

# COMPUTER-FACILITATED LURING OR SOLICITATION OF A CHILD

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<b>ALABAMA</b> .....	5
<b>ALA. CODE § 13A-6-110. CHILD; SOLICITATION BY COMPUTER</b> .....	5
<b>ALASKA</b> .....	5
<b>ALASKA STAT. § 11.41.452. ONLINE ENTICEMENT OF A MINOR</b> .....	5
<b>ARIZONA</b> .....	6
<b>ARIZ. REV. STAT. ANN. § 13-3554 . LURING A MINOR FOR SEXUAL EXPLOITATION;     CLASSIFICATION</b> .....	6
<b>ARIZ. REV. STAT. ANN. § 13-3506.01. CHILD; TRANSMISSION OF OBSCENE MATERIAL</b> .....	6
<b>ARKANSAS</b> .....	7
<b>ARK. CODE ANN. § 5-27-603. COMPUTER CHILD PORNOGRAPHY</b> .....	7
<b>CALIFORNIA</b> .....	7
<b>CAL. PENAL CODE § 272. CONTRIBUTING TO DELINQUENCY OF MINOR; LURING MINOR UNDER     14 AWAY FROM HOME</b> .....	7
<b>CAL. PENAL CODE § 288. LEWD OR LASCIVIOUS ACTS INVOLVING CHILDREN</b> .....	8
<b>CAL. PENAL CODE § 288.2. SENDING HARMFUL MATTER TO MINOR BY TELEPHONE MESSAGES,     ELECTRONIC MAIL, INTERNET, OR COMMERCIAL ONLINE SERVICE; DEFENSES; EXEMPTION OF     CARRIER, BROADCASTER, OR TRANSMITTER</b> .....	9
<b>COLORADO</b> .....	10
<b>COLO. REV. STAT. § 13-21-1002. COMPUTER DISSEMINATION OF INDECENT MATERIAL TO A     CHILD – PROHIBITION</b> .....	10
<b>COLO. REV. STAT. § 18-3-405.4. INTERNET SEXUAL EXPLOITATION OF A CHILD</b> .....	10
<b>CONNECTICUT</b> .....	11
<b>CONN. GEN. STAT. ANN. § 53A-90A. ENTICING A MINOR. PENALTIES</b> .....	11
<b>CONN. GEN. STAT. ANN. § 53A-90B. MISREPRESENTATION OF AGE TO ENTICE A MINOR: CLASS C     FELONY</b> .....	11
<b>DELAWARE</b> .....	11
<b>11 DEL. C. § 1112A SEXUAL SOLICITATION OF A CHILD; CLASS C FELONY</b> .....	11
<b>FLORIDA</b> .....	12
<b>FLA. STAT. ANN. § 847.0135. COMPUTER PORNOGRAPHY; TRAVELING TO MEET MINOR;     PENALTIES</b> .....	12
<b>GEORGIA</b> .....	14
<b>GA. CODE ANN. §16-12-100.2. COMPUTER OR ELECTRONIC PORNOGRAPHY AND CHILD     EXPLOITATION PREVENTION</b> .....	14
<b>HAWAII</b> .....	16
<b>HAW. REV. STAT. ANN. § 707-756. ELECTRONIC ENTICEMENT OF A CHILD IN THE FIRST     DEGREE</b> .....	16
<b>HAW. REV. STAT. ANN. § 708-893. USE OF A COMPUTER IN THE COMMISSION OF A SEPARATE     CRIME</b> .....	16

<b>IDAHO</b> .....	<b>17</b>
<b>IDAHO CODE § 18-1509A. ENTICING OF CHILDREN OVER THE INTERNET -- PENALTIES – JURISDICTION.</b> .....	17
<b>ILLINOIS</b> .....	<b>17</b>
<b>720 ILL. COMP. STAT. 5/11-6 (2006) INDECENT SOLICITATION OF A CHILD.</b> .....	17
<b>INDIANA</b> .....	<b>17</b>
<b>IND. CODE ANN. § 35-42-4-6. CHILD SOLICITATION.</b> .....	17
<b>IOWA</b> .....	<b>18</b>
<b>IOWA CODE § 710.10. ENTICING AWAY A MINOR.</b> .....	18
<b>KANSAS</b> .....	<b>19</b>
<b>K.S.A. § 21-3516. SEXUAL EXPLOITATION OF A CHILD.</b> .....	19
<b>KENTUCKY</b> .....	<b>20</b>
<b>KRS § 510.155. UNLAWFUL USE OF ELECTRONIC MEANS TO INDUCE A MINOR TO ENGAGE IN SEXUAL OR OTHER PROHIBITED ACTIVITIES -- PROHIBITION OF MULTIPLE CONVICTIONS ARISING FROM SINGLE COURSE OF CONDUCT.</b> .....	20
<b>LOUISIANA</b> .....	<b>21</b>
<b>LA. R.S. § 14:81.3. COMPUTER-AIDED SOLICITATION OF A MINOR.</b> .....	21
<b>MAINE</b> .....	<b>22</b>
<b>17-A ME. REV. STAT. § 259. SOLICITATION OF CHILD BY COMPUTER TO COMMIT A PROHIBITED ACT.</b> .....	22
<b>MARYLAND</b> .....	<b>22</b>
<b>MD. CODE ANN. CRIM. LAW § 3-324. SEXUAL SOLICITATION OF MINOR.</b> .....	22
<b>MD. CODE ANN. CRIM. LAW § 11-207. CHILD PORNOGRAPHY.</b> .....	23
<b>MASSACHUSETTS</b> .....	<b>24</b>
<b>ALM GL CH. 265, § 26C. ENTICEMENT OF CHILDREN.</b> .....	24
<b>MICHIGAN</b> .....	<b>24</b>
<b>MICH. STAT. ANN. § 750.145A. ACCOSTING, ENTICING OR SOLICITING CHILD FOR IMMORAL PURPOSE.</b> .....	24
<b>MICH. STAT. ANN. § 750.145D. USE OF INTERNET OR COMPUTER SYSTEM; PROHIBITED COMMUNICATION; VIOLATION; PENALTY; ORDER TO REIMBURSE STATE OR LOCAL GOVERNMENTAL UNIT; DEFINITIONS.</b> .....	25
<b>MINNESOTA</b> .....	<b>26</b>
<b>MINN. STAT. ANN. § 609.352. SOLICITATION OF CHILDREN TO ENGAGE IN SEXUAL CONDUCT.</b> .....	26
<b>MISSISSIPPI</b> .....	<b>27</b>
<b>MISS. CODE ANN. § 97-5-27. DISSEMINATION OF SEXUALLY ORIENTED MATERIAL TO PERSONS UNDER EIGHTEEN YEARS OF AGE; USE OF COMPUTER FOR PURPOSE OF LURING OR INDUCING PERSONS UNDER EIGHTEEN YEARS OF AGE TO ENGAGE IN SEXUAL CONTACT.</b> .....	27
<b>MISS. CODE ANN. § 97-5-33. EXPLOITATION OF CHILDREN; PROHIBITIONS.</b> .....	29
<b>MISSOURI</b> .....	<b>30</b>
<b>MO. REV. STAT. § 566.151. ENTICEMENT OF A CHILD, PENALTIES.</b> .....	30

