability under sub. (6)(a) or (ag) that the person subject to sub. (1g) was not required to read and sign a form under subd. 3m., was not provided with a form to read and sign under subd. 3m. or failed or refused to read or sign a form under subd. 3m. It is not a defense to liability under sub. (6)(a) or (ag) that the person subject to sub. (1g) did not receive notice under this paragraph from the department of health services, the department of corrections, a probation, extended supervision and parole agent, an aftercare agent or an agency providing supervision.

(4) Updated information. In addition to the requirements under sub. (3), a person who is covered under sub. (1g) shall update information under sub. (2)(a) as follows:

(a) Except as provided in par. (b), whenever any of the information under sub. (2)(a) changes, the person shall provide the department with the updated information within 10 days after the change occurs.

(b) If the person is on parole or extended supervision and the person knows that any of the information under sub. (2)(a) will be changing, the person shall provide the department with the updated information before the change in his or her address occurs. If the person is on parole or extended supervision and any of the information under sub. (2)(a) changes but the person did not know before the change occurred that his or her address would be changing, the person shall provide the department with the updated information within 24 hours after the change in his or her address occurs.

(4m) Information concerning a move to or schooling or employment in another state. In addition to the requirements under subs. (3) and (4), a person who is covered under sub. (1g) and who is changing his or her residence from this state to another state, is becoming a student in another state or is to be employed or carrying on a vocation in another state shall, no later than 10 days before he or she moves out of this state, begins school or begins employment or his or her vocation, notify the department that he or she is changing his or her residence from this state, is beginning school in another state or is beginning employment or the carrying on of a vocation in another state. The person shall also inform the department of the state to which he or she is moving his or her residence, the state in which he or she will be in school or the state in which he or she will be employed or carrying on a vocation. Upon receiving notification from a person under this subsection, the department shall do all of the following:
(a) Inform the person whether the state to which the person is moving, the state in which the person will be in school or the state in which the person will be employed or carrying on a vocation has sex offender registration requirements to which the person may be subject and, if so, the name of the agency to contact in that state for information concerning those requirements.

(b) Inform the agency responsible for sex offender registration in the state to which the person is moving, in which the person will be in school or in which the person will be employed or carrying on a vocation that the person is moving to the state, beginning school in the state or beginning employment or carrying on a vocation in the state, and provide the agency of the other state with all of the information specified in sub. (2)(a).

(4r) Restriction on certain registrants establishing or changing residence. No person covered under sub. (1g) who is on parole or extended supervision may establish a residence or change his or her residence unless he or she has complied with all of the applicable requirements of subs. (2)(e), (3)(b) and (4)(b).

(5) Release from requirements for persons who committed a sex offense in this state.
(a) Except as provided in pars. (am) and (b), a person who is covered under sub. (1g)(a), (b), (bm), (c), (d), (dd), (dp), (e) or (em) no longer has to comply with this section when the following applicable criterion is met:

1. If the person has been placed on probation or supervision for a sex offense, 15 years after discharge from the probation or supervision imposed for the sex offense.

2. If the person has been sentenced to prison for a sex offense or placed in a juvenile correctional facility or a secured residential care center for children and youth for a sex offense, 15 years after discharge from parole, extended supervision, or aftercare supervision for the sex offense.

2m. If the person has been sentenced to prison for a sex offense and is being released from prison because he or she has reached the expiration date of the sentence for the sex offense, 15 years after being released from prison.

3. If the person has been committed to the department of health services under s. 51.20 or 971.17 and is in institutional care or on conditional transfer under s. 51.35(1) or conditional release under s. 971.17 for a sex offense, 15 years after termination of the commitment for the sex offense under s. 971.17(5) or discharge from the commitment for the sex offense under s. 51.35(4) or 971.17(6).

3m. If the person has been committed for specialized treatment under ch. 975, 15 years after discharge from the commitment under s. 975.09 or 975.12.
4. If subd. 1., 2., 2m., 3. or 3m. does not apply, 15 years after the date of conviction for the sex offense or 15 years after the date of disposition of the sex offense, whichever is later.

(am)1. Except as provided in subd. 2., a person who is covered under sub. (1g)(dL) shall continue to comply with the requirements of this section until his or her death.

2. A person who is covered under sub. (1g)(dL) is not required to comply with the requirements of this section if a court orders that the person is no longer required to comply under s. 939.615(6)(i).

(b) A person who is covered under sub. (1g)(a), (b), (bm), (c), (d), (dd), (dp) or (e) shall continue to comply with the requirements of this section until his or her death if any of the following applies:

1. The person has, on 2 or more separate occasions, been convicted or found not guilty or not responsible by reason of mental disease or defect for a sex offense, or for a violation, or the solicitation, conspiracy or attempt to commit a violation, of a federal law, a military law, a tribal law or a law of any state that is comparable to a sex offense. A conviction or finding of not guilty or not responsible by reason of mental disease or defect that has been reversed, set aside or vacated is not a conviction or finding for purposes of determining under this subdivision whether a person has been convicted on 2 or more separate occasions.

1m. The person has been convicted or found not guilty or not responsible by reason of mental disease or defect for a violation, or for the solicitation, conspiracy or attempt to commit a violation, of s. 940.225(1) or (2), 948.02(1) or (2), 948.025, or 948.085(2). A conviction or finding of not guilty or not responsible by reason of mental disease or defect that has been reversed, set aside or vacated is not a conviction or finding for purposes of this subdivision.

2. The person has been found to be a sexually violent person under ch. 980, regardless of whether the person has been discharged under s. 980.10, 2003 stats., or s. 980.09 (4) from the sexually violent person commitment, except that the person no longer has to comply with this section if the finding that the person is a sexually violent person has been reversed, set aside or vacated.

3. The court that ordered the person to comply with the reporting requirements of this section under s. 51.20(13)(ct), 938.34(15m), 938.345(3), 971.17(1m)(b) or 973.048 also ordered the person to comply with the requirements until his or her death.

(5m) Release from requirements for persons who committed a sex offense in another jurisdiction. (a) Except as provided in pars. (b) and (c), a person who is covered under sub. (1g)(dh), (dj), (f) or (g) no longer has to comply with this section when the following applicable criterion is met:
1. If the person is on parole, extended supervision, probation, or other supervision from another state under s. 304.13(1m), 304.135, 304.16, or 938.988, 15 years after discharge from that parole, extended supervision, probation, or other supervision or the period of time that the person is in this state, whichever is less.

2. If the person is registered as a sex offender in another state or is registered as a sex offender with the federal bureau of investigation under 42 USC 14072, whichever of the following is less:
   
a. The period of time that the person is a resident of this state, a student in this state or employed or carrying on a vocation in this state.

b. The period of time that the person is registered as a sex offender in another state or with the federal bureau of investigation, or 10 years from the date on which the person was released from prison or placed on parole, probation, extended supervision or other supervised release for the sex offense which subjects the person to the requirements of this section, whichever is greater.

3. If the person has been found to have committed a sex offense by another jurisdiction and subd. 2. does not apply, whichever of the following is less:
   
a. The period of time that the person is a resident of this state, a student in this state or employed or carrying on a vocation in this state.

b. Ten years from the date on which the person was released from prison or placed on parole, probation, extended supervision or other supervised release for the sex offense that subjects the person to the requirements of this section.

(b) A person who is covered under sub. (1g)(dh), (dj), (f) or (g) shall continue to comply with the requirements of this section for as long as the person is a resident of this state, a student in this state or employed or carrying on a vocation in this state if one or more of the following apply:

1. The person is registered as a sex offender in another state or is registered as a sex offender with the federal bureau of investigation under 42 USC 14072 and the person is required to register with that other state or with the federal bureau of investigation until his or her death.

2. The person has been convicted or found not guilty or not responsible by reason of mental disease or defect for a violation of s. 940.225(1) or (2), 948.02(1) or (2), 948.025, or 948.085, or for the solicitation, conspiracy or attempt to commit a violation, of a federal law, a military law, a tribal law or a law of any state that is comparable to a violation of s. 940.225(1) or (2), 948.02(1) or (2), 948.025, or 948.085. A conviction or finding of not guilty or not responsible by reason of mental disease or defect that has
been reversed, set aside or vacated is not a conviction or finding for purposes of this
subdivision.

3. The person has, on 2 or more separate occasions, been convicted or found not guilty or
not responsible by reason of mental disease or defect for a sex offense or for a violation,
or the solicitation, conspiracy or attempt to commit a violation, of a federal law, military
law, tribal law or law of any state that is comparable to a sex offense. A conviction or
finding of not guilty or not responsible by reason of mental disease or defect that has
been reversed, set aside or vacated is not a conviction or finding for purposes of
determining under this subdivision whether a person has been convicted on 2 or more
separate occasions.

4. A determination has been made as provided under 42 USC 14071(a)(2)(A) or (B) that
the person is a sexually violent predator, or lifetime registration by the person is required
under measures approved by the attorney general of the United States under 42 USC
14071(a)(2)(C).

(c) This subsection does not apply to a person who is required to register as a sex
offender under one or more of the criteria specified in sub. (1g)(a), (b), (bm), (c), (d),
(dd), (dp), (e) or (em).

(6) Penalty. (a) Whoever knowingly fails to comply with any requirement to provide
information under subs. (2) to (4) is subject to the following penalties:

1. Except as provided in subd. 2., the person is guilty of a Class H felony.

2. The person may be fined not more than $10,000 or imprisoned for not more than 9
months or both if all of the following apply:

a. The person was ordered under s. 51.20(13)(ct)1m., 938.34(15m)(am), 938.345(3),
971.17(1m)(b)1m., or 973.048(1m) to comply with the reporting requirements under this
section based on a finding that he or she committed or solicited, conspired, or attempted
to commit a misdemeanor.

b. The person was not convicted of knowingly failing to comply with any requirement to
provide information under subs. (2) to (4) before committing the present violation.

(ag) Whoever intentionally violates sub. (4r) is subject to the following penalties:

1. Except as provided in subd. 2., the person is guilty of a Class H felony.

2. The person may be fined not more than $10,000 or imprisoned for not more than 9
months or both if all of the following apply:
a. The person was ordered under s. 51.20(13)(ct)1m., 938.34(15m)(am), 938.345(3), 971.17(1m)(b)1m., or 973.048(1m) to comply with the reporting requirements under this section based on a finding that he or she committed or solicited, conspired, or attempted to commit a misdemeanor.

b. The person was not convicted of another offense under sub. (4r) before committing the present violation.

(am) Whoever knowingly fails to keep information confidential as required under sub. (7) may be fined not more than $500 or imprisoned for not more than 30 days or both.

(bm) Subject to s. 971.19(9), a district attorney or, upon the request of a district attorney, the department of justice may prosecute a knowing failure to comply with any requirement to provide information under subs. (2) to (4). If the department of corrections determines that there is probable cause to believe that a person has knowingly failed to comply with any requirement to provide information under subs. (2) to (4) or has intentionally violated sub. (4r), the department shall forward a certified copy of all pertinent departmental information to the applicable district attorney. The department shall certify the copy in accordance with s. 889.08.

(c) Notwithstanding par. (a), a person who first became subject to subs. (2) to (4) under 1995 Wisconsin Act 440 and who was in prison or a secured correctional facility or a secured child caring institution, in institutional care, or on probation, parole, supervision, aftercare supervision, corrective sanctions supervision, conditional transfer or conditional release during the period beginning on December 25, 1993, and ending on May 31, 1997, shall be allowed until January 1, 1998, to comply with the requirements under subs. (2) to (4).

(d) Notwithstanding par. (a), a person who first became subject to subs. (2) to (4) under 1999 Wisconsin Act 89 and who was in prison or a secured correctional facility or a secured child caring institution, in institutional care, or on probation, parole, supervision, aftercare supervision, corrective sanctions supervision, conditional transfer or conditional release during the period beginning on December 25, 1993, and ending on May 31, 2000, shall be allowed until January 1, 2001, to comply with the requirements under subs. (2) to (4).

(6m) Notice to other jurisdictions concerning noncompliance. If the department has reasonable grounds to believe that a person who is covered under sub. (1g)(f) or (g) is residing in this state, is a student in this state or is employed or carrying on a vocation in this state and that the person is not complying with the requirements of this section, the department shall notify the state agency responsible for the registration of sex offenders in any state in which the person is registered that it believes the person is not complying with the requirements of this section. If the person is registered with the federal bureau of investigation under 42 USC 14072, the department shall notify the federal bureau of
investigation that it believes the person is not complying with the requirements of this section.