<b>MONTANA</b> .....	<b>30</b>
MONT. CODE ANNO. § 45-5-625. SEXUAL ABUSE OF CHILDREN.....	30
<b>NEBRASKA</b> .....	<b>32</b>
NEB. REV. STAT. § 28-320.02. SEXUAL ASSAULT; USE OF COMPUTER; PROHIBITED ACTS; PENALTIES.....	32
<b>NEVADA</b> .....	<b>32</b>
NEV. REV. STAT. § 201.560. DEFINITIONS; EXCEPTION; PENALTIES. ....	33
<b>NEW HAMPSHIRE</b> .....	<b>35</b>
N.H. REV. STAT. ANN. § 649-B:3. COMPUTER PORNOGRAPHY PROHIBITED. ....	35
<b>NEW JERSEY</b> .....	<b>35</b>
N.J. STAT. ANN. § 2C:13-6. LURING, ENTICING CHILD BY VARIOUS MEANS, ATTEMPTS; CRIME OF SECOND DEGREE; SUBSEQUENT OFFENSE, MANDATORY IMPRISONMENT; DEFINITIONS. ....	35
<b>NEW MEXICO</b> .....	<b>36</b>
N.M. STAT. ANN. § 30-37-3.2. CHILD SOLICITATION BY ELECTRONIC COMMUNICATION DEVICE .....	36
<b>NEW YORK</b> .....	<b>37</b>
N.Y. PENAL LAW § 235.22. DISSEMINATING INDECENT MATERIAL TO MINORS IN THE FIRST DEGREE.....	37
<b>NORTH CAROLINA</b> .....	<b>38</b>
N.C. GEN. STAT. § 14-202.3. SOLICITATION OF CHILD BY COMPUTER TO COMMIT AN UNLAWFUL SEX ACT. ....	38
<b>NORTH DAKOTA</b> .....	<b>38</b>
N.D. CENT. CODE § 12.1-20-05.1. LURING MINORS BY COMPUTER OR OTHER ELECTRONIC MEANS. ....	38
<b>OHIO</b> .....	<b>39</b>
OHIO REV. CODE ANN. § 2907.07. IMPORTUNING.....	39
<b>OKLAHOMA</b> .....	<b>40</b>
OKLA. STAT. ANN. TIT. 21, § 1040.13A. FACILITATING, ENCOURAGING, OFFERING OR SOLICITING SEXUAL CONDUCT OR ENGAGING IN SEXUAL COMMUNICATION WITH A MINOR OR PERSON BELIEVED TO BE A MINOR. ....	40
OKLA. STAT. ANN. TIT. 21, § 1123. LEWD OR INDECENT PROPOSALS OR ACTS AS TO CHILD UNDER 16 OR PERSON BELIEVED TO BE UNDER 16--SEXUAL BATTERY.....	41
<b>OREGON</b> .....	<b>43</b>
ORS § 163.432. ONLINE SEXUAL CORRUPTION OF A CHILD IN THE SECOND DEGREE. ....	43
ORS § 163.433. ONLINE SEXUAL CORRUPTION OF A CHILD IN THE FIRST DEGREE. ....	43
ORS § 163.434. PROVISIONS APPLICABLE TO ONLINE SEXUAL CORRUPTION OF A CHILD. ....	43
<b>PENNSYLVANIA</b> .....	<b>44</b>
18 PA. CONS. STAT. ANN. § 6318. UNLAWFUL CONTACT WITH MINOR. ....	44
<b>RHODE ISLAND</b> .....	<b>45</b>
R.I. GEN. LAWS § 11-37-8.8. INDECENT SOLICITATION OF A CHILD.....	45

<b>SOUTH CAROLINA .....</b>	<b>45</b>
<b>S.C. CODE ANN § 16-15-342. CRIMINAL SOLICITATION OF A MINOR; DEFENSES; PENALTIES. ....</b>	<b>45</b>
<b>SOUTH DAKOTA .....</b>	<b>46</b>
<b>S.D. CODIFIED LAWS § 22-24A-4. SOLICITATION OF MINOR – DEFINITIONS. ....</b>	<b>46</b>
<b>S.D. CODIFIED LAWS § 22-24A-5. SOLICITATION OF MINOR -- CONSENT OR MISTAKE NOT A     DEFENSE -- PENALTY .....</b>	<b>46</b>
<b>TENNESSEE.....</b>	<b>47</b>
<b>TENN. CODE ANN. § 39-13-528. OFFENSE OF SOLICITATION OF A MINOR.....</b>	<b>47</b>
<b>TEXAS .....</b>	<b>47</b>
<b>TEX. PENAL CODE § 33.021. ONLINE SOLICITATION OF A MINOR. ....</b>	<b>47</b>
<b>UTAH.....</b>	<b>48</b>
<b>UTAH CODE ANN. § 76-4-401 ENTICING A MINOR OVER THE INTERNET -- ELEMENTS --     PENALTIES .....</b>	<b>49</b>
<b>VERMONT.....</b>	<b>50</b>
<b>Vt. STAT. ANN. TIT. 13 § 2828. LURING A CHILD. ....</b>	<b>50</b>
<b>VIRGINIA.....</b>	<b>50</b>
<b>VA. CODE ANN. § 18.2-374.3. USE OF COMMUNICATIONS SYSTEMS TO FACILITATE CERTAIN     OFFENSES INVOLVING CHILDREN. ....</b>	<b>50</b>
<b>WASHINGTON .....</b>	<b>51</b>
<b>REV. CODE WASH. (ARCW) § 9.68A.090. COMMUNICATION WITH MINOR FOR IMMORAL     PURPOSES – PENALTIES.....</b>	<b>51</b>
<b>WEST VIRGINIA .....</b>	<b>52</b>
<b>W. VA. CODE § 61-3C-14B. SOLICITING, ETC. A MINOR VIA COMPUTER; PENALTY. ....</b>	<b>52</b>
<b>WISCONISIN .....</b>	<b>52</b>
<b>Wis. STAT. ANN. § 948.075. USE OF A COMPUTER TO FACILITATE A CHILD SEX CRIME. ....</b>	<b>52</b>
<b>WYOMING.....</b>	<b>52</b>
<b>WYO. STAT. § 6-2-318. SOLICITING TO ENGAGE IN ILLICIT SEXUAL RELATIONS; PENALTY. ....</b>	<b>52</b>

## **ALABAMA**

### **Ala. Code § 13A-6-110. Child; solicitation by computer.**

(a) In addition to the provisions of Section 13A-6-69, a person is guilty of solicitation of a child by a computer if the person is 19 years of age or older and the person knowingly, with the intent to commit an unlawful sex act, entices, induces, persuades, seduces, prevails, advises, coerces, or orders, by means of a computer, a child who is less than 16 years of age and at least three years younger than the defendant, to meet with the defendant or any other person for the purpose of engaging in sexual intercourse, sodomy, or to engage in a sexual performance, obscene sexual performance, or sexual conduct for his or her benefit.

(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) Solicitation of a child by computer is a Class B felony.

### **Ala. Code §13A-6-111. Child; transmission of obscene material.**

(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 the state or is received in the 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.

## **ALASKA**

### **Alaska Stat. § 11.41.452. Online enticement of a minor.**

(a) A person commits the crime of online enticement of a minor if the person, being 18 years of age or older, knowingly uses a computer to communicate with another person to entice, solicit, or encourage the person to engage in an act described in AS 11.41.455(a)(1) -- (7) and

- (1) the other person is a child under 16 years of age; or
- (2) the person believes that the other person is a child under 16 years of age.

(b) In a prosecution under (a)(2) of this section, it is not a defense that the person enticed, solicited, or encouraged was not actually a child under 16 years of age.

(c) In a prosecution under this section, it is not necessary for the prosecution to show that the act described in AS 11.41.455(a)(1) -- (7) was actually committed.

(d) Except as provided in (e) of this section, online enticement is a class C felony.

(e) Online enticement is a class B felony if the defendant was, at the time of the offense, required to register as a sex offender or child kidnapper under AS 12.63 or a similar law of another jurisdiction.

## **ARIZONA**

### **Ariz. Rev. Stat. Ann. § 13-3554 . 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 section 13-604.01.

### **Ariz. Rev. Stat. Ann. § 13-3506.01. Child; transmission of obscene material.**

A. It is unlawful for any person, with knowledge of the character of the item involved, to intentionally or knowingly transmit or send to a minor by means of electronic mail, personal messaging or any other direct internet communication an item that is harmful to minors when the person knows or believes at the time of the transmission that a minor in this state will receive the item.