(7) Information maintenance and expungement. (a) The department shall maintain information provided under sub. (2). The department shall keep the information confidential except as provided in ss. 301.03(14) and 301.46, except as needed for law enforcement purposes and except to provide, in response to a request for information under s. 49.22(2m) made by the department of children and families or a county child support agency under s. 59.53(5), the name and all residential addresses of an individual registered under this section, the name and address of the individual's employer and financial information related to the individual.

(b) The department shall not charge a fee for providing information under this subsection.

(c) A person about whom information is maintained in the registry under sub. (2) may request expungement of all pertinent information in the registry if any of the following applies:

1m. The person's conviction, delinquency adjudication, finding of need of protection or services or commitment has been reversed, set aside or vacated.

2m. A court has determined under sub. (1m) (b) that the person is not required to comply with the reporting requirements under this section.

(d) The department shall purge all of the information maintained in the registry under sub. (2) concerning a person to whom par. (c) applies if the department receives all of the following:

1. The person's written request for expungement.

2. A certified copy of the court order reversing, setting aside or vacating the conviction, delinquency adjudication, finding of need of protection or services or commitment or a certified copy of the court's determination under sub. (1m) (b).

(e) The department shall purge all of the information maintained in the registry under sub. (2) concerning a person to whom sub. (1p)(a) applies if any of the following occurs:

1. The department receives notice under s. 938.355(4m)(b) that a court has expunged the record of the person's delinquency adjudication for the violation described in sub. (1p)(a).

2. The department issues a certificate of discharge under s. 973.015(1m)(b).

3. The department receives a certificate of discharge issued under s. 973.015(1m)(b) by the detaining authority.
(f) The department shall purge all of the information maintained in the registry under sub. (2) concerning a person to whom sub. (1p)(b) applies when any of the following occurs:

1. If the person was ordered by a court under s. 51.20(13)(ct)1m. to comply with the reporting requirements under this section, when the department receives notice under s. 51.20(13)(ct)1m.b. that the person has satisfied conditions of the court order.

2. If the person was ordered by a court under s. 938.34(15m)(am) to comply with the reporting requirements under this section, when the department receives notice under s. 938.34(15m)(am)2. that the juvenile has satisfied the conditions of the dispositional order.

3. If the person was ordered by a court under s. 938.345(3)(a) to comply with the reporting requirements under this section, when the department receives notice under s. 938.345(3)(d) that the juvenile has satisfied the conditions of the dispositional order.

4. If the person was ordered by a court under s. 971.17(1m)(b)1m. to comply with the reporting requirements under this section, when the department receives notice under s. 971.17(6m)(b)2. that the commitment order under s. 971.17 is terminated or has expired.

5. If the person was ordered by a court under s. 973.048(1m) to comply with the reporting requirements under this section, when the person successfully completes the sentence or probation as provided under s. 973.048(1m)(b).

(8) Rules. The department shall promulgate rules necessary to carry out its duties under this section.

(9) Cooperation. The department of health services, the department of children and families, the department of transportation and all circuit courts shall cooperate with the department of corrections in obtaining information under this section.

(10) Annual fee. The department may require a person who must register as a sex offender to pay an annual fee to partially offset its costs in monitoring persons who must register as sex offenders. The department shall establish any such fee by rule, but the fee may not exceed $100.

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) “Sadomasochistic 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 person's body or of any object into the genital or anal opening either by the defendant or upon the defendant's 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 person's body or of any object into the genital or anal opening either by a person or upon the person's 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.


(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 child's 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.


(1) Whoever knowingly recruits, entices, provides, obtains, or harbors, or knowingly attempts to recruit, entice, provide, obtain, or harbor, any child for the purpose of commercial sex acts, as defined in s. 940.302(1)(a), is guilty of a Class C felony.

(2) Whoever benefits in any manner from a violation of sub. (1) is guilty of a Class C felony if the person knows that the benefits come from an act described in sub. (1).

(3) Any person who incurs an injury or death as a result of a violation of sub. (1) or (2) may bring a civil action against the person who committed the violation. In addition to actual damages, the court may award punitive damages to the injured party, not to exceed treble the amount of actual damages incurred, and reasonable attorney fees.

**Wis. Stat. Ann. § 948.055 (2014). Causing a child to view or listen to sexual activity**

(1) Whoever intentionally causes a child who has not attained 18 years of age, or an individual who the actor believes or has reason to believe 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 or individual.

(2) Whoever violates sub. (1) is guilty of:

(a) A Class F felony if any of the following applies:

1. The child has not attained the age of 13 years.

2. The actor believes or has reason to believe that the child has not attained the age of 13 years.

(b) A Class H felony if any of the following applies:
1. The child has attained the age of 13 years but has not attained the age of 18 years.

2. The actor believes or has reason to believe that the child has attained the age of 13 years but has not attained the age of 18 years.

**WIS. STAT. ANN. § 948.07 (2014). 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 genitals, pubic area, or intimate parts to the child or causing the child to expose genitals, pubic area, or intimate parts 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.

**WIS. STAT. ANN. § 948.12 (2014). Possession of child pornography**
(1m) Whoever possesses, or accesses in any way with the intent to view, 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 or has accessed the material.

(b) The person knows, or reasonably should know, that the material that is possessed or accessed contains depictions of sexually explicit conduct.

(c) The person knows or reasonably should know that the child depicted in the material who is 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.

**WYOMING**

**WYO. STAT. ANN. § 7-19-302 (2014). Registration of offenders; procedure; verification**

(a) Any offender residing in this state or entering this state for the purpose of residing, attending school or being employed in this state shall register with the sheriff of the county in which he resides, attends school or is employed, or other relevant entity specified in subsection (c) of this section. The offender shall be photographed, fingerprinted and palmprinted by the registering entity or another law enforcement agency and shall provide the following additional information when registering:

(i) Name, including any aliases ever used;

(ii) Address;

(iii) Date and place of birth;

(iv) Social security number;

(v) Place and physical address of employment;

(vi) Date and place of conviction;

(vii) Crime for which convicted;

(viii) The name and physical address of each educational institution in this state at which the person is employed or attending school;

(ix) The license plate number and a description of any vehicle owned or operated by the offender;
(x) A DNA sample. As used in this paragraph, “DNA” means as defined in W.S. 7-19-401(a)(vi);

(xi) The age of each victim;

(xii) Internet identifiers, including each email address and other designations used by the offender for self-identification or routing in internet communications or postings. As used in this paragraph, “internet” means as defined in W.S. 9-2-1035(a)(iii); and

(xiii) Any phone number at which the offender may be reached or which may be used on a frequent basis by the offender to place telephone calls.

(b) In addition to the requirements of subsection (a) of this section, the department, for offenders sentenced to imprisonment, and the sheriff of the county where judgment and sentence is entered for all other offenders, shall obtain the name of the offender, identifying features, anticipated future residence, offense history and documentation of any treatment received, including prescribed psychotropic medication history, for any psychiatric condition of the offender. This information shall be transmitted to the division within three (3) working days of receipt for entry into the central registration system. A person found to be an offender by a court in another state shall provide information required under this subsection at the time of registration under this act.

(c) Offenders required to register under this act shall register with the entities specified in this subsection and within the following time periods:

(i) Offenders who, on or after July 1, 1999, are in custody of the department, local jail or a public or private agency pursuant to a court order, as a result of an offense subjecting them to registration, who are sentenced on or after January 1, 1985, shall register prior to release from custody. The agency with custody of the offender immediately prior to release shall register the offender and perform the duties specified in W.S. 7-19-305. If the offender refuses to register or refuses to provide the required information, the agency shall so notify local law enforcement before releasing the offender;

(ii) Offenders who are convicted of an offense subjecting them to registration under this act but who are not sentenced to a term of confinement shall register immediately after the imposition of the sentence. The sheriff of the county where the judgment and sentence is entered shall register the offender and perform the related duties specified in W.S. 7-19-305 unless the offender does not reside in the county where the judgment and sentence is entered, in which case he shall register in the county in which he resides within three (3) working days;

(iii) Offenders convicted of an offense subjecting them to registration, who, except as provided by paragraph (v) of this subsection, are sentenced on or after January 1, 1985, who reside in or enter this state for the purposes of residing and who are under the jurisdiction of the department or state board of parole or other public agency as a result of

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that offense shall register within three (3) working days of entering this state. The Wyoming agency that has jurisdiction over the offender shall notify the offender of the registration requirements before the offender moves to this state. Within three (3) working days after the offender arrives in this state, the Wyoming agency that has jurisdiction over the offender shall notify the county sheriff of the county in which the offender resides of the offender's presence in the county;

(iv) Offenders convicted of an offense subjecting them to registration, who, except as provided by paragraph (v) of this subsection, are sentenced on or after January 1, 1985, who reside in or enter this state and who are not under the jurisdiction or custody of the department, board of parole or other public agency as a result of that offense shall register within three (3) working days of entering this state if not a current resident;

(v) Offenders convicted of an offense subjecting them to registration, whose registration requirement was added by the 2011 amendments to this act and who are sentenced after July 1, 2001 shall register as required by paragraph (iii) or (iv) of this subsection as appropriate.

(d) A nonresident who is employed or attends school in this state shall register with the county sheriff of the county in which he is employed or attends school within three (3) working days of beginning employment or starting to attend school. A resident or nonresident who is employed, resides or attends school in more than one (1) location in this state, shall register with the county sheriff of each county in which he is employed, resides or attends school within three (3) working days of beginning employment, establishing a residence in this state or starting to attend school. The registration information accepted under this subsection shall be subject to the provisions of W.S. 7-19-303.

(e) If any person required to register under this act changes his residence address within the same county, he shall provide notice of the change of address in person to the sheriff of the county in which he resides within three (3) working days of establishing the new residence. If any person required to register under this act moves to a new county in this state, he shall notify in person the county sheriff in the new county and the county sheriff of the county of his previous residence within three (3) working days of establishing the new residence. If the person changes residence to another state and that state has a registration requirement, the division shall, within three (3) working days of receipt of the information, notify the law enforcement agency with which the person must register in the new state. Any person who has not established a new residence within three (3) working days of leaving his previous residence, or becomes transient through lack of residence, shall report on a weekly basis to the sheriff in the county in which he is registered, until he establishes another residence. The information provided to a sheriff under this subsection shall be transmitted by the sheriff to the division within three (3) working days of receipt for entry into the central registry. The division shall notify the victim, or if the victim is a minor the victim's parent or guardian, within the same time period if the victim, or a minor victim's parent or guardian, has requested in writing that
the division provide notification of a change of address of the offender and has provided the division a current address of the victim, parent or guardian as applicable.

(f) An offender who changes residence to another state shall register the new address with the law enforcement agency with whom he last registered and shall also register with the designated law enforcement agency in the new state not later than three (3) working days after establishing residence in the new state.

(g) For an offender convicted of a violation of W.S. 6-2-316(a)(i) and (iv), 6-4-303(b)(iv) or W.S. 6-4-304(b) if the victim was a minor, 18 U.S.C. §§ 2252B, 2252C, 2424 and 2425, an offense in another jurisdiction containing the same or similar elements, or arising out of the same or similar facts or circumstances as a criminal offense specified in this subsection or an attempt or conspiracy to commit any of the offenses specified in this subsection, the division shall annually verify the accuracy of the offender's registered address, and the offender shall annually report, in person, his current address to the sheriff in the county in which the offender resides, during the period in which he is required to register. During the annual in-person verification, the sheriff shall photograph the offender. Confirmation of the in-person verification required under this subsection, along with the photograph of the offender, shall be transmitted by the sheriff to the division within three (3) working days. Any person under this subsection who has not established a residence or is transient, and who is reporting to the sheriff as required under subsection (e) of this section, shall be deemed in compliance with the address verification requirements of this section.