B. This section does not apply to:

1. Posting material on an internet web site, bulletin board or newsgroup.
2. Sending material via a mailing list or listserv that is not administered by the sender. For the purposes of this paragraph, "mailing list" or "listserv" means a method of internet communication where a message is sent to an internet address and then is retransmitted to one or more subscribers to the mailing list or listserv.

C. It is not a defense to a prosecution for a violation of this section that the recipient of the transmission was a peace officer posing as a minor.

D. A violation of this section is a Class 4 felony.

E. The failure to report a violation of this section is a Class 6 felony as prescribed by section 13-3620.

F. For the purposes of this section:

1. "Internet" means the combination of computer facilities and electromagnetic transmission

media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the transmission control protocol or internet protocol or any successor protocol to transmit information.

2. "Internet web site" means a location where material placed in a computer server-based file archive is publicly accessible, over the internet, using hypertext transfer protocol or any successor protocol.

## **ARKANSAS**

### **Ark. Code Ann. § 5-27-603. Computer child pornography.**

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

(1) Knowingly 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) Knowingly 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.

## **CALIFORNIA**

### **Cal. Penal Code § 272. Contributing to delinquency of minor; Luring minor under 14 away from home.**

(a)

(1) Every person who commits any act or omits the performance of any duty, which act or omission causes or tends to cause or encourage any person under the age of 18 years to come within the provisions of Section 300, 601, or 602 of the Welfare and Institutions Code or which act or omission contributes thereto, or any person who, by any act or omission, or by threats, commands, or persuasion, induces or endeavors to induce any person under the age of 18 years or any ward or dependent child of the juvenile court to fail or refuse to conform to a lawful order of the juvenile court, or to do or to perform any act or to follow any course of conduct or to so live as would cause or manifestly tend to cause that person to become or to remain a person within the provisions of Section 300, 601, or 602 of the Welfare and Institutions Code, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding two thousand five hundred dollars (\$2,500), or by imprisonment in the county jail for not more than one year, or by both fine and imprisonment in a county jail, or may be released on probation for a period not exceeding five years.

(2) For purposes of this subdivision, a parent or legal guardian to any person under the age of 18 years shall have the duty to exercise reasonable care, supervision, protection, and control over their minor child.

(b)

(1) An adult stranger who is 21 years of age or older, who knowingly contacts or communicates with a minor who is under 14 years of age, who knew or reasonably should have known that the minor is under 14 years of age, for the purpose of persuading and luring, or transporting, or attempting to persuade and lure, or transport, that minor away from the minor's home or from any location known by the minor's parent, legal guardian, or custodian, to be a place where the minor is located, for any purpose, without the express consent of the minor's parent or legal guardian, and with the intent to avoid the consent of the minor's parent or legal guardian, is guilty of an infraction or a misdemeanor, subject to subdivision (d) of Section 17.

(2) This subdivision shall not apply in an emergency situation.

(3) As used in this subdivision, the following terms are defined to mean:

(A) "Emergency situation" means a situation where the minor is threatened with imminent bodily harm, emotional harm, or psychological harm.

(B) "Contact" or "communication" includes, but is not limited to, the use of a telephone or the Internet, as defined in Section 17538 of the Business and Professions Code.

(C) "Stranger" means a person of casual acquaintance with whom no substantial relationship exists, or an individual with whom a relationship has been established or promoted for the primary purpose of victimization, as defined in subdivision (e) of Section 6600 of the Welfare and Institutions Code.

(D) "Express consent" means oral or written permission that is positive, direct, and unequivocal, requiring no inference or implication to supply its meaning.

(4) This section shall not be interpreted to criminalize acts of persons contacting minors within the scope and course of their employment, or status as a volunteer of a recognized civic or charitable organization.

(5) This section is intended to protect minors and to help parents and legal guardians exercise reasonable care, supervision, protection, and control over minor children.

**Cal. Penal Code § 288. Lewd or lascivious acts involving children.**

(a) Any person who willfully and lewdly commits any lewd or lascivious act, including any of the acts constituting other crimes provided for in Part 1, upon or with the body, or any part or member thereof, of a child who is under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of that person or the child, is guilty of a felony and shall be punished by imprisonment in the state prison for three, six, or eight years.

(b) (1) Any person who commits an act described in subdivision (a) by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, is guilty of a felony and shall be punished by imprisonment in the state prison for three, six, or eight years.

(2) Any person who is a caretaker and commits an act described in subdivision (a) upon a dependent person by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, with the intent described in subdivision (a), is guilty of a felony and shall be punished by imprisonment in the state prison for three, six, or eight years.

(c) (1) Any person who commits an act described in subdivision (a) with the intent described in

that subdivision, and the victim is a child of 14 or 15 years, and that person is at least 10 years older than the child, is guilty of a public offense and shall be punished by imprisonment in the state prison for one, two, or three years, or by imprisonment in a county jail for not more than one year. In determining whether the person is at least 10 years older than the child, the difference in age shall be measured from the birth date of the person to the birth date of the child.

(2) Any person who is a caretaker and commits an act described in subdivision (a) upon a dependent person, with the intent described in subdivision (a), is guilty of a public offense and shall be punished by imprisonment in the state prison for one, two, or three years, or by imprisonment in a county jail for not more than one year.

(d) In any arrest or prosecution under this section or Section 288.5, the peace officer, district attorney, and the court shall consider the needs of the child victim or dependent person and shall do whatever is necessary, within existing budgetary resources, and constitutionally permissible to prevent psychological harm to the child victim or to prevent psychological harm to the dependent person victim resulting from participation in the court process.

(e) Upon the conviction of any person for a violation of subdivision (a) or (b), the court may, in addition to any other penalty or fine imposed, order the defendant to pay an additional fine not to exceed ten thousand dollars (\$10,000). In setting the amount of the fine, the court shall consider any relevant factors, including, but not limited to, the seriousness and gravity of the offense, the circumstances of its commission, whether the defendant derived any economic gain as a result of the crime, and the extent to which the victim suffered economic losses as a result of the crime. Every fine imposed and collected under this section shall be deposited in the Victim-Witness Assistance Fund to be available for appropriation to fund child sexual exploitation and child sexual abuse victim counseling centers and prevention programs pursuant to Section 13837. If the court orders a fine imposed pursuant to this subdivision, the actual administrative cost of collecting that fine, not to exceed 2 percent of the total amount paid, may be paid into the general fund of the county treasury for the use and benefit of the county.

**Cal. Penal Code § 288.2. Sending harmful matter to minor by telephone messages, electronic mail, Internet, or commercial online service; Defenses; Exemption of carrier, broadcaster, or transmitter.**

(a) Every person who, with knowledge that a person is a minor, or who fails to exercise reasonable care in ascertaining the true age of a minor, knowingly distributes, sends, causes to be sent, exhibits, or offers to distribute or exhibit by any means, including, but not limited to, live or recorded telephone messages, any harmful matter, as defined in Section 313, to a minor with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of a minor, and with the intent or for the purpose of seducing a minor, is guilty of a public offense and shall be punished by imprisonment in the state prison or in a county jail. A person convicted of a second and any subsequent conviction for a violation of this section is guilty of a felony.

(b) Every person who, with knowledge that a person is a minor, knowingly distributes, sends, causes to be sent, exhibits, or offers to distribute or exhibit by electronic mail, the Internet, as defined in Section 17538 of the Business and Professions Code, or a commercial online service, any harmful matter, as defined in Section 313, to a minor with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of a minor, and with the intent, or for the purpose of seducing a minor, is guilty of a public offense and shall be punished by imprisonment in the state prison or in a county jail.

A person convicted of a second and any subsequent conviction for a violation of this section is guilty of a felony.

(c) It shall be a defense to any prosecution under this section that a parent or guardian committed the act charged in aid of legitimate sex education.

(d) It shall be a defense in any prosecution under this section that the act charged was committed in aid of legitimate scientific or educational purposes.