(h) For an offender convicted of a violation of W.S. 6-2-304(a)(iii) if the victim was at least fourteen (14) years of age, W.S. 6-2-314(a)(ii) and (iii), 6-2-315(a)(i) and (iii), W.S. 6-2-315(a)(iv) if the victim was thirteen (13) through fifteen (15) years of age, W.S. 6-2-317(a)(i) and (ii) or 6-2-318, W.S. 6-4-102 if the person solicited was a minor, W.S. 6-4-103 if the person enticed or compelled was a minor, W.S. 6-4-302(a)(i) if the offense involves the use of a minor in a sexual performance or W.S. 6-4-303(b)(i) through (iii), 18 U.S.C. § 2251, an offense in another jurisdiction containing the same or similar elements, or arising out of the same or similar facts or circumstances as a criminal offense specified in this subsection, an attempt or conspiracy to commit any of the offenses specified in this subsection, or any offense enumerated in subsection (g) of this section if the offender was previously convicted of any offense enumerated in subsection (g) of this section, the division shall verify the accuracy of the offender's registered address, and the offender shall report, in person, his current address to the sheriff in the county in which the offender resides, every six (6) months after the date of the initial release or commencement of parole. If the offender's appearance has changed substantially, and in any case at least annually, the sheriff shall photograph the offender. Confirmation of the in-person verification required by this subsection, and any new photographs of the offender, shall be transmitted by the sheriff to the division within three (3) working days. Any person under this subsection who has not established a residence or is transient, and who is reporting to the sheriff as required under subsection
(e) of this section, shall be deemed in compliance with the address verification requirements of this section.

(j) For an offender convicted of a violation of W.S. 6-2-201 if the victim was a minor, W.S. 6-2-302 or 6-2-303, W.S. 6-2-304(a)(iii) if the victim was under fourteen (14) years of age, W.S. 6-2-314(a)(i), W.S. 6-2-314(a)(ii) and (iii) if the victim was less than thirteen (13) years of age, W.S. 6-2-315(a)(ii), W.S. 6-2-315(a)(iii) and (iv) if the victim was less than thirteen (13) years of age, W.S. 6-2-316(a)(i) and (iii), 6-4-402, 18 U.S.C. § 2245, or an offense in another jurisdiction containing the same or similar elements, or arising out of the same or similar facts or circumstances as a criminal offense specified in this subsection, an attempt or conspiracy to commit any of the offenses specified in this subsection, any offense enumerated in subsection (h) of this section if the offender was previously convicted of any offense enumerated in subsection (g) of this section or any offense enumerated in subsection (g) or (h) of this section if the offender was previously convicted of any offense enumerated in subsection (h) of this section, the division shall verify the accuracy of the offender's registered address, and the offender shall report, in person, his current address to the sheriff in the county in which the offender resides every three (3) months after the date of the initial release or commencement of parole. If the offender's appearance has changed substantially, and in any case at least annually, the sheriff shall photograph the offender. Confirmation of the in-person verification required by this subsection, and any new photographs of the offender, shall be transmitted by the sheriff to the division within three (3) working days. Any person under this subsection who has not established a residence or is transient, and who is reporting to the sheriff as required under subsection (e) of this section, shall be deemed in compliance with the address verification requirements of this section.

(k) Any person required to register under this act shall provide information in person to the sheriff of the county in which he is registered and to any other relevant registering entity specified in subsection (c) of this section regarding each change in employment or enrollment status at any educational institution in this state, including any of the information collected pursuant to subsection (a) of this section within three (3) working days of the change to the entity with whom the offender last registered. This information shall be forwarded immediately from the registering entity to the division on a form prescribed by the division, and the division shall then enter the information into the central registry and forward the information to the campus police department or other law enforcement agency with jurisdiction over the educational institution.

(m) Any person required to register under this act shall provide information in person to the sheriff of the county in which he is registered and to any other relevant registering entity specified in subsection (c) of this section regarding each change of employment and shall disclose all places of employment if there is more than one (1), including any loss of employment, within three (3) working days of the change to the entity with whom the offender last registered. The information shall be forwarded within three (3) working days from the registering entity to the division and the division shall then enter the information into the central registry.
(n) Any person required to register under this act shall provide any new or updated information in person to the sheriff of the county in which he is registered and to any other relevant registering entity specified in subsection (c) of this section regarding any changes, modifications or other information necessary to keep current any of the information specified in this section and W.S. 7-19-303, within three (3) working days of the change to the entity with whom the offender last registered. The information shall be forwarded within three (3) working days from the registering entity to the division and the division shall then enter the information into the central registry.

(o) If the division lacks sufficient information or documentation to identify the offender's crime for which convicted or equivalent Wyoming offense, it shall register the offender as if he were convicted of an offense listed in subsection (j) of this section. If the division receives additional verifiable information or documentation that demonstrates that the offender was not convicted of an offense specified under subsection (j) of this section or an offense from any other jurisdiction containing the same or similar elements or arising out of the same or similar facts or circumstances, it shall modify the offender's status.

(p) Any person convicted of any offense enumerated in subsection (g), (h) or (j) of this section who is released from confinement for any reason before being sentenced shall register as described in this section with the county sheriff for each county in which that person resides, is employed or attends school.

(q) Any offender registered pursuant to this act shall notify the county sheriff of each county in which he is registered at least twenty-one (21) days before traveling outside of the United States of America. The notification shall include the name of each country the offender plans to visit, the dates the offender intends to be in each country, the purpose for which the offender is traveling, the offender's means of travel and the offender's country of citizenship, passport number and country of issue. Each county sheriff receiving notification of an offender's intention to travel outside of the United States of America shall forward that information to the division within three (3) working days.

WYO. STAT. ANN. § 6-4-303 (2014). Sexual exploitation of children; penalties; definitions
(a) As used in this section:

(i) “Child” means a person under the age of eighteen (18) years;

(ii) “Child pornography” means any visual depiction, including any photograph, film, video, picture, computer or computer-generated image or picture, whether or not made or produced by electronic, mechanical or other means, of explicit sexual conduct, where:

(A) The production of the visual depiction involves the use of a child engaging in explicit sexual conduct;
(B) The visual depiction is of explicit sexual conduct involving a child or an individual virtually indistinguishable from a child; or

(C) The visual depiction has been created, adapted or modified to depict explicit sexual conduct involving a child or an individual virtually indistinguishable from a child.

(D) Repealed by Laws 2005, ch. 70, § 2.

(iii) “Explicit sexual conduct” means actual or simulated sexual intercourse, including genital-genital, oral-genital, anal-genital or oral-anal, between persons of the same or opposite sex, bestiality, masturbation, sadistic or masochistic abuse or lascivious exhibition of the genitals or pubic area of any person;

(iv) “Visual depiction” means developed and undeveloped film and videotape, and data stored on computer disk or by electronic means which is capable of conversion into a visual image.

(b) A person is guilty of sexual exploitation of a child if, for any purpose, he knowingly:

(i) Causes, induces, entices, coerces or permits a child to engage in, or be used for, the making of child pornography;

(ii) Causes, induces, entices or coerces a child to engage in, or be used for, any explicit sexual conduct;

(iii) Manufactures, generates, creates, receives, distributes, reproduces, delivers or possesses with the intent to deliver, including through digital or electronic means, whether or not by computer, any child pornography;

(iv) Possesses child pornography, except that this paragraph shall not apply to:

(A) Peace officers, court personnel or district attorneys engaged in the lawful performance of their official duties;

(B) Physicians, psychologists, therapists or social workers, provided such persons are duly licensed in Wyoming and the persons possess such materials in the course of a bona fide treatment or evaluation program at the treatment or evaluation site; or

(C) Counsel for a person charged under this section.

(c) The sexual exploitation of a child pursuant to paragraphs (b)(i) through (iii) of this section is a felony punishable by imprisonment for not less than five (5) years nor more than twelve (12) years, a fine of not more than ten thousand dollars ($10,000.00), or both.
(d) The sexual exploitation of a child by possession of sexually exploitive material pursuant to paragraph (b)(iv) of this section is a felony punishable by imprisonment for not more than ten (10) years, a fine of not more than ten thousand dollars ($10,000.00), or both.

(e) A second or subsequent conviction pursuant to paragraphs (b)(i) through (iv) of this section, or of a substantially similar law of any other jurisdiction, is a felony punishable by imprisonment for not less than seven (7) years nor more than twelve (12) years, a fine of not more than ten thousand dollars ($10,000.00), or both.

(f) Any person who is convicted of an offense under this section shall forfeit to the state the person's interest in:

(i) Any visual depiction of a child engaging in explicit sexual conduct in violation of this section, or any book, magazine, periodical, film, videotape or other matter which contains any such visual depiction, which was produced, transported, mailed, shipped, possessed or received in violation of this section;

(ii) Any property, real or personal, constituting or traceable to gross proceeds obtained from such offense;

(iii) Any property, real or personal, used or intended to be used to commit or to promote the commission of such offense.

FEDERAL LEGISLATION/ U.S. TERRITORIES

FEDERAL LEGISLATION

42 U.S.C.S. § 16911 (2014). Relevant definitions, including Amie Zyla expansion of sex offender definition and expanded inclusion of child predators

In this subchapter the following definitions apply:

(1) Sex offender

The term “sex offender” means an individual who was convicted of a sex offense.

(2) Tier I sex offender

The term “tier I sex offender” means a sex offender other than a tier II or tier III sex offender.
(3) Tier II sex offender

The term “tier II sex offender” means a sex offender other than a tier III sex offender whose offense is punishable by imprisonment for more than 1 year and--

(A) is comparable to or more severe than the following offenses, when committed against a minor, or an attempt or conspiracy to commit such an offense against a minor:

(i) sex trafficking (as described in section 1591 of Title 18);

(ii) coercion and enticement (as described in section 2422(b) of Title 18);

(iii) transportation with intent to engage in criminal sexual activity (as described in section 2423(a)) of Title 18;

(iv) abusive sexual contact (as described in section 2244 of Title 18);

(B) involves--

(i) use of a minor in a sexual performance;

(ii) solicitation of a minor to practice prostitution; or

(iii) production or distribution of child pornography; or

(C) occurs after the offender becomes a tier I sex offender.

(4) Tier III sex offender

The term “tier III sex offender” means a sex offender whose offense is punishable by imprisonment for more than 1 year and--

(A) is comparable to or more severe than the following offenses, or an attempt or conspiracy to commit such an offense:

(i) aggravated sexual abuse or sexual abuse (as described in sections 2241 and 2242 of Title 18); or

(ii) abusive sexual contact (as described in section 2244 of Title 18) against a minor who has not attained the age of 13 years;

(B) involves kidnapping of a minor (unless committed by a parent or guardian); or

(C) occurs after the offender becomes a tier II sex offender.
(5) Amie Zyla expansion of sex offense definition

(A) Generally

Except as limited by subparagraph (B) or (C), the term “sex offense” means—

(i) a criminal offense that has an element involving a sexual act or sexual contact with another;

(ii) a criminal offense that is a specified offense against a minor;

(iii) a Federal offense (including an offense prosecuted under section 1152 or 1153 of Title 18) under section 1591, or chapter 109A, 110 (other than section 2257, 2257A, or 2258), or 117, of Title 18;

(iv) a military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. 951 note); or

(v) an attempt or conspiracy to commit an offense described in clauses (i) through (iv).

(B) Foreign convictions

A foreign conviction is not a sex offense for the purposes of this subchapter if it was not obtained with sufficient safeguards for fundamental fairness and due process for the accused under guidelines or regulations established under section 16912 of this title.

(C) Offenses involving consensual sexual conduct

An offense involving consensual sexual conduct is not a sex offense for the purposes of this subchapter if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was at least 13 years old and the offender was not more than 4 years older than the victim.

(6) Criminal offense

The term “criminal offense” means a State, local, tribal, foreign, or military offense (to the extent specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. 951 note)) or other criminal offense.

(7) Expansion of definition of “specified offense against a minor” to include all offenses by child predators

The term “specified offense against a minor” means an offense against a minor that involves any of the following:
(A) An offense (unless committed by a parent or guardian) involving kidnapping.

(B) An offense (unless committed by a parent or guardian) involving false imprisonment.

(C) Solicitation to engage in sexual conduct.

(D) Use in a sexual performance.

(E) Solicitation to practice prostitution.

(F) Video voyeurism as described in section 1801 of Title 18.

(G) Possession, production, or distribution of child pornography.

(H) Criminal sexual conduct involving a minor, or the use of the Internet to facilitate or attempt such conduct.

(I) Any conduct that by its nature is a sex offense against a minor.