(e) It does not constitute a violation of this section for a telephone corporation, as defined in Section 234 of the Public Utilities Code, a cable television company franchised pursuant to Section 53066 of the Government Code, or any of its affiliates, an Internet service provider, or commercial online service provider, to carry, broadcast, or transmit messages described in this section or perform related activities in providing telephone, cable television, Internet, or commercial online services.

## **COLORADO**

### **Colo. Rev. Stat. § 13-21-1002. Computer dissemination of indecent material to a child – prohibition.**

- (1) A person commits computer dissemination of indecent material to a child when:
  - (a) Knowing the character and content of the communication which, in whole or in part, depicts actual or simulated nudity, or sexual conduct, as defined in section 19-1-103 (97), C.R.S., the person willfully uses a computer, computer network, or computer system allowing the input, output, examination, or transfer of computer data or computer programs from one computer to another, to initiate or engage in such communication with a person he or she believes to be a child; and
  - (b) By means of such communication the person importunes, invites, entices, or induces a person he or she believes to be a child to engage in sexual contact, sexual intrusion, or sexual penetration with the person, or to engage in a sexual performance or sexual conduct, as defined in section 19- 1-103 (97), C.R.S., for the person's benefit.
- (2) Computer dissemination of indecent material to a child is prohibited. A person who violates the provisions of subsection (1) of this section shall be subject to a civil penalty as provided in section 13-21-1003.
- (3) It shall not be an affirmative defense in a civil action brought under this part 10 that the person the defendant believed to be a child in fact was not a child.

### **Colo. Rev. Stat. § 18-3-405.4. Internet sexual exploitation of a child.**

- (1) A person commits internet sexual exploitation of a child if a person, who is at least four years older than a child who is under fifteen years of age, knowingly importunes, invites, or entices the child through communication via a computer network or system to:
  - (a) Expose or touch the child's own or another person's intimate parts while communicating with the person via a computer network or system; or
  - (b) Observe the person's intimate parts while communicating with the person via a computer network or system.

(2) It shall not be an affirmative defense to this section that the child was actually a law enforcement officer posing as a child under fifteen years of age.

(3) Internet sexual exploitation of a child is a class 4 felony.

## **CONNECTICUT**

### **Conn. Gen. Stat. Ann. § 53a-90a. Enticing a minor. Penalties.**

(a) A person is guilty of enticing a minor when such person uses an interactive computer service to knowingly persuade, induce, entice or coerce any person under sixteen years of age to engage in prostitution or sexual activity for which the actor may be charged with a criminal offense. For purposes of this section, "interactive computer service" means any 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 such systems operated or services offered by libraries or educational institutions.

(b) (1) Except as provided in subdivision (2) of this subsection, enticing a minor is a class D felony for a first offense, a class C felony for a second offense and a class B felony for any subsequent offense.

(2) Enticing a minor is a class B felony if the victim of the offense is under thirteen years of age and any person found guilty of such class B felony shall, for a first offense, be sentenced to a term of imprisonment of which five years of the sentence imposed may not be suspended or reduced by the court and, for any subsequent offense, be sentenced to a term of imprisonment of which ten years of the sentence imposed may not be suspended or reduced by the court.

### **Conn. Gen. Stat. Ann. § 53a-90b. Misrepresentation of age to entice a minor: Class C felony.**

(a) A person is guilty of misrepresentation of age to entice a minor when such person, in the course of and in furtherance of the commission of a violation of section 53a-90a, intentionally misrepresents such person's age.

(b) Misrepresentation of age to entice a minor is a class C felony.

## **DELAWARE**

### **11 Del. C. § 1112A 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 who has not yet reached that child's sixteenth birthday to engage in a prohibited sexual act; or

(2) Solicits, requests, commands, importunes or otherwise attempts to cause any child who has not yet reached that child's sixteenth birthday to meet with such person or any other person for the purpose of engaging in a prohibited sexual act; or

(3) Compiles, enters, accesses, transmits, receives, exchanges, disseminates, stores, makes, prints, reproduces or otherwise possesses by any means, including by means of computer, any notice, statement, document, advertisement, file or data containing the name, telephone number, address, e-mail address, school address or location, physical characteristics or other descriptive or identifying information pertaining to any child who has not yet reached that child's sixteenth birthday for the purpose of facilitating, encouraging, offering or soliciting a prohibited sexual act involving such child and such person or any other person.

(b) 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 if the child was within the State at the time of the prohibited conduct and the defendant was aware of circumstances which rendered the presence of such child within Delaware a reasonable possibility.

(c) Sexual solicitation of a child is a class C felony.

## **FLORIDA**

### **Fla. Stat. Ann. § 847.0135. Computer pornography; traveling to meet minor; penalties.**

(1) *SHORT TITLE.* --This section shall be known and may be cited as the "Computer Pornography and Child Exploitation Prevention Act."

(2) *COMPUTER PORNOGRAPHY.* --A person who:

- (a) Knowingly compiles, enters into, or transmits by use of computer;
- (b) Makes, prints, publishes, or reproduces by other computerized means;
- (c) Knowingly causes or allows to be entered into or transmitted by use of computer; or
- (d) Buys, sells, receives, exchanges, or disseminates, any notice, statement, or advertisement of any minor's name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information for purposes of facilitating, encouraging, offering, or soliciting sexual conduct of or with any minor, or the visual depiction of such conduct, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. 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.

(3) *CERTAIN USES OF COMPUTER SERVICES OR DEVICES PROHIBITED.* --Any person who knowingly uses a computer online service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission to:

- (a) Seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice, a child or another person believed by the person to be a child, to commit any illegal act described in chapter 794, chapter 800, or chapter 827, or to otherwise engage in any unlawful sexual

conduct with a child or with another person believed by the person to be a child; or

(b) Solicit, lure, or entice, or attempt to solicit, lure, or entice a parent, legal guardian, or custodian of a child or a person believed to be a parent, legal guardian, or custodian of a child to consent to the participation of such child in any act described in chapter 794, chapter 800, or chapter 827, or to otherwise engage in any sexual conduct, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Any person who, in violating this subsection, misrepresents his or her age, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Each separate use of a computer online service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission wherein an offense described in this section is committed may be charged as a separate offense.

(4) *TRAVELING TO MEET A MINOR.* --Any person who travels any distance either within this state, to this state, or from this state by any means, who attempts to do so, or who causes another to do so or to attempt to do so for the purpose of engaging in any illegal act described in chapter 794, chapter 800, or chapter 827, 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 online service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission to:

(a) Seduce, solicit, lure, or entice or attempt to seduce, solicit, lure, or entice a child or another person believed by the person to be a child, to engage in any illegal act described in chapter 794, chapter 800, or chapter 827, or to otherwise engage in other unlawful sexual conduct with a child; or

(b) Solicit, lure, or entice or attempt to solicit, lure, or entice a parent, legal guardian, or custodian of a child or a person believed to be a parent, legal guardian, or custodian of a child to consent to the participation of such child in any act described in chapter 794, chapter 800, or chapter 827, or to otherwise engage in any sexual conduct, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) *OWNERS OR OPERATORS OF COMPUTER SERVICES LIABLE.* --It is unlawful for any owner or operator of a computer online service, Internet service, or local bulletin board service knowingly to permit a subscriber to use the service to commit a violation of this section. Any person who violates this section commits a misdemeanor of the first degree, punishable by a fine not exceeding \$ 2,000.

(6) *STATE CRIMINAL JURISDICTION.* --A person is subject to prosecution in this state pursuant to chapter 910 for any conduct proscribed by this section which the person engages in, while either within or outside this state, if by such conduct the person commits a violation of this section involving a child residing in this state, a child's guardian, or another person believed by the person to be a child or a child's guardian residing in this state.

(7) *EFFECT OF PROSECUTION.* --Prosecution of any person for an offense under this section shall not prohibit prosecution of that person in this state or another jurisdiction 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.