(8) Convicted as including certain juvenile adjudications

The term “convicted” or a variant thereof, used with respect to a sex offense, includes adjudicated delinquent as a juvenile for that offense, but only if the offender is 14 years of age or older at the time of the offense and the offense adjudicated was comparable to or more severe than aggravated sexual abuse (as described in section 2241 of Title 18), or was an attempt or conspiracy to commit such an offense.

(9) Sex offender registry

The term “sex offender registry” means a registry of sex offenders, and a notification program, maintained by a jurisdiction.

(10) Jurisdiction

The term “jurisdiction” means any of the following:

(A) A State.

(B) The District of Columbia.

(C) The Commonwealth of Puerto Rico.

(D) Guam.
(E) American Samoa.

(F) The Northern Mariana Islands.

(G) The United States Virgin Islands.

(H) To the extent provided and subject to the requirements of section 16927 of this title, a federally recognized Indian tribe.

(11) Student

The term “student” means an individual who enrolls in or attends an educational institution, including (whether public or private) a secondary school, trade or professional school, and institution of higher education.

(12) Employee

The term “employee” includes an individual who is self-employed or works for any other entity, whether compensated or not.

(13) Resides

The term “resides” means, with respect to an individual, the location of the individual’s home or other place where the individual habitually lives.

(14) Minor

The term “minor” means an individual who has not attained the age of 18 years.


(a) In general.--Any person who, in a circumstance described in subsection (d), knowingly produces, distributes, receives, or possesses with intent to distribute, a visual depiction of any kind, including a drawing, cartoon, sculpture, or painting, that--

(1)(A) depicts a minor engaging in sexually explicit conduct; and

(B) is obscene; or

(2)(A) depicts an image that is, or appears to be, of a minor engaging in graphic bestiality, sadistic or masochistic abuse, or sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex; and

(B) lacks serious literary, artistic, political, or scientific value;
or attempts or conspires to do so, shall be subject to the penalties provided in section 2252A(b)(1), including the penalties provided for cases involving a prior conviction.

(b) **Additional offenses.**--Any person who, in a circumstance described in subsection (d), knowingly possesses a visual depiction of any kind, including a drawing, cartoon, sculpture, or painting, that--

(1)(A) depicts a minor engaging in sexually explicit conduct; and

(B) is obscene; or

(2)(A) depicts an image that is, or appears to be, of a minor engaging in graphic bestiality, sadistic or masochistic abuse, or sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex; and

(B) lacks serious literary, artistic, political, or scientific value;

or attempts or conspires to do so, shall be subject to the penalties provided in section 2252A(b)(2), including the penalties provided for cases involving a prior conviction.

(c) **Nonrequired element of offense.**--It is not a required element of any offense under this section that the minor depicted actually exist.

(d) **Circumstances.**--The circumstance referred to in subsections (a) and (b) is that--

(1) any communication involved in or made in furtherance of the offense is communicated or transported by the mail, or in interstate or foreign commerce by any means, including by computer, or any means or instrumentality of interstate or foreign commerce is otherwise used in committing or in furtherance of the commission of the offense;

(2) any communication involved in or made in furtherance of the offense contemplates the transmission or transportation of a visual depiction by the mail, or in interstate or foreign commerce by any means, including by computer;

(3) any person travels or is transported in interstate or foreign commerce in the course of the commission or in furtherance of the commission of the offense;

(4) any visual depiction involved in the offense has been mailed, or has been shipped or transported in interstate or foreign commerce by any means, including by computer, or was produced using materials that have been mailed, or that have been shipped or transported in interstate or foreign commerce by any means, including by computer; or
(5) the offense is committed in the special maritime and territorial jurisdiction of the United States or in any territory or possession of the United States.

(e) **Affirmative defense.**—It shall be an affirmative defense to a charge of violating subsection (b) that the defendant—

(1) possessed less than 3 such visual depictions; and

(2) promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any such visual depiction—

(A) took reasonable steps to destroy each such visual depiction; or

(B) reported the matter to a law enforcement agency and afforded that agency access to each such visual depiction.

(f) **Definitions.**—For purposes of this section—

(1) the term “visual depiction” includes undeveloped film and videotape, and data stored on a computer disk or by electronic means which is capable of conversion into a visual image, and also includes any photograph, film, video, picture, digital image or picture, computer image or picture, or computer generated image or picture, whether made or produced by electronic, mechanical, or other means;

(2) the term “sexually explicit conduct” has the meaning given the term in section 2256(2)(A) or 2256(2)(B); and

(3) the term “graphic”, when used with respect to a depiction of sexually explicit conduct, means that a viewer can observe any part of the genitals or pubic area of any depicted person or animal during any part of the time that the sexually explicit conduct is being depicted.

18 U.S.C.S. § 2252 (2014). **Certain activities relating to material involving the sexual exploitation of minors**

(a) Any person who—

(1) knowingly transports or ships using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means including by computer or mails, any visual depiction, if—

(A) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and

(B) such visual depiction is of such conduct;
knowingly receives, or distributes, any visual depiction using any means or facility of interstate or foreign commerce or that has been mailed, or has been shipped or transported in or affecting interstate or foreign commerce, or which contains materials which have been mailed or so shipped or transported, by any means including by computer, or knowingly reproduces any visual depiction for distribution using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce or through the mails, if--

(A) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and

(B) such visual depiction is of such conduct;

(3) either--

(A) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the Government of the United States, or in the Indian country as defined in section 1151 of this title, knowingly sells or possesses with intent to sell any visual depiction; or

(B) knowingly sells or possesses with intent to sell any visual depiction that has been mailed, shipped, or transported using any means or facility of interstate or foreign commerce, or has been shipped or transported in or affecting interstate or foreign commerce, or which was produced using materials which have been mailed or so shipped or transported using any means or facility of interstate or foreign commerce, including by computer, if--

(i) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and

(ii) such visual depiction is of such conduct; or

(4) either--

(A) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the Government of the United States, or in the Indian country as defined in section 1151 of this title, knowingly possesses, or knowingly accesses with intent to view, 1 or more books, magazines, periodicals, films, video tapes, or other matter which contain any visual depiction; or

(B) knowingly possesses, or knowingly accesses with intent to view, 1 or more books, magazines, periodicals, films, video tapes, or other matter which contain any visual depiction that has been mailed, or has been shipped or transported using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce.
commerce, or which was produced using materials which have been mailed or so shipped or transported, by any means including by computer, if--

(i) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and

(ii) such visual depiction is of such conduct;

shall be punished as provided in subsection (b) of this section.

(b)(1) Whoever violates, or attempts or conspires to violate, paragraph (1), (2), or (3) of subsection (a) shall be fined under this title and imprisoned not less than 5 years and not more than 20 years, but if such person has a prior conviction under this chapter, section 1591, chapter 71, chapter 109A, chapter 117, or under section 920 of title 10 (article 120 of the Uniform Code of Military Justice), or under the laws of any State relating to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography, or sex trafficking of children, such person shall be fined under this title and imprisoned for not less than 15 years nor more than 40 years.

(2) Whoever violates, or attempts or conspires to violate, paragraph (4) of subsection (a) shall be fined under this title or imprisoned not more than 10 years, or both, but if any visual depiction involved in the offense involved a prepubescent minor or a minor who had not attained 12 years of age, such person shall be fined under this title and imprisoned for not more than 20 years, or if such person has a prior conviction under this chapter, chapter 71, chapter 109A, or chapter 117, or under section 920 of Title 10 (article 120 of the Uniform Code of Military Justice), or under the laws of any State relating to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, reception, mailing, sale, distribution, shipment, or transportation of child pornography, such person shall be fined under this title and imprisoned for not less than 10 years nor more than 20 years.

(c) **Affirmative defense.**--It shall be an affirmative defense to a charge of violating paragraph (4) of subsection (a) that the defendant--

(1) possessed less than three matters containing any visual depiction proscribed by that paragraph; and

(2) promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any visual depiction or copy thereof--

(A) took reasonable steps to destroy each such visual depiction; or

(B) reported the matter to a law enforcement agency and afforded that agency access to each such visual depiction.
18 U.S.C.S. § 2252A (2014). Certain activities relating to material constituting or containing child pornography

(a) Any person who--

(1) knowingly mails, or transports or ships using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means, including by computer, any child pornography;

(2) knowingly receives or distributes--

(A) any child pornography that has been mailed, or using any means or facility of interstate or foreign commerce shipped or transported in or affecting interstate or foreign commerce by any means, including by computer; or

(B) any material that contains child pornography that has been mailed, or using any means or facility of interstate or foreign commerce shipped or transported in or affecting interstate or foreign commerce by any means, including by computer;

(3) knowingly--

(A) reproduces any child pornography for distribution through the mails, or using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means, including by computer; or

(B) advertises, promotes, presents, distributes, or solicits through the mails, or using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means, including by computer, any material or purported material in a manner that reflects the belief, or that is intended to cause another to believe, that the material or purported material is, or contains--

(i) an obscene visual depiction of a minor engaging in sexually explicit conduct; or

(ii) a visual depiction of an actual minor engaging in sexually explicit conduct;

(4) either--

(A) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the United States Government, or in the Indian country (as defined in section 1151), knowingly sells or possesses with the intent to sell any child pornography; or

(B) knowingly sells or possesses with the intent to sell any child pornography that has been mailed, or shipped or transported using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means, including by
computer, or that was produced using materials that have been mailed, or shipped or
transported in or affecting interstate or foreign commerce by any means, including by
computer;

(5) either--

(A) in the special maritime and territorial jurisdiction of the United States, or on any land
or building owned by, leased to, or otherwise used by or under the control of the United
States Government, or in the Indian country (as defined in section 1151), knowingly
possesses, or knowingly accesses with intent to view, any book, magazine, periodical,
film, videotape, computer disk, or any other material that contains an image of child
pornography; or

(B) knowingly possesses, or knowingly accesses with intent to view, any book, magazine,
periodical, film, videotape, computer disk, or any other material that contains an image of
child pornography that has been mailed, or shipped or transported using any means or
facility of interstate or foreign commerce or in or affecting interstate or foreign
commerce by any means, including by computer, or that was produced using materials
that have been mailed, or shipped or transported in or affecting interstate or foreign
commerce by any means, including by computer;

(6) knowingly distributes, offers, sends, or provides to a minor any visual depiction,
including any photograph, film, video, picture, or computer generated image or picture,
whether made or produced by electronic, mechanical, or other means, where such visual
depiction is, or appears to be, of a minor engaging in sexually explicit conduct--

(A) that has been mailed, shipped, or transported using any means or facility of interstate
or foreign commerce or in or affecting interstate or foreign commerce by any means,
including by computer;

(B) that was produced using materials that have been mailed, shipped, or transported in or
affecting interstate or foreign commerce by any means, including by computer; or

(C) which distribution, offer, sending, or provision is accomplished using the mails or
any means or facility of interstate or foreign commerce,

for purposes of inducing or persuading a minor to participate in any activity that is
illegal; or

(7) knowingly produces with intent to distribute, or distributes, by any means, including a
computer, in or affecting interstate or foreign commerce, child pornography that is an
adapted or modified depiction of an identifiable minor.

shall be punished as provided in subsection (b).
(b)(1) Whoever violates, or attempts or conspires to violate, paragraph (1), (2), (3), (4), or (6) of subsection (a) shall be fined under this title and imprisoned not less than 5 years and not more than 20 years, but, if such person has a prior conviction under this chapter, section 1591, chapter 71, chapter 109A, chapter 117, or under section 920 of title 10 (article 120 of the Uniform Code of Military Justice), or under the laws of any State relating to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography, or sex trafficking of children, such person shall be fined under this title and imprisoned for not less than 15 years nor more than 40 years.

(2) Whoever violates, or attempts or conspires to violate, subsection (a)(5) shall be fined under this title or imprisoned not more than 10 years, or both, but, if any image of child pornography involved in the offense involved a prepubescent minor or a minor who had not attained 12 years of age, such person shall be fined under this title and imprisoned for not more than 20 years, or if such person has a prior conviction under this chapter, chapter 71, chapter 109A, or chapter 117, or under section 920 of title 10 (article 120 of the Uniform Code of Military Justice), or under the laws of any State relating to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography, such person shall be fined under this title and imprisoned for not less than 10 years nor more than 20 years.

(3) Whoever violates, or attempts or conspires to violate, subsection (a)(7) shall be fined under this title or imprisoned not more than 15 years, or both.