## **GEORGIA**

### **Ga. Code Ann. §16-12-100.2. Computer or electronic pornography and child exploitation prevention.**

(a) This Code section shall be known and may be cited as the "Computer Pornography and Child Exploitation Prevention Act of 1999."

(b) As used in this Code section, the term:

(1) "Child" means any person under the age of 16 years.

(2) "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.

(3) "Sadomasochistic abuse" has the same meaning as provided in Code Section 16-12-100.1.

(4) "Sexual conduct" has the same meaning as provided in Code Section 16-12-100.1.

(5) "Sexual excitement" has the same meaning as provided in Code Section 16-12-100.1.

(6) "Sexually explicit nudity" has the same meaning as provided in Code Section 16-12-102.

(7) "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 pornography if such 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 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) 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.

(d)(1) It shall be unlawful for any person intentionally or willfully to utilize a computer on-line service or Internet service, including but not limited to a local bulletin board service, Internet chat

room, e-mail, or on-line messaging service to seduce, solicit, lure, or entice, or attempt to seduce,

solicit, lure, or entice a child or another person believed by such person to be a child to commit

any illegal act described in Code Section 16-6-2, relating to the offense of sodomy or aggravated sodomy; Code Section 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 14 or 15 years of age and the defendant was no more than three years older than the victim, then the defendant shall be guilty of a misdemeanor of a high and aggravated nature.

(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 on-line service or Internet service, including but not limited to a local bulletin board service, Internet chat room, e-mail, or on-line 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 14 or 15 years of age and the defendant was no more than three years older than the victim, then the defendant shall be guilty of a misdemeanor of a high and aggravated nature.

(f)(1) It shall be unlawful for any owner or operator of a computer on-line service, Internet service, or local bulletin board service 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 online

service, Internet service, or local bulletin board service 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 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.

(i) Any violation of this Code section shall constitute a separate offense.

## **HAWAII**

### **Haw. Rev. Stat. Ann. § 707-756. Electronic enticement of a child in the first degree.**

(1) Any person who, using a computer or any other electronic device:

(a) Intentionally or knowingly communicates:

(i) With a minor known by the person to be under the age of eighteen years;

(ii) With another person, in reckless disregard of the risk that the other person is under the age of eighteen years, and the other person is under the age of eighteen years; or

(iii) With another person who represents that person to be under the age of eighteen years; and

(b) With the intent to promote or facilitate the commission of a felony:

(i) That is a murder in the first or second degree;

(ii) That is a class A felony; or

(iii) That is an offense defined in section 846E-1;

agrees to meet with the minor, or with another person who represents that person to be a minor under the age of eighteen years; and

(c) Intentionally or knowingly travels to the agreed upon meeting place at the agreed upon meeting time; is guilty of electronic enticement of a child in the first degree.

(2) Electronic enticement of a child in the first degree is a class B felony. Notwithstanding any law to the contrary, if a person sentenced under this section is sentenced to probation rather than an indeterminate term of imprisonment, the terms and conditions of probation shall include, but not be limited to, a term of imprisonment of one year.

### **Haw. Rev. Stat. Ann. § 708-893. Use of a computer in the commission of a separate crime.**

(1) A person commits the offense of use of a computer in the commission of a separate crime if the person:

(a) Intentionally uses a computer to obtain control over the property of the victim to commit theft in the first or second degree; or

(b) Knowingly uses a computer to identify, select, solicit, persuade, coerce, entice, induce, or procure the victim or intended victim of the following offenses:

(i) Section 707-726, relating to custodial interference in the first degree;

(ii) Section 707-727, relating to custodial interference in the second degree;

(iii) Section 707-731, relating to sexual assault in the second degree;

(iv) Section 707-732, relating to sexual assault in the third degree;

(v) Section 707-733, relating to sexual assault in the fourth degree;

(vi) Section 707-751, relating to promoting child abuse in the second degree; or

(vii) Section 712-1215, relating to promoting pornography for minors.

(2) Use of a computer in the commission of a separate crime is an offense one class or grade, as the case may be, greater than the offense facilitated. Notwithstanding any other law to the contrary, a conviction under this section shall not merge with a conviction for the separate crime.

## **IDAHO**

### **Idaho Code § 18-1509A. Enticing of children over the internet -- Penalties – Jurisdiction.**

(1) A person aged eighteen (18) years or older shall be guilty of a felony if he or she knowingly uses the internet to solicit, seduce, lure, persuade or entice by words or actions, or both, a minor child under the age of sixteen (16) years or a person the defendant believes to be a minor child under the age of sixteen (16) years to engage in any sexual act with or against the child where such act is a violation of chapter 15, 61 or 66, title 18, Idaho Code.

(2) Every 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) 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.

## **ILLINOIS**

### **720 Ill. Comp. Stat. 5/11-6 (2006) Indecent solicitation of a child.**

(a) A person of the age of 17 years and upwards commits the offense of 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 12-12 of this Code [720 ILCS 5/12-12].

(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.

(c) Sentence. Indecent solicitation of a child 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.

## **INDIANA**

### **Ind. Code Ann. § 35-42-4-6. Child solicitation.**

(a) As used in this section, "solicit" means to command, authorize, urge, incite, request, or advise an individual:

- (1) in person;
- (2) by telephone;
- (3) in writing;
- (4) by using a computer network (as defined in IC 35-43-2-3(a));
- (5) by advertisement of any kind; or
- (6) by any other means;

to perform an act described in subsection (b) or (c).

(b) A person eighteen (18) years of age or older who knowingly or intentionally solicits a child under fourteen (14) years of age, or an individual the person believes to be a child under fourteen (14) years of age, to engage in:

- (1) sexual intercourse;
- (2) deviate sexual conduct; or
- (3) any fondling or touching intended to arouse or satisfy the sexual desires of either the child or the older person;

commits child solicitation, a Class D felony. However, the offense is a Class C felony if it is committed by using a computer network (as defined in IC 35-43-2-3(a)), and a Class B felony if the person commits the offense by using a computer network (as defined in IC 35-43-2-3(a)) and has a previous unrelated conviction for committing the offense by using a computer network (as defined in IC 35-43-2-3(a)).

(c) A person at least twenty-one (21) years of age who knowingly or intentionally solicits a child at least fourteen (14) years of age but less than sixteen (16) years of age, or an individual the person believes to be a child at least fourteen (14) years of age but less than sixteen (16) years of age, to engage in:

- (1) sexual intercourse;
- (2) deviate sexual conduct; or
- (3) any fondling or touching intended to arouse or satisfy the sexual desires of either the child or the older person;

commits child solicitation, a Class D felony. However, the offense is a Class C felony if it is committed by using a computer network (as defined in IC 35-43-2-3(a)), and a Class B felony if the person commits the offense by using a computer network (as defined in IC 35-43-2-3(a)) and has a previous unrelated conviction for committing the offense by using a computer network (as defined in IC 35-43-2-3(a)).

(d) In a prosecution under this section, including a prosecution for attempted solicitation, the state is not required to prove that the person solicited the child to engage in an act described in subsection (b) or (c) at some immediate time.

## **IOWA**

### **Iowa Code § 710.10. Enticing away a minor.**

1. A person commits a class "C" felony when, without authority and with the intent to commit sexual abuse or sexual exploitation upon a minor under the age of thirteen, the person entices away the minor under the age of thirteen, or entices away a person reasonably believed to be under the age of thirteen.

2. A person commits a class "D" felony when, without authority and with the intent to commit an

illegal act upon a minor under the age of sixteen, the person entices away a minor under the age of sixteen, or entices away a person reasonably believed to be under the age of sixteen.

3. A person commits an aggravated misdemeanor when, without authority and with the intent to commit an illegal act upon a minor under the age of sixteen, the person attempts to entice away a minor under the age of sixteen, or attempts to entice away a person reasonably believed to be under the age of sixteen.

4. A person's intent to commit a violation of this section may be inferred when the person is not known to the person being enticed away and the person does not have the permission of the parent, guardian, or custodian to contact the person being enticed away.