(c) It shall be an affirmative defense to a charge of violating paragraph (1), (2), (3)(A), (4), or (5) of subsection (a) that--

(1)(A) the alleged child pornography was produced using an actual person or persons engaging in sexually explicit conduct; and

(B) each such person was an adult at the time the material was produced; or

(2) the alleged child pornography was not produced using any actual minor or minors.

No affirmative defense under subsection (c)(2) shall be available in any prosecution that involves child pornography as described in section 2256(8)(C). A defendant may not assert an affirmative defense to a charge of violating paragraph (1), (2), (3)(A), (4), or (5) of subsection (a) unless, within the time provided for filing pretrial motions or at such time prior to trial as the judge may direct, but in no event later than 14 days before the commencement of the trial, the defendant provides the court and the United States with notice of the intent to assert such defense and the substance of any expert or other specialized testimony or evidence upon which the defendant intends to rely. If the defendant fails to comply with this subsection, the court shall, absent a finding of
extraordinary circumstances that prevented timely compliance, prohibit the defendant from asserting such defense to a charge of violating paragraph (1), (2), (3)(A), (4), or (5) of subsection (a) or presenting any evidence for which the defendant has failed to provide proper and timely notice.

(d) Affirmative defense.--It shall be an affirmative defense to a charge of violating subsection (a)(5) that the defendant--

(1) possessed less than three images of child pornography; and

(2) promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any image or copy thereof--

(A) took reasonable steps to destroy each such image; or

(B) reported the matter to a law enforcement agency and afforded that agency access to each such image.

(e) Admissibility of evidence.--On motion of the government, in any prosecution under this chapter or section 1466A, except for good cause shown, the name, address, social security number, or other nonphysical identifying information, other than the age or approximate age, of any minor who is depicted in any child pornography shall not be admissible and may be redacted from any otherwise admissible evidence, and the jury shall be instructed, upon request of the United States, that it can draw no inference from the absence of such evidence in deciding whether the child pornography depicts an actual minor.

(f) Civil remedies.--

(1) In general.--Any person aggrieved by reason of the conduct prohibited under subsection (a) or (b) or section 1466A may commence a civil action for the relief set forth in paragraph (2).

(2) Relief.--In any action commenced in accordance with paragraph (1), the court may award appropriate relief, including--

(A) temporary, preliminary, or permanent injunctive relief;

(B) compensatory and punitive damages; and

(C) the costs of the civil action and reasonable fees for attorneys and expert witnesses.

(g) Child exploitation enterprises.--
(1) Whoever engages in a child exploitation enterprise shall be fined under this title and imprisoned for any term of years not less than 20 or for life.

(2) A person engages in a child exploitation enterprise for the purposes of this section if the person violates section 1591, section 1201 if the victim is a minor, or chapter 109A (involving a minor victim), 110 (except for sections 2257 and 2257A), or 117 (involving a minor victim), as a part of a series of felony violations constituting three or more separate incidents and involving more than one victim, and commits those offenses in concert with three or more other persons.

For the purposes of this chapter, the term--

(1) “minor” means any person under the age of eighteen years;

(2)(A) Except as provided in subparagraph (B), “sexually explicit conduct” means actual or simulated--

(i) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(ii) bestiality;

(iii) masturbation;

(iv) sadistic or masochistic abuse; or

(v) lascivious exhibition of the genitals or pubic area of any person;

(B) For purposes of subsection 8(B) of this section, “sexually explicit conduct” means--

(i) graphic sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex, or lascivious simulated sexual intercourse where the genitals, breast, or pubic area of any person is exhibited;

(ii) graphic or lascivious simulated;

(I) bestiality;

(II) masturbation; or

(III) sadistic or masochistic abuse; or

(iii) graphic or simulated lascivious exhibition of the genitals or pubic area of any person;
(3) “producing” means producing, directing, manufacturing, issuing, publishing, or advertising;

(4) “organization” means a person other than an individual;

(5) “visual depiction” includes undeveloped film and videotape, data stored on computer disk or by electronic means which is capable of conversion into a visual image, and data which is capable of conversion into a visual image that has been transmitted by any means, whether or not stored in a permanent format;

(6) “computer” has the meaning given that term in section 1030 of this title;

(7) “custody or control” includes temporary supervision over or responsibility for a minor whether legally or illegally obtained;

(8) “child pornography” means any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where--

(A) the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct;

(B) such visual depiction is a digital image, computer image, or computer-generated image that is, or is indistinguishable from, that of a minor engaging in sexually explicit conduct; or

(C) such visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct.


(9) “identifiable minor”--

(A) means a person--

(i)(I) who was a minor at the time the visual depiction was created, adapted, or modified; or

(II) whose image as a minor was used in creating, adapting, or modifying the visual depiction; and

(ii) who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature; and
(B) shall not be construed to require proof of the actual identity of the identifiable minor.

(10) “graphic”, when used with respect to a depiction of sexually explicit conduct, means that a viewer can observe any part of the genitals or pubic area of any depicted person or animal during any part of the time that the sexually explicit conduct is being depicted; and

(11) the term “indistinguishable” used with respect to a depiction, means virtually indistinguishable, in that the depiction is such that an ordinary person viewing the depiction would conclude that the depiction is of an actual minor engaged in sexually explicit conduct. This definition does not apply to depictions that are drawings, cartoons, sculptures, or paintings depicting minors or adults.

AMERICAN SAMOA

GUAM
Guam Code Ann. tit. 9, § 89.01 (2011). Definitions.
As used in this Chapter:

(a) Minor means a person below the age of eighteen (18) years.

(b) Criminal offense against a victim who is a minor means any criminal offense that consists of any of the following:

(1) felony kidnapping, felonious restraint, felony child stealing, and custodial interference, as defined and punished in Chapter 22 of Title 9 of the Guam Code Annotated, Kidnapping, and Related Offenses, when the victim is a minor;

(2) promoting prostitution, abetting prostitution, compelling prostitution, as defined and punished in Article 1 of Chapter 28 of Title 9 of the Guam Code Annotated, Prostitution, when the individual committing or engaging in prostitution is a minor;

(3) participation in obscenity, use of one's own child in obscene acts, indecent exposure, photography of minors' sexual acts, as defined and punished in Article 2 of Chapter 28 of Title 9 of the Guam Code Annotated, Obscenity and Related Offenses, when a minor is employed or used;

(4) criminal sexual conduct, as defined and punished in Chapter 25 of Title 9 of the Guam Code Annotated, Sexual Offenses, when the victim of the crime is a minor; or
(5) any attempt to commit, solicitation to commit, or conspiracy to commit the crimes stated in paragraphs (1) to (4) of this Subsection (b), in violation of Chapter 13 of Title 9 of the Guam Code Annotated.

(c) Criminal sexual conduct refers to violations defined and punished under Chapter 25 of Title 9 of the Guam Code Annotated, Sexual Offenses, and any violations of similar federal laws or laws of other states, territories or tribes.

(d) Sex Offense. The term “sex offense” as used in this Chapter includes those offenses contained in 42 United States Code (U.S.C.) § 16911(5) and also includes the following offenses:

(1) Sexually violent offenses. A sexually violent offense is defined as any criminal offense which includes the following:

(A) criminal sexual conduct involving sexual penetration or sexual contact where the actor causes personal injury to the victim and either of the following circumstances exists:

(i) force or coercion is used to accomplish the sexual penetration or sexual contact; or

(ii) the actor knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless.

(B) criminal sexual conduct involving sexual penetration or sexual contact where the actor is aided or abetted by one (1) or more other persons and either of the following circumstances exists:

(i) force or coercion is used to accomplish the sexual penetration or sexual contact; or

(ii) the actor knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless.

(C) criminal sexual conduct involving sexual penetration or sexual contact where the actor is armed with a weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon;

(D) criminal sexual conduct involving sexual penetration or sexual contact which occurs under circumstances involving the commission of another felony; or

(E) criminal sexual conduct involving a victim under fourteen (14) years of age.

(2) Guam Offenses.

(A) any convictions under local laws relating to Title 9 GCA § 16.30;
(B) any convictions under local laws relating to Title 9 GCA § 22.20, wherein the victim of such crime is a minor;

(C) any convictions under local laws relating to Title 9 GCA § 22.30;

(D) any convictions under local laws relating to Title 9 GCA § 22.40, wherein the victim of such crime is a minor;

(E) any convictions under local laws relating to Title 9 GCA § 22.50, wherein the victim of such crime is a minor;

(F) any convictions under local laws relating to Title 9 GCA § 25.15;

(G) any convictions under local laws relating to Title 9 GCA § 25.20;

(H) any convictions under local laws relating to Title 9 GCA § 25.25;

(I) any convictions under local laws relating to Title 9 GCA § 25.30;

(J) any convictions under local laws relating to Title 9 GCA § 25.35;

(K) any convictions under local laws relating to Title 9 GCA § 28.20, wherein the victim of such crime is a minor.

(L) any convictions under local laws relating to Title 9 GCA § 28.25, wherein the victim of such crime is a minor.

(M) any convictions under local laws relating to Title 9 GCA § 28.30; wherein the victim of such crime is a minor.

(N) any convictions under local laws relating to Title 9 GCA § 28.49;

(O) any convictions under local laws relating to Title 9 GCA § 28.50;

(P) any convictions under local laws relating to Title 9 GCA § 28.51;

(Q) any convictions under local laws relating to Title 9 GCA § 28.52, wherein the victim of such crime is a minor;

(R) any convictions under local laws relating to Title 9 GCA § 28.65;

(S) any convictions under local laws relating to Title 9 GCA § 28.80, wherein the victim of such crime is a minor;
(T) any convictions under local laws relating to Title 9 GCA § 31.15;

(U) any convictions under local laws relating to Title 9 GCA § 70.35;

(V) any convictions under local laws relating to Title 9 GCA § 89.01(b)(1); or

(W) any convictions under local laws relating to Title 9 GCA § 89.01(b)(3); and any other offenses under Guam law relating to a criminal offense wherein there is an element involving:

(i) a sexual act or sexual contact with another, regardless of the age of the victim;

(ii) non-parental kidnapping of a minor; non-parental false imprisonment of a minor;

(iii) solicitation to engage a minor in sexual conduct;

(iv) use of a minor in a sexual performance;

(v) solicitation of a minor to practice prostitution;

(vi) video voyeurism of a minor;

(vii) possession, production, or distribution of child pornography;

(viii) criminal sexual conduct involving a minor; or

(ix) use of the internet to engage a minor in criminal sexual conduct.

(3) Convictions from Other Jurisdictions. Any conviction for any sex offense committed in any jurisdiction that is comparable to any sex offense as defined in 42 U.S.C. § 16911(5) or § 89.01(b), (c), or (d) of this Chapter. In addition, any conviction for any sex offense committed in any jurisdiction that involves:

(A) any type or degree of genital, oral, or anal penetration;

(B) any sexual touching of or sexual contact with a person's body, either directly or through the clothing;

(C) kidnapping of a minor;

(D) false imprisonment of a minor;

(E) solicitation to engage a minor in sexual conduct understood broadly to include any direction, request, enticement, persuasion, or encouragement of a minor to engage in sexual conduct;
(F) use of a minor in a sexual performance;

(G) solicitation of a minor to practice prostitution;

(H) possession, production, or distribution of child pornography;

(I) criminal sexual conduct that involves physical contact with a minor or the use of the internet to facilitate or attempt such conduct. This includes offenses whose elements involve the use of other persons in prostitution, such as pandering, procuring, or pimping in cases where the victim was a minor at the time of the offense; or

(J) any conduct that by its nature is a sex offense against a minor.

(4) Federal Offenses. A conviction for any of the following, and any other offense hereafter included in the definition of “sex offense” at 42 U.S.C. § 16911(5):

(A) 18 U.S.C. § 1591

(B) 18 U.S.C. § 1801

(C) 18 U.S.C. § 2241

(D) 18 U.S.C. § 2242

(E) 18 U.S.C. § 2243

(F) 18 U.S.C. § 2244

(G) 18 U.S.C. § 2245

(H) 18 U.S.C. § 2251

(I) 18 U.S.C. § 2251A

(J) 18 U.S.C. § 2252

(K) 18 U.S.C. § 2252A

(L) 18 U.S.C. § 2252B

(M) 18 U.S.C. § 2252C

(N) 18 U.S.C. § 2260
(O) 18 U.S.C. § 2421

(P) 18 U.S.C. § 2422

(Q) 18 U.S.C. § 2423

(R) 18 U.S.C. § 2424; or

(S) 18 U.S.C. § 2425.