5. For purposes of determining jurisdiction under section 803.1, an offense is considered committed in this state if the communication to entice away a minor or a person believed to be a minor who is present in this state originates from another state, or the communication to entice away a minor or a person believed to be a minor is sent from this state.

## **KANSAS**

### **K.S.A. § 21-3516. Sexual exploitation of a child.**

(a) Sexual exploitation of a child is:

- (1) Except as provided in subsection (a)(5), employing, using, persuading, inducing, enticing or coercing a child under 18 years of age to engage in sexually explicit conduct for the purpose of promoting any performance;
- (2) possessing any visual depiction, including any photograph, film, video picture, digital or computer generated image or picture, whether made or produced by electronic, mechanical or other means, where such visual depiction of a child under 18 years of age is 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, the child or another;
- (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);
- (4) except as provided in subsection (a)(6), promoting any performance that includes sexually explicit conduct by a child under 18 years of age, knowing the character and content of the performance;
- (5) employing, using, persuading, inducing, enticing or coercing a child under 14 years of age to engage in sexually explicit conduct for the purpose of promoting any performance; or
- (6) promoting any performance that includes sexually explicit conduct by a child under 14 years of age, knowing the character and content of the performance.

(b) 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 for the purpose of sexual stimulation; or lewd exhibition of the genitals, female breasts or pubic area of any person.

(2) "Promoting" means procuring, selling, providing, lending, mailing, delivering, transferring, transmitting, distributing, circulating, disseminating, 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, the child or another.

(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.

(c) Sexual exploitation of a child as described in subsection (a)(1), (a)(2), (a)(3) or (a)(4) is a severity level 5, person felony. Sexual exploitation of a child as described in subsection (a)(5) or (a)(6) when the offender is 18 years of age or older is an off-grid person felony.

(d) This section shall be part of and supplemental to the Kansas criminal code.

## **KENTUCKY**

### **KRS § 510.155. Unlawful use of electronic means to induce a minor to engage in sexual or other prohibited activities -- Prohibition of multiple convictions arising from single course of conduct.**

(1) It shall be unlawful for any person to knowingly use a communications system, including computers, computer networks, computer bulletin boards, cellular telephones, or any other electronic means, for the purpose of procuring or promoting the use of a minor, or a peace officer posing as a minor if the person believes that the peace officer is a minor or is wanton or reckless in that belief, for any activity in violation of KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 529.100 where that offense involves commercial sexual activity, or 530.064(1)(a), or KRS Chapter 531.

(2) No person shall be convicted of this offense and an offense specified in KRS 506.010, 506.030, 506.040, or 506.080 for a single course of conduct intended to consummate in the commission of the same offense with the same minor or peace officer.

(3) A violation of this section is punishable as a Class D felony.

## LOUISIANA

### **La. R.S. § 14:81.3. Computer-aided solicitation of a minor.**

A. Computer-aided solicitation of a minor is committed when a person eighteen years of age or older knowingly contacts or communicates, through the use of electronic textual communication, with a person who has not yet attained the age of eighteen or a person reasonably believed to have not yet attained the age of eighteen, for the purpose of or with the intent to persuade, induce, entice, or coerce the person to engage or participate in sexual conduct or a crime of violence as defined in *R.S. 14:2(13)*, or with the intent to engage or participate in sexual conduct in the presence of the person who has not yet attained the age of eighteen, or person reasonably believed to have not yet attained the age of eighteen.

B. (1) Whoever violates the provisions of this Section shall be fined not more than ten thousand dollars and shall be imprisoned at hard labor for not less than two years nor more than ten years, without benefit of parole, probation, or suspension of sentence.

(2) On a subsequent conviction, the offender shall be imprisoned for not less than ten years nor more than twenty years at hard labor without benefit of parole, probation, or suspension of sentence.

C. (1) Consent is a defense to a prosecution brought pursuant to this Section if the person under the age of eighteen, or the person reasonably believed to be under the age of eighteen, is at least sixteen years old.

(2) Consent is not a defense to a prosecution brought pursuant to this Section if the person under the age of eighteen, or the person reasonably believed to be under the age of eighteen, is actually under the age of sixteen.

(3) It is not a defense to a prosecution brought pursuant to this Section, on the basis of consent or otherwise, that the person reasonably believed to be under the age of eighteen is actually a law enforcement officer or peace officer acting in his official capacity.

D. For purposes of this Section, the following words have the following meanings:

(1) "Electronic textual communication" means a textual communication made through the use of a computer on-line service, Internet service, or any other means of electronic communication, including but not limited to a local bulletin board service, Internet chat room, electronic mail, or on-line messaging service.

(2) "Sexual conduct" means actual or simulated sexual intercourse, deviant sexual intercourse, sexual bestiality, masturbation, sadomasochistic abuse, lewd exhibition of the genitals, or any lewd or lascivious act.

E. The provisions of this Section shall not apply to the transference of such images by a telephone company, cable television company, or any of its affiliates, an Internet provider, or commercial online service provider, or to the carrying, broadcasting, or performing of related activities in providing telephone, cable television, Internet, or commercial online services.

F. An offense committed under this Section may be deemed to have been committed where the electronic textual communication was originally sent, originally received, or originally viewed by any person.

G. After the institution of prosecution, access to and the disposition of any material seized as evidence of this offense shall be in accordance with *R.S. 46:1845*.

H. Any evidence resulting from the commission of computer-aided solicitation of a minor shall

constitute contraband.

I. A violation of the provisions of this Section shall be considered a sex offense as defined in *R.S. 15:541(14.1)*. Whoever commits the crime of computer- aided solicitation of a minor shall be required to register as a sex offender as provided for in Chapter 3-B of Title 15 of the Louisiana Revised Statutes of 1950.

## **MAINE**

### **17-A Me. Rev. Stat. § 259. Solicitation of child by computer to commit a prohibited act.**

1-A. A person is guilty of soliciting a child by a computer to commit a prohibited act if:

A. The actor:

- 1) Uses a computer knowingly to solicit, entice, persuade or compel another person to meet with the actor;
- 2) Is at least 16 years of age;
- 3) Knows or believes that the other person is less than 14 years of age; and
- 4) Is at least 3 years older than the expressed age of the other person; and

B. The actor has the intent to engage in any one of the following prohibited acts with the other person:

- 1) A sexual act;
- 2) Sexual contact; or
- 3) Sexual exploitation of a minor pursuant to section 282.

Violation of this subsection is a Class D crime.

1-B. A person is guilty of soliciting a child by a computer to commit a prohibited act if:

A. The actor:

- 1) Uses a computer knowingly to solicit, entice, persuade or compel another person to meet with the actor;
- 2) Is at least 16 years of age;
- 3) Knows or believes that the other person is less than 12 years of age; and
- 4) Is at least 3 years older than the expressed age of the other person; and

B. The actor has the intent to engage in any one of the following prohibited acts with the other person:

- 1) A sexual act;
- 2) Sexual contact; or
- 3) Sexual exploitation of a minor pursuant to section 282.

Violation of this subsection is a Class C crime.

## **MARYLAND**

### **Md. Code Ann. Crim. Law § 3-324. Sexual solicitation of minor.**

(a) "Solicit" defined. -- In this section, "solicit" means to command, authorize, urge, entice, request, or advise a person by any means, including:

- (1) in person;
- (2) through an agent or agency;
- (3) over the telephone;
- (4) through any print medium;
- (5) by mail;
- (6) by computer or Internet; or
- (7) by any other electronic means.

(b) Prohibited. -- A person may not, with the intent to commit a violation of § 3-304, § 3-306, or § 3-307 of this subtitle or § 11-304, § 11-305, or § 11-306 of this article, knowingly solicit a minor, or a law enforcement officer posing as a minor, to engage in activities that would be unlawful for the person to engage in under § 3-304, § 3-306, or § 3-307 of this subtitle or § 11-304, § 11-305, or § 11-306 of this article.