(5) Military Offenses. Any military offense, as specified by the Secretary of Defense under Section 115(a)(8)(C)(i) of Public Law 105–119 (Title 10 U.S.C. § 951 note) or listed under 10 U.S.C. § 920, that is similar or comparable to any sex offense as defined in § 16911(5) or outlined in § 89.01(b), (c) or (d) of this Chapter.

(6) Foreign Offenses. Any foreign convictions wherein the registrant was convicted of any of the sex offenses specified in § 89.01(b), (c) or (d) of this Chapter, or any other similar laws of any foreign country. A foreign conviction is not a sex offense for the purposes of this Chapter, unless it was either: (1) obtained under the laws of Canada, the United Kingdom, Australia, New Zealand; or (2) under the laws of any foreign country when the United States State Department in its Country Reports on Human Rights Practices has concluded that an independent judiciary generally or vigorously enforced the right to a fair trial in that country during the year in which the conviction occurred.

(7) Juvenile Offenses or Adjudications. Any conviction of a sex offense as defined in § 89.01(g)(2).

(8) Exemptions to Registry Requirements. An offense involving consensual sexual conduct is not a sex offense for the purposes of this Chapter if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was at least thirteen (13) years old, and the offender was not more than four (4) years older than the victim.

(e) The terms sexual penetration and sexual contact have the same meaning as sexual penetration and sexual contact in Chapter 25 of Title 9 of the Guam Code Annotated.

(f) The term sex offender refers to persons convicted of a sex offense as defined in § 89.01(d).

(g) Conviction.

(1) Adult Conviction. The term conviction refers to each separate charge to which the offender either voluntarily pleads guilty and such guilty plea has been accepted by the Court, whether in a single hearing or in separate hearings, or is found guilty by a trier of fact, whether the charges are contained in one (1) indictment, or separate indictments.
This term includes convictions based on pleas of nolo contendere and guilty pleas entered pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970).

An adult sex offender is “convicted” for the purposes of this Chapter if the sex offender has been subjected to penal consequences based on the conviction, however the conviction may be styled.

(2) Juvenile Conviction. A juvenile offender is “convicted” for the purposes of this Chapter if the juvenile offender is either:

(A) prosecuted and found guilty as an adult for any sex offense, including those juveniles convicted through the certification process in Title 19, Guam Code Annotated, § 5106; or

(B) is adjudicated delinquent as a juvenile for a sex offense, but only if the juvenile is at least fourteen (14) years of age or younger at the time of the offense, and the sex offense adjudicated was one that is comparable to or more severe than the federal crime of “aggravated sexual abuse” (as described in either (a) and (b) of Section 2241 of Title 18 of the U.S.C.), or was an attempt or conspiracy to commit such an offense, which is noted in Title 9 GCA § 25.15 Subsections (a) (4) (i) or (ii), (a)(5), (a)(6), and (a)(7); and Title 9 GCA § 25.20 (a)(4) (i) or (ii), (a)(5), (a)(6), and (a)(7).

(3) Foreign Conviction. A foreign conviction is one obtained outside of the United States.

(h) Intimate Parts. For the purposes of this Chapter, the term intimate parts is defined to include the primary genital area, groin, inner thigh, buttock or breast of a human being.

(i) The terms employed and carries on a vocation include employment that is full-time or part-time for a period of time exceeding fourteen (14) days, or an aggregate period of time exceeding thirty (30) days during any calendar year, whether financially compensated, on a volunteer basis or for the purpose of government or educational benefit.

(j) Employee. The term employee when used in this Chapter includes, but is not limited to, an individual who is self-employed or works for any other entity, regardless of compensation. Volunteers of any agency or organization are included with the definition of employee for registration purposes.

(k) The term student when used in this Chapter, and when referring to any sex offender who is required to register under this Act, means an individual who is enrolled in or attends either a private or public education institution, including a secondary school, trade or professional school, or an institution of higher education, including those who are currently enrolled in the school or institution, but are performing internship, externships or apprentices at an agency or organization under the supervision of a school program.

(l) The term institution of higher education means post secondary school.
The term law enforcement agency means any so designated agency on Guam, including, but not limited to, the Guam Police Department, the Jose D. Leon Guerrero Commercial Port Police, the Parole Services Division of the Department of Corrections, the Judiciary of Guam, Probation Division, the U.S. Probation Office, the U.S. Marshal Service, the Conservation Office of the Department of Agriculture, the A. B. Won Pat International Airport Authority Police, the Office of the Attorney General–Prosecution and Family Divisions, the Judiciary of Guam Marshals Division, the Air Force Office of Special Investigations, the Naval Criminal Investigation Section, the Coast Guard Criminal Investigation Section, the United States Army Criminal Investigation Division, and other criminal investigators of the United States Government. As Guam does not have a recognized law enforcement Campus Police in Guam's institutions of higher education, the Guam Police Department is the recognized law enforcement agency with jurisdiction over Guam's institutions of higher education.

The term court means the Superior Court of Guam, Judiciary of Guam, District Court of Guam, or Island Court of Guam.

The term community refers to the entire territorial boundaries of Guam.

The term registrant refers to persons required to register under this Chapter, and is used interchangeably throughout this Chapter with the word “sex offender”.

The term change in enrollment or employment status means the commencement or termination of enrollment or employment or a change in location of enrollment or employment.

The term resides means, with respect to an individual, the location of the individual's home or any other place where the individual habitually lives or sleeps regardless of whether there is no fixed home or address in the jurisdiction, so long as the individual lived in the jurisdiction for at least thirty (30) days.

For the purposes of this Chapter, a “resident” includes any individual who either resides within Guam or who otherwise owns any real property within Guam in fee or trust regardless of its location on Guam, who is employed within Guam or employed by a corporation or organization whose primary business address is on Guam, or who is a student or attends an educational program within Guam, or who files their yearly income taxes on Guam.

The term jurisdiction refers to any of the following:

(1) a State;

(2) the District of Columbia;
(3) the Commonwealth of Puerto Rico;

(4) Guam;

(5) American Samoa;

(6) the Commonwealth of the Northern Mariana Islands;

(7) the United States Virgin Islands; and

(8) to the extent provided and subject to the requirements of 42 U.S.C. § 16927, a federally recognized Indian tribe.

(u) Immediate. The term immediate or immediately when used in this Chapter means within three (3) working days.

(v) Imprisonment. The term imprisonment or imprisoned refers to incarceration pursuant to a conviction regardless of the nature of the institution in which the offender serves the sentence. Sex Offenders under “house arrest” following any conviction for any offense are required to register pursuant to the provisions of this Chapter during the period of “house arrest”.

(w) Electronic Monitoring Device (EMD). The term Electronic Monitoring Device (EMD) is a device that monitors the location of the person wearing it through radio frequency, a Global Positioning Satellite (GPS) network or other means of wireless networking, communication or data transmission. Said devices may be active or passive. An active Electronic Monitoring Device transmits location data on a real-time current basis to a central monitoring station. A passive Electronic Monitoring Device collects location data for a specified period of time for subsequent upload to a centralized monitoring system.

(x) Sex Offender. The term sex offender refers to any person convicted of an offense listed in § 89.01(b), (c) or (d).

(y) Instant messaging or chat room means a program that requires a person to register or create an account, a user name, or a password to become a member or registered user of the program and allows members or authorized users to communicate over the internet in real time using typed text or voice, including programs associated with online games, and other online communities. The term does not include an electronic mail (e-mail).

(z) Social networking website/application means an internet website/application that has a primary purpose of facilitating social interaction between two (2) or more persons for the purposes of friendship, meeting other persons, dating, gaming, or information exchanges, and allows users to create web pages or profiles that provide information about themselves and are available publicly or to other users and that offers a mechanism
for communication with other users, such as a forum, chat room, electronic mail, or instant messaging.

(aa) DNA. DNA means deoxyribonucleic acid.

As used in this Chapter:

(a) Child pornography means any pornographic visual representation, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexual conduct, if:

(1) the pornographic production of the visual representation involves the use of a minor engaging in sexual conduct; or

(2) the pornographic visual representation has been created, adapted, or modified to appear that an identifiable minor is engaging in sexual conduct.

(b) Community standards means the standards of Guam.

(c) Computer means any electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions, and includes, all computer equipment connected or related to such a device in a computer system or computer network, but shall not include an automated typewriter or typesetter, a portable hand-held calculator, or other similar device.

(d) Computer equipment means any equipment or devices, including all input, output, processing, storage, software, or communications facilities, intended to interface with the computer.

(e) Computer network means two (2) or more computers or computer systems, interconnected by communication lines, including microwave, electronic, or any other form of communication.

(f) Computer program or software means a set of computer-readable instructions or statements and related data that, when executed by a computer system, causes the computer system or the computer network to which it is connected to perform computer services.

(g) Computer services includes, but is not limited to the use of a computer system, computer network, computer program, data prepared for computer use, and data contained within a computer system or computer network.
(h) Computer system means a set of interconnected computer equipment intended to operate as a cohesive system.

(i) Data means information, facts, concepts, software, or instructions prepared for use in a computer, computer system, or computer network.

(j) Lascivious means tending to incite lust to deprave the morals with respect to sexual relations, or to produce voluptuous or lewd emotions in the average person, applying contemporary community standards.

(k) Material means any printed matter, visual representation, or sound recording and includes, but is not limited to, books, magazines, motion picture films, pamphlets, newspapers, pictures, photographs, and tape or wire recordings.

(l) Minor means any person less than eighteen (18) years old.

(m) Pornographic shall have the same meaning as in Title 9 GCA Chapter 28, Article 2.

(n) Sadomasochistic abuse means flagellation or torture by or upon a person as an act of sexual stimulation or gratification.

(o) Sexual conduct means acts of sexual penetration, sexual contact, masturbation, bestiality, sexual penetration, deviate sexual intercourse, sadomasochistic abuse, or lascivious exhibition of the genital or pubic area of a minor.

(p) Visual representation includes, but is not limited to, undeveloped film and videotape and data stored on computer disk or by electronic means that are capable of conversion into a visual image.

(q) Disseminate means to publish, sell, distribute, transmit, exhibit, present material, mail, ship, or transport by any means, including by computer, or to offer or agree to do the same.


(a) A person commits the offense of possession of child pornography if, knowing or having reason to know its character and content, the person possesses:

(1) child pornography;

(2) any book, magazine, periodical, film, videotape, computer disk, electronically stored data, or any other material that contains an image of child pornography; or

(3) any pornographic material that employs, uses, or otherwise contains a minor engaging in or assisting others to engage in sexual conduct.
(b) The fact that a person engaged in the conduct specified by this Section is prima facie evidence that the defendant had knowledge of the character and content of the material. The fact that the person who was employed, used, or otherwise contained in the pornographic material was, at that time, a minor is prima facie evidence that the defendant knew the person to be a minor.

(c) Possession of child pornography under this Section is a Second Degree Felony.

**Guam Code Ann. tit. 9, § 25.01.70 (2014). Dissemination of Child Pornography.**

A person commits the offense of dissemination of child pornography if, knowing or having reason to know its character and content, the person:

(1) disseminates child pornography;

(2) reproduces child pornography with intent to disseminate;

(3) disseminates any book, magazine, periodical, film, videotape, computer disk, electronically stored data, or any other material that contains an image of child pornography;

(4) disseminates any pornographic material that employs, uses, or otherwise contains a minor engaging in or assisting others to engage in sexual conduct; or

(5) possesses ten (10) or more images of any form of child pornography regardless of content, and the content of at least one (1) image contains one (1) or more of the following:

(A) a minor who is younger than the age of fourteen (14);

(B) sadomasochistic abuse of a minor;

(C) sexual penetration of a minor; or

(D) bestiality involving a minor.

(b) The fact that a person engaged in the conduct specified by this Section is prima facie evidence that the defendant had knowledge of the character and content of the material. The fact that the person who was employed, used, or otherwise contained in the pornographic material was, at that time, a minor is prima facie evidence that the defendant knew the person to be a minor.

(c) Dissemination of child pornography under this Section is a First Degree Felony.