(c) Jurisdiction. -- A violation of this section is considered to be committed in the State for purposes of determining jurisdiction if the solicitation:

- (1) originated in the State; or
- (2) is received in the State.

(d) Penalty. -- A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$ 25,000 or both.

**Md. Code Ann. Crim. Law § 11-207. Child pornography.**

(a) Prohibited. -- 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, distribute, or possess with the intent to distribute any matter, visual representation, or performance that depicts a minor engaged as a subject in 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.

(b) Penalty. -- 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.

(c) Evidence. --

(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.

## **MASSACHUSETTS**

### **ALM GL ch. 265, § 26C. Enticement of Children.**

(a) As used in this section, the term "entice" shall mean to lure, induce, persuade, tempt, incite, solicit, coax or invite.

(b) Any one who entices a child under the age of 16, or someone he believes to be a child under the age of 16, to enter, exit or remain within any vehicle, dwelling, building, or other outdoor space with the intent that he or another person will violate section 13B, 13F, 13H, 22, 22A, 23, 24 or 24B of chapter 265, section 4A, 16, 28, 29, 29A, 29B, 29C, 35A, 53 or 53A of chapter 272, or any offense that has as an element the use or attempted use of force, shall be punished by imprisonment in the state prison for not more than 5 years, or in the house of correction for not more than 2 1/2 years, or by both imprisonment and a fine of not more than \$5,000.

## **MICHIGAN**

### **Mich. Stat. Ann. § 750.145a. Accosting, enticing or soliciting child for immoral purpose.**

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. Stat. Ann. § 750.145d. Use of internet or computer system; prohibited communication; violation; penalty; order to reimburse state or local governmental unit; definitions.**

- (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.

(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 title II of the communications act of 1934, chapter 652, 110 Stat. 137, 47 U.S.C. 230.

(g) "Minor" means an individual who is less than 18 years of age.

## **MINNESOTA**

### **Minn. Stat. Ann. § 609.352. Solicitation of children to engage in sexual conduct.**

Subdivision 1. Definitions. As used in this section:

(a) "child" means a person 15 years of age or younger;

(b) "sexual conduct" means sexual contact of the individual's primary genital area, sexual penetration as defined in section 609.341, or sexual performance as defined in section 617.246; and

(c) "solicit" means commanding, entreating, or attempting to persuade a specific person in person, by telephone, by letter, or by computerized or other electronic means.

Subd. 2. Prohibited act. A person 18 years of age or older who solicits a child or someone the person reasonably believes is a child to engage in sexual conduct with intent to

engage in sexual conduct is guilty of a felony and may be sentenced as provided in subdivision 4.

Subd. 2a. Internet or computer solicitation of children.

A person 18 years of age or older who uses the Internet or a computer, computer program, computer network, or computer system to commit any of the following acts, with the intent to arouse the sexual desire of any person, is guilty of a felony and may be sentenced as provided in subdivision 4:

(1) soliciting a child or someone the person reasonably believes is a child to engage in sexual conduct;

(2) engaging in communication relating to or describing sexual conduct with a child or someone the person reasonably believes is a child; or

(3) distributing any material, language, or communication, including a photographic or video image, that relates to or describes sexual conduct to a child or someone the person reasonably believes is a child.

Subd. 2b. Jurisdiction.

A person may be convicted of an offense under subdivision 2a if the transmission that constitutes the offense either originates within this state or is received within this state.

Subd. 3. Defenses. Mistake as to age is not a defense to a prosecution under this section.

(a) Mistake as to age is not a defense to a prosecution under this section.

(b) The fact that an undercover operative or law enforcement officer was involved in the detection or investigation of an offense under this section does not constitute a defense to a prosecution under this section.

Subd. 4. Penalty.

A person convicted under subdivision 2 or 2a is guilty of a felony and may be sentenced to imprisonment for not more than three years, or to payment of a fine of not more than \$5,000, or both.

## MISSISSIPPI

### **Miss. Code Ann. § 97-5-27. Dissemination of sexually oriented material to persons under eighteen years of age; use of computer for purpose of luring or inducing persons under eighteen years of age to engage in sexual contact.**

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 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).

**Miss. Code Ann. § 97-5-33. Exploitation of children; prohibitions.**

(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, transmit, 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, possess 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.

## **MISSOURI**

### **Mo. Rev. Stat. § 566.151. Enticement of a child, penalties.**

1. A person at least twenty-one years of age or older commits the crime of enticement of a child if that person persuades, solicits, coaxes, entices, or lures whether by words, actions or through communication via the Internet or any electronic communication, any person who is less than fifteen years of age for the purpose of engaging in sexual conduct with a child.

2. It is not an affirmative defense to a prosecution for a violation of this section that the other person was a peace officer masquerading as a minor.

3. Attempting to entice a child is a class D felony.

4. Enticement of a child is a class C felony unless the person has previously pled guilty to or been found guilty of violating the provisions of this section, section 568.045, 568.050, or 568.060, RSMo, or this chapter, in which case it is a class B felony.

## **MONTANA**

### **Mont. Code Anno. § 45-5-625. 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; or

(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.

(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**

### **Neb. Rev. Stat. § 28-320.02. Sexual assault; use of computer; prohibited acts; penalties.**

(1) No person shall knowingly solicit, coax, entice, or lure (a) a child sixteen years of age or younger or (b) a peace officer who is believed by such person to be a child sixteen years of age or younger, by means of a computer as that term is defined in section 28-1343, to engage in an act which would be in violation of section 28-319, 28-319.01, or 28-320.01 or subsection (1) or (2) of section 28-320. A person shall not be convicted of both a violation of this subsection and a violation of section 28-319, 28-319.01, or 28-320.01 or subsection (1) or (2) of section 28-320 if the violations arise out of the same set of facts or pattern of conduct and the individual solicited, coaxed, enticed, or lured under this subsection is also the victim of the sexual assault under section 28-319, 28-319.01, or 28-320.01 or subsection (1) or (2) of section 28-320.

(2) A person who violates this section is guilty of a Class IIIA felony. If a person who violates this section 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, or 28-320.01 or subsection (1) or (2) of section 28-320, the person is guilty of a Class III felony.

## **NEVADA**

**Nev. Rev. Stat. § 201.560. Definitions; exception; penalties.**

1. Except as otherwise provided in subsection 3, a person commits the crime of luring a child if the person knowingly contacts or communicates with or attempts to contact or communicate with:

(a) A child who is less than 16 years of age and who is at least 5 years younger than the person with the intent to persuade, lure or transport the child away from his home or from any location known to his parent or guardian or other person legally responsible for the child to a place other than where the child is located, for any purpose:

(1) Without the express consent of the parent or guardian or other person legally responsible for the child; and

(2) With the intent to avoid the consent of the parent or guardian or other person legally responsible for the child; or

(b) Another person whom he believes to be a child who is less than 16 years of age and at least 5 years younger than he is, regardless of the actual age of that other person, with the intent to persuade or lure the person to engage in sexual conduct.

2. Except as otherwise provided in subsection 3, a person commits the crime of luring a person with mental illness if he knowingly contacts or communicates with a person with mental illness with the intent to persuade, lure or transport the person with mental illness away from his home or from any location known to any person legally responsible for the person with mental illness to a place other than where the person with mental illness is located:

(a) For any purpose that a reasonable person under the circumstances would know would endanger the health, safety or welfare of the person with mental illness;

(b) Without the express consent of the person legally responsible for the person with mental illness; and

(c) With the intent to avoid the consent of the person legally responsible for the person with mental illness.

3. The provisions of this section do not apply if the contact or communication is made or attempted with the intent to prevent imminent bodily, emotional or psychological harm to the child, person believed to be a child or person with mental illness.