As used in this Article:
(a) Material means any picture, drawing, photograph, motion picture or pictorial representation, or any statue or other figure, or any mechanical, chemical or electrical reproduction, or anything which is or may be used as a means of communication (other than the written or spoken word). Material includes molds, printing plates and other latent representational objects.

(b) Prurient interest means a shameful or morbid interest in nudity, sex or excretion.

(c) Performance means any physical human bodily activity, whether engaged in alone or with other persons, including but not limited to dancing, acting, simulating or pantomiming which is either public or for commercial gain.

(d) Distribute means to transfer possession of material.

(e) Any material or performance is obscene if:

1. The average person, applying contemporary community standards, finds that the material or performance, taken as a whole, appeals to the prurient interest; and

2. The material or performance depicts or describes in a patently offensive way, sexual conduct, normal or perverted, actual or simulated; and

3. The material or performance, taken as a whole, lacks serious literary, artistic, political or scientific value.

(f) Sadomasochistic abuse means flagellation or torture by or upon a person as an act of sexual stimulation or gratification.

(g) Sexual conduct means acts of masturbation, excretory functions, lewd exhibition of the genitals, sadomasochistic abuse, bestiality, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or the breast or breasts of a female for the purpose of sexual stimulation, gratification or perversion.

(h) Owner means any person who owns or has legal right to possession of any material.

(i) Pornographic means any material or performance which all of the following coalesce:

1. The average person, applying contemporary community standards, would find that taken as a whole, it appeals to the prurient interest.

2. It depicts or describes sexual conduct in a patently offensive way.

3. Taken as whole, it lacks serious literary, artistic, political, or scientific merit.
Every person who knowingly sends or causes to be sent, or who in Guam possesses, prepares, publishes, shows, prints or who offers to distribute, distributes or exhibits to another any obscene material, when such act or acts are public or for commercial gain, is guilty of a misdemeanor.

Every person who knowingly engages or participates in, manages, produces, sponsors, presents or exhibits any obscene performance which is public or for commercial gain is guilty of a misdemeanor.

A person is guilty of a felony of the third degree if he knowingly or recklessly employs or uses a minor under the age of sixteen (16) years to do or assist in doing any of the acts described in §§ 28.49 or 28.50 of this Chapter.

A person is guilty of a felony of the first degree if while having custody or control of any child under the age of sixteen (16) years, he shall knowingly permit that child to be used in or be a party to any material or performance that is obscene.

A person commits a felony of the first degree if he knowingly:

(a) sells or offers for sale publications, pictures or films that depict minors under 16 years of age performing sexual acts; or

(b) photographs minors under 16 years of age to engaging [sic] sexual acts.

PUERTO RICO

The following terms shall have the meaning stated below:

(1) Convict.— Means any person found guilty of an offense, or attempt or conspiracy thereof, as established in §§ 536-536h of this title. It also includes any person released on probation or parole or any alternative method to serve prison time for offenses, or attempt or conspiracy thereof, as established in §§ 536-536h of this title.

(2) Specified offense against a minor.— Means an offense committed against a minor that due to its characteristics and elements includes any of the following:

(a) An offense that has an element involving kidnapping or child abduction.
(b) An offense that has an element involving false imprisonment.

(c) Solicitation to engage in sexual conduct.

(d) Use in a sexual performance.

(e) Solicitation to practice prostitution or sodomy.

(f) Video voyeurism or the attempt thereof as described Section 1801 of Title 18, United States Code.

(g) Possession, production or distribution of child pornography.

(h) Criminal sexual conduct involving a minor or the use of the Internet to facilitate or attempt such conduct.

(i) Any conduct that by its nature is a sex offense against a minor.

(3) **Sex offense.**— Generally, except as provided in clauses (a) and (b) of this subsection, the term 'sex offense' means:

(a) A criminal offense that has an element involving a sexual act or sexual contact with another;

(b) a criminal offense that is a specified offense against a minor;

(c) a federal offense including an offense prosecuted under Section 1152 or 1153 of Title 18 of the United States Code, under Section 1591 or Chapter 109A, 110 (other than Section 2257, 2257A, or 2258), or 117, of Title 18 of the United States Code;

(d) a military offense specified by the Secretary of Defense under Section 1150(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. 951 note), or

(e) an attempt or conspiracy to commit an offense described in clauses (a) through (d) of this subsection.

Provided, That:

(a) A foreign conviction for an offense similar to the above mentioned shall not be deemed to be a sex offense under §§ 536-536h of this title, save for:

(i) any conviction under the laws of Canada, the United Kingdom, Australia, or New Zealand, or
(ii) any conviction under the laws of any other country if the Department of State of the United States has concluded, through the Country Reports on Human Rights Practices that such country has granted the right to fair trial during the year in which the conviction occurred.

(b) An offense involving consensual sexual conduct is not a sex offense for the purposes of §§ 536-536h of this title if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense.

(4) Employee.— Means any person who is self-employed or renders services to any entity or employer, whether compensated or not.

(5) United States.— Means the states of the United States of America and the District of Columbia, its territories, and possessions.

(6) Student.— Means a person who is enrolled or attends a public or private educational institution, including a high school, a trade or professional school, or an institution of higher education.

(7) Sex offender.— The term 'sex offender' means a person who was convicted of a sex offense or an attempt or conspiracy thereof.

(8) Tier I Sex Offender.— Means any person convicted of the following offenses, or the attempt or conspiracy thereof, when such offense constitutes sexual abuse conduct:

(a) False imprisonment, when the victim was a child under the age of eighteen (18), as provided under § 4796(e) of Title 33.

(b) Aggravated false imprisonment, when the victim was a child under the age of sixteen (16), as provided under Article 131 (e) of Act No. 115 of July 22, 1974, as amended.

(c) Child abuse offense, as established in §§ 450c and 450d of Title 8, when such offense constitutes sexual abuse conduct.

(d) Aggravated domestic violence, when committed and simultaneously it involves sexual abuse conduct, and child abuse, as defined in §§ 444 et seq. of Title 8, pursuant to § 632(g) of Title 8.

(e) Sending, transportation, sale, distribution, publication, exhibition or possession of obscene material; obscene shows; indecent exposure when carried out in the presence of a person under the age of sixteen (16), as established in Articles 106, 113, and 114 of Act No. 115 of July 22, 1974, as amended; and §§ 4783 and 4784 of Title 33.

(f) Indecent exposure; indecent proposal, as typified in §§ 4775 and 4776 of Title 33.
(g) Any previous or subsequent offense described in clauses (a), (b), (c), (d), (e), or (f).

(9) **Tier II Sex Offender.**— Means any person convicted of the following offenses, or the attempt or conspiracy thereof, when the victim is a minor:

(a) Lewd or lascivious acts; pandering or human trafficking; offenses against child protection; corruption of a minor when a child under the age of eighteen (18) is admitted or retained in a house of prostitution or sodomy, under Articles 105, 110 (a) and (c) and 111 (a) and 115 of Act No. 115 of July 22, 1974, as amended.

(b) Lewd acts, pandering, ruffianism, and human trafficking; production of child pornography; possession or distribution of child pornography; use of a minor for child pornography; corruption of a minor when a child is admitted or retained in a house of prostitution or sodomy, under §§ 4765(e), 4772, 4781(a), 4785, 4786, and 4787 of Title 33.

(c) Sexual assault, under subsections (f), (h) and (i) of § 4770 of Title 33.

(d) A Tier I Sex Offender previously convicted of a sex offense, and who subsequently commits another sex offense, or the attempt or conspiracy thereof.

(e) Any previous or subsequent offense or attempt thereof, as described in clauses (a), (b), and (c).

(10) **Tier III Sex Offender.**— Means any person who is convicted of the following offenses or attempts thereof:

(a) Rape, enticement, sodomy, lewd acts when the victim has not attained the age of sixteen (16), incest, kidnapping when the victim is under the age of eighteen (18) other than by a parent, child abduction under Articles 99, 101, 103, 105, 122, 137-A (a) and 160, respectively, of Act No. 115 of July 22, 1974, as amended; and spousal sexual assault, as classified in § 635 of Title 8.

(b) Sexual assault, pursuant to subsections (a), (b), (c), (d), (e), or (g) of § 4770 of Title 33.

(c) Lewd acts when the victim has not attained the age of thirteen (13); child abduction; aggravated kidnapping when the victim is under the age of eighteen (18), pursuant to §§ 4762, 4772 and 4798(a) of Title 33.

(d) A Tier II Sex Offender previously convicted of a sex offense and who subsequently commits another sex offense.

(e) Any previous or subsequent offense as described in clauses (a), (b), and (c).
(11) **Minor.**— Means any person who has not attained the age of eighteen (18) years.

(12) **Registry.**— Means the registry of persons convicted of sex offenses and child abuse, as created and maintained under this chapter.

(13) **Residence.**— Means the location of a person's home or the place where the person habitually lives.

(14) **System.**— Means the Criminal Justice Information System created under §§ 531 et seq. of Title 4.

**P.R. Laws Ann. tit. 33, § 4782 (2014). Definitions.**

For the purposes of this subchapter, the following terms or phrases shall have the meanings stated below:

(a) **Indecent behavior.**— Means any of the physical activities of the human body, whether performed alone or with other persons, including but not limited to singing, speaking, dancing, acting, simulating, or pantomiming, which could be considered in whole by the average person and, according to contemporary community patterns as:

(1) Appealing to the lewd interests, that is to say, a morbid interest in nudity, sexuality or physiological functions;

(2) representing or describing sexual conduct in a patently offensive manner, and

(3) lacking serious literary, artistic, political, religious, scientific or educational value.

The enticement of behavior towards lewd interests shall be judged in the light of the average adult, unless it arises from the nature of such behavior or the circumstances of its production, presentation or exhibition that it is designed for groups of sexual deviates, in which case, the predominant enticement of the behavior shall be judged in the light of the group towards which it is directed.

In proceedings for violations to the provisions in this section in which the circumstances of production, presentation or exhibition indicate that the accused is commercially exploiting the obscene behavior for its lewd enticement, such circumstances shall constitute prima facie evidence that it lacks any serious literary, artistic, political, religious, scientific or educational value.

When the prohibited behavior is intended for or in the presence of minors, it shall be sufficient that the material is directed to awakening a lewd interest in sex.

(b) **Sexual behavior.**— Comprises:
(1) Patently offensive representations or descriptions of consummated sexual acts, whether normal or perverted, actual or simulated, including sexual relations, sodomy and bestiality, or

(2) patently offensive representations or descriptions of masturbation, oral copulation, sexual sadism, sexual masochism, lewd exhibition of the genitalia, stimulation of human genitalia with objects designed for such purposes, or scatological functions, even if such conduct is performed individually or between members of the same sex or of the opposite sex or between humans and animals.

(c) Material.— Means any book, magazine, newspaper or any other written or printed material, or any photograph, drawing, caricature, movie film, cinematographic or otherwise graphic representation; or any oral or visual representation transmitted or retransmitted through cables, electromagnetic waves, computers, digital technology or any other electronic media or other means of communication; or any statue, carving or figure, sculpture; or any mechanical, chemical or electric recording, transcription or reproduction of any other article, equipment or machine.

(d) Material injurious to minors.— Means any material that explicitly describes the nudity of the human body, manifestations of sexual conduct or sexual excitement, or of such a nature that, upon considering them in whole or in part of their context:

(1) It appeals predominantly to prurient, shameful or morbid interest in minors;

(2) it is patently offensive according to the contemporary adult community criteria, with regard to the best interest of minors, and

(3) it lacks any serious social value for minors.

(e) Obscene material.— Means material considered in its entirety by an average person and upon applying contemporary community standards:

(1) It appeals to prurient interest, in other words, a morbid interest in nudity, sexuality or physiological functions;

(2) it represents or describes sexual behavior in a patently offensive manner, and

(3) it lacks any serious literary, artistic, political, religious, scientific or educational value.

The enticement of lewd interest in sex in the material is judged in the light of the average adult unless it arises from the nature of the material, or the circumstances of its diffusion, distribution or exhibition that it is designed for groups of sexual deviates, in which case said attraction shall be judged in the light of the group toward which it is directed.
In proceedings regarding violations to the provisions of this section in which the circumstances of the production, presentation, sale, dissemination, distribution or advertising indicate that the accused is commercially exploiting the material for its lewd attraction, which proof shall constitute prima facie evidence that it lacks any serious literary, artistic, political, religious, scientific or educational value.

When the prohibited behavior is intended for, or is in the presence of minors, it shall be sufficient for the material to be directed to awaken lewd interest in sex.

(f) Child pornography.— Means any representation of sexually explicit behavior, any act of masturbation, sadomasochistic abuse, real or simulated sexual relations, deviate sexual relations, bestiality, homosexuality, lesbianism, acts of sodomy or the exhibition of genitalia performed by persons under eighteen (18) years of age.

(g) Sadomasochistic abuse.— Means acts of flagellation or torture performed by one person to another or to him/herself, or the condition of being chained, tied or otherwise restricted as an act of sexual gratification or stimulation.

Any person who knowingly promotes, allows, participates in or directly contributes to the creation or production of child pornography material or child pornography shows shall incur a third degree felony.

Any person who knowingly owns, prints, sells, purchases, exhibits, distributes, publishes, transmits, transfers, sends or circulates child pornography material or child pornography shows shall incur a third degree felony.

Any person who uses a minor, or persuades or induces a minor into posing, modeling or incur sexual conduct with the purpose of preparing, printing or exhibiting child pornography material or into participating into a show of said nature shall incur a third degree felony.

VIRGIN ISLANDS

All individuals who reside within the territory of the United States Virgin Islands, are employed within the Territory of the United States Virgin Islands or who attend school within the Territory of the United States Virgin Islands, that have been convicted of any of the following offenses, or convicted of an attempt or conspiracy to commit any of the following offenses, are subject to the requirements of this chapter.
(a) Virgin Islands Offenses.

(1) 14 V.I.C. § 1700

(Aggravated Rape).

(2) 14 V.I.C. § 1700a.

(Aggravated Rape in the Second Degree).

(3) 14 V.I.C. § 1701

(Rape in the First Degree).

(4) 14 V.I.C. § 1702

(Rape in the Second Degree when minor is under 16 but over 13 years of age).

(5) 14 V.I.C. § 1708

(Unlawful Sexual Contact in the First Degree).

(6) 14 V.I.C. § 1709

(Unlawful Sexual Contact in the Second Degree).

(7) 14 V.I.C. §§ 707 & 1709 (Use of intimidation by reason of the actual or perceived race, religion, color, place of birth, sex or ethnicity or handicap of another individual or group of individuals when engaging in unlawful sexual contact) &

(Unlawful sexual contact in the second degree).

(8) 14 V.I.C. § 1024(b)

(Distribution of child pornography).

(9) 14 V.I.C. § 1025

(Distribution of obscene matter to a minor when the obscene matter depicts a minor engaging in sexual conduct and is distributed for the purpose of enticing the minor into engaging in sexual conduct).

(10) 14 V.I.C. § 1027

(Employment of a Minor to Perform Prohibited Acts).
(11) 14 V.I.C. § 1051

(False Imprisonment and Kidnapping) of a minor, (except by a parent).

(12) 14 V.I.C. § 1052(b)

(Kidnapping of persons for the purpose of rape).

(13) 14 V.I.C. § 1622(2), (3), (4)

(Prohibition on solicitation and use of minors in Prostitution).

(14) V.I.C. § 1623

(Knowingly Leasing Property to be used for prostitution of minors).

(15) 14 V.I.C. § 1624

(Keeping house of prostitution of minors).

(16) 14 V.I.C. § 1625

(Prohibition on Pandering when pandering involves the use of minors in sexual acts.

(17) 14 V.I.C. § 121 (Abduction)

(Use of invitation or device to prevail upon a person to visit any place for the purpose of prostitution of minors).

(18) 14 V.I.C. § 134(a)(3) (Trafficking of persons for illegal sexual activity based upon convictions under 14 V.I.C. §§ 1622, 1623, 1624 & 1625.

(19) 14 V.I.C. § 505

(Child abuse as defined in 14 V.I.C. § 503(a) which involves the use of a minor for the purpose of exploitation or to engage in sexual conduct).

(20) 14 V.I.C. § 506

(Aggravated child abuse when it involves the use of a minor for the purpose of exploitation or to engage in sexual conduct).

(21) 14 V.I.C., § 489

(Computer Pornography).
(b) Federal Offenses. A conviction for any of the following, and any other offense hereafter included in the definition of sex offense at 42 U.S.C. § 16911

(5):

(1) 18 U.S.C., § 1591

(Sex Trafficking of Children),

(2) 18 U.S.C., § 1801

(Video Voyeurism of a Minor),

(3) 18 U.S.C., § 2241

(Aggravated Sexual Abuse),

(4) 18 U.S.C., § 2242

(Sexual Abuse),

(5) 18 U.S.C., § 2243

(Sexual Abuse of a Minor or ward),

(6) 18 U.S.C. § 2244

(Abusive Sexual Contact),

(7) 18 U.S.C., § 2245

(Offenses Resulting in Death),

(8) 18 U.S.C., § 2251

(Sexual Exploitation of Children),

(a) 18 U.S.C., § 2251A

(Selling or Buying of Children),

(b) 18 U.S.C., § 2252

(Material Involving the Sexual Exploitation of a Minor),

(c) 18 U.S.C., § 2252A
(Material Containing Child Pornography),
(d) 18 U.S.C., § 2252B

(Misleading Domain Names on the Internet),
(e) 18 U.S.C., § 2252C

(Misleading Words or Digital Images on the Internet),
(f) 18 U.S.C., § 2260

(Production of Sexually Explicit Depictions of a Minor for Import into the U.S.),
(g) 18 U.S.C., § 2421

(Transportation of a Minor for Illegal Sexual Activity),
(h) 18 U.S.C., § 2422

(Coercion and Enticement of a Minor for Illegal Sexual Activity),
(i) 18 U.S.C., § 2423

(Mann Act),
(j) 18 U.S.C., § 2424

(Failure to File Factual Statement about an Alien Individual),
(k) 18 U.S.C. § 2425

(Transmitting Information about a Minor to further Criminal Sexual Conduct).

(c) Foreign Offenses. Any conviction for a sex offense involving any conduct listed in this section that was obtained under the laws of Canada, the United Kingdom, Australia, New Zealand, or under the laws of any foreign country when the United States State Department in its Country Reports on Human Rights Practices has concluded that an independent judiciary generally or vigorously enforced the right to a fair trial in that country during the year in which the conviction occurred.

(d) Military Offenses. Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119

(e) Jurisdiction Offenses. Any sex offense committed in any jurisdiction, including this territory of the United States that involves:

(1) Any type or degree of genital, oral, or anal penetration,

(2) Any sexual touching of or sexual contact with a person's body, either directly or through the clothing,

(3) Kidnapping of a minor,

(4) False imprisonment of a minor,

(5) Solicitation to engage a minor in sexual conduct understood broadly to include any direction, request, enticement, persuasion, or encouragement of a minor to engage in sexual conduct,

(6) Use of a minor in a sexual performance,

(7) Solicitation of a minor to practice prostitution,

(8) Possession, production, or distribution of child pornography,

(9) Criminal sexual conduct that involves physical contact with a minor or the use of the internet to facilitate or attempt such conduct. This includes offenses whose elements involve the use of other persons in prostitution, such as pandering, procuring, or pimping in cases where the victim was a minor at the time of the offense,

(10) Any conduct that by its nature is a sex offense against a minor, or

(11) Any offense similar to those outlined in:

(i) 18 U.S.C. § 1591

(Sex Trafficking by force, fraud, or coercion),

(ii) 18 U.S.C. § 1801

(Video Voyeurism of a minor),

(iii) 18 U.S.C. § 2241

(Aggravated Sexual Abuse),

(iv) 18 U.S.C. § 2242
(Sexual Abuse),

(v) 18 U.S.C. § 2244

(Abusive Sexual Contact),

(vi) 18 U.S.C. § 2422(b)

(Coercing a Minor to Engage in Prostitution), or

(vii) 18 U.S.C. § 2423(a)

(Transporting a Minor to Engage in Illicit Conduct).

V.I. CODE ANN. tit. 14, § 489 (2010). Definitions, computer pornography

(a) As used in this section, the term:

(1) ‘Minor’ means any person under the age of 18 years.

(2) ‘Identifiable minor’ means an individual:

(A) Who was a minor at the time the visual depiction was created, adapted, or modified or whose image as a minor was used in creating, adapting, or modifying the visual depiction; and

(B) Who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature or by electronic or scientific means as may be available.

(C) The term may not be construed to require proof of the actual identity of the minor.

(3) ‘Visual depiction’ means any image and includes photographs, undeveloped film and video tape and data stored on computer disk or by electronic means which is capable of conversion into a visual image or which has been created, adapted, or modified to show an identifiable minor engaged in sexually explicit conduct.

(4) ‘Sexually explicit conduct’ means actual or simulated:

(A) Sexual intercourse;

(B) Deviate sexual activity;

(C) Bestiality;

(D) Masturbation;
(E) Sadomasochistic abuse for the purpose of sexual stimulation; or

(F) Lewd exhibition of the:

(i) Genitals or pubic area of any person;

(ii) Breast of a female; or

(iii) Buttocks of a minor.

(5) Visual medium means any material that records, holds and communicates information in a primarily visual manner.

(b)

(1) A person commits the offense of computer pornography if the person intentionally or willfully:

(A) Compiles, enters into, or transmits by means of computer;

(B) Makes, prints, publishes, or reproduces by other computerized means;

(C) Causes or allows to be entered into or transmitted by means of computer; or

(D) Buys, sells, receives, exchanges, or disseminates any notice, statement, or advertisement, or any minor's name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information for the purpose of offering or soliciting sexual conduct of or with a minor or the visual depiction of such conduct.

(2) Any person convicted of violating this chapter shall be punished by a fine of not more than $10,000 or by imprisonment for not less than one or more than 20 years, or by both such fine and imprisonment.

V.I. CODE ANN. tit. 14, § 1024 (2010). Distribution; printing, exhibiting, distributing or possessing

(a) Every person who knowingly, sends or causes to be sent, or brings or causes to be brought, into the Virgin Islands for sale or distribution, or in the Virgin Islands prepares, publishes, prints, exhibits, distributes, or offers to distribute, or has in his possession with intent to distribute or to exhibit or offer to distribute, any obscene matter is guilty of a misdemeanor.

(b) Every person who (i) sends or causes to be sent, or brings or causes to be brought into the Virgin Islands for sale or distribution, or (ii) in the Virgin Islands possesses, prepares, publishes or prints, with the intent to distribute or to exhibit to others for commercial
consideration, or (iii) who offers to distribute, distributes or exhibits to others for commercial consideration, any obscene matter, knowing that such matter depicts a minor engaging in or simulating sexual intercourse, masturbation, anal-oral copulation, sodomy, bestiality, oral copulation, sexual sadism, sexual masochism, any lewd or lascivious sexual activity, or excretory functions performed in a lewd or lascivious manner is guilty of a felony and shall be fined not less than $25,000 and not more than $50,000 or imprisoned not more than three years, or both.

(c) The provisions of this section with respect to the exhibition of, or the possession with intent to exhibit, any obscene matter shall not apply to a motion picture operator, projectionist or salesperson who is employed by a person licensed in accordance with Virgin Islands law and who is acting within the scope of his employment; Provided That such operator, projectionist or salesperson has no financial interest in the place wherein he is so employed.

(a) Every person who (i) with knowledge that a person is a minor, or (ii) while in possession of such facts that he should reasonably know that such person is a minor, or (iii) any parent or guardian who has a minor under his or her control, knowingly permits, promotes, employs, uses, persuades, induces, or coerces such minor to engage in or assist others to engage in either posing or modeling alone or with others for purposes of preparing a film, photograph, negative, slide, or live performance involving sexual conduct by a minor, alone or with other persons or animals, for commercial purposes, is guilty of a felony and shall be fined not less than $50,000 and be imprisoned for not less than three years and not more than six years.

(b) As used in subsection (a) of this section, "sexual conduct" means any of the following, whether actual or simulated: sexual intercourse, oral copulation, sodomy, anal-oral copulation, masturbation, bestiality, sexual sadism, sexual masochism, any lewd or lascivious sexual activity, or excretory functions performed in a lewd or lascivious manner, whether or not any of the above conduct is performed alone or between members of the same or opposite sex or between humans and animals. An act is simulated when it gives the appearance of being actual sexual conduct.