4. A person who violates or attempts to violate the provisions of this section through the use of a computer, system or network:

(a) With the intent to engage in sexual conduct with the child, person believed to be a child or person with mental illness or to cause the child, person believed to be a child or

person with mental illness to engage in 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 10 years and may be further punished by a fine of not more than \$10,000;

(b) By providing the child, person believed to be a child or person with mental illness with material that is harmful to minors or requesting the child, person believed to be a child or person with mental illness to provide the person with material that is harmful to minors, is guilty of a category C felony and shall be punished as provided in NRS 193.130; or

(c) If paragraph (a) or (b) does not apply, is guilty of a gross misdemeanor.

5. A person who violates or attempts to violate the provisions of this section in a manner other than through the use of a computer, system or network:

(a) With the intent to engage in sexual conduct with the child, person believed to be a child or person with mental illness or to cause the child, person believed to be a child or person with mental illness to engage in 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 2 years and a maximum term of not more than 15 years and may be further punished by a fine of not more than \$10,000;

(b) By providing the child, person believed to be a child or person with mental illness with material that is harmful to minors or requesting the child, person believed to be a child or person with mental illness to provide the person with material that is harmful to minors, 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 \$10,000; or

(c) If paragraph (a) or (b) does not apply, is guilty of a gross misdemeanor.

6. As used in this section:

(a) "Computer" has the meaning ascribed to it in [NRS 205.4735](#).

(b) "Harmful to minors" has the meaning ascribed to it in [NRS 201.257](#).

(c) "Material" means anything that is capable of being used or adapted to arouse interest, whether through the medium of reading, observation, sound or in any other manner.

(d) "Network" has the meaning ascribed to it in [NRS 205.4745](#).

(e) "Person with mental illness" means a person who has any mental dysfunction leading to impaired ability to maintain himself and to function effectively in his life

situation without external support.

(f) "Sexual conduct" has the meaning ascribed to it in NRS 201.520.

(g) "System" has the meaning ascribed to it in NRS 205.476.

## **NEW HAMPSHIRE**

### **N.H. Rev. Stat. Ann. § 649-B:3. Computer Pornography Prohibited.**

I. No person shall knowingly:

- (a) Compile, enter into, or transmit by means of computer;
- (b) Make, print, publish, or reproduce by other computerized means;
- (c) Cause or allow to be entered into or transmitted by means of computer; or
- (d) Buy, sell, receive, exchange, or disseminate by means of computer, any notice, statement, or advertisement, or any minor's name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information, for purposes of facilitating, encouraging, offering, or soliciting sexual conduct of or with any child, or the visual depiction of such conduct.

II. Any person who violates the provisions of this section is guilty of a class B felony.

### **N.H. Rev. Stat. Ann. § 649-B:4. Certain Uses of Computer Services Prohibited.**

Any person who knowingly utilizes a computer on-line 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 person believed by the person to be a child, to commit any of the following is guilty of a class B felony:

- I. Any offense under RSA 632-A, relative to sexual assault and related offenses.
- II. Indecent exposure and lewdness under RSA 645:1, II; or
- III. Endangering a child, as defined in RSA 639:3.

## **NEW JERSEY**

### **N.J. Stat. Ann. § 2C:13-6. Luring, enticing child by various means, attempts; crime of second degree; subsequent offense, mandatory imprisonment; definitions.**

a. A person commits a crime of the second degree if he attempts, via electronic or any other means, to lure or entice a child or one who he reasonably believes to be a child into a motor vehicle, structure or isolated area, or to meet or appear at any other place, with a purpose to commit a criminal offense with or against the child.

b. As used in this section:

“Child” means a person less than 18 years old.

“Electronic means” includes, but is not limited to, the Internet, which shall have the meaning set forth in N.J.S.2C:24-4.

“Structure” means any building, room, ship, vessel or airplane and also means any place adapted for overnight accommodation of persons, or for carrying on business therein, whether or not a person is actually present.

c. Nothing herein shall be deemed to preclude, if the evidence so warrants, an indictment and conviction for attempted kidnapping under the provisions of N.J.S.2C:13-1.

d. A person convicted of a second or subsequent offense under this section shall be sentenced to a term of imprisonment. Notwithstanding the provisions of subsection a. of N.J.S.2C:43-6, the term of imprisonment shall include, unless the person is sentenced pursuant to the provisions of N.J.S.2C:43-7, a mandatory minimum term of one-third to one-half of the sentence imposed, or three years, whichever is greater, during which time the defendant shall not be eligible for parole. If the person is sentenced pursuant to N.J.S.2C:43-7, the court shall impose a minimum term of one-third to one-half of the sentence imposed, or five years, whichever is greater. The court may not suspend or make any other non-custodial disposition of any person sentenced as a second or subsequent offender pursuant to this section.

For the purposes of this section, an offense is considered a second or subsequent offense if the actor has at any time been convicted pursuant to this section, or under any similar statute of the United States, this State or any other state for an offense that is substantially equivalent to this section.

e. A person convicted of an offense under this section who has previously been convicted of a violation of N.J.S.2C:14-2, subsection a. of N.J.S.2C:14-3 or N.J.S.2C:24-4 shall be sentenced to a term of imprisonment. Notwithstanding the provisions of subsection a. of N.J.S.2C:43-6, the term of imprisonment shall include, unless the person is sentenced pursuant to the provisions of N.J.S.2C:43-7, a mandatory minimum term of five years, during which time the defendant shall not be eligible for parole. The court may not suspend or make any other non-custodial disposition of any person sentenced pursuant to this section.

For the purposes of this subsection, an offense is considered a previous conviction of N.J.S.2C:14-2, subsection a. of N.J.S.2C:14-3 or N.J.S.2C:24-4 if the actor has at any time been convicted under any of these sections or under any similar statute of the United States, this State or any other state for an offense that is substantially equivalent to any of these sections.

f. Notwithstanding the provisions of N.J.S.2C:1-8 or any other law, a conviction under this section shall not merge with a conviction of any other criminal offense, nor shall such other conviction merge with a conviction under this section, and the court shall impose separate sentences upon each violation of this section and any other criminal offense. The court may not suspend or make any other non-custodial disposition of any person sentenced pursuant to this section.

## **NEW MEXICO**

### **N.M. Stat. Ann. § 30-37-3.2. Child solicitation by electronic communication device**

A. Child solicitation by electronic communication device consists of a person knowingly and intentionally soliciting a child under sixteen years of age, by means of an electronic

communication device, to engage in sexual intercourse, sexual contact or in a sexual or obscene performance, or to engage in any other sexual conduct when the perpetrator is at least four years older than the child.

B. Whoever commits child solicitation by electronic communication device is guilty of a:

- (1) fourth degree felony if the child is at least thirteen but under sixteen years of age; or
- (2) third degree felony if the child is under thirteen years of age.

C. Whoever commits child solicitation by electronic communication device and also appears for, attends or is present at a meeting that the person arranged pursuant to the solicitation is guilty of a:

- (1) third degree felony if the child is at least thirteen but under sixteen years of age; or
- (2) second degree felony if the child is under thirteen years of age.

D. In a prosecution for child solicitation by electronic communication device, it is not a defense that the intended victim of the defendant was a peace officer posing as a child under sixteen years of age.

E. For purposes of determining jurisdiction, child solicitation by electronic communication device is committed in this state if an electronic communication device transmission either originates or is received in this state.

F. As used in this section, "electronic communication device" means a computer, video recorder, digital camera, fax machine, telephone, cellular telephone, pager, audio equipment or any other device that can produce an electronically generated image, message or signal.

## **NEW YORK**

### **N.Y. Penal Law § 235.22. Disseminating indecent material to minors in the first degree.**

A person is guilty of disseminating indecent material to minors in the first degree when:

1. knowing the character and content of the communication which, in whole or in part, depicts or describes, either in words or images actual or simulated nudity, sexual conduct or sado-masochistic abuse, and which is harmful to minors, he intentionally uses any computer communication system allowing the input, output, examination or transfer, of computer data or computer programs from one computer to another, to initiate or engage in such communication with a person who is a minor; and
2. by means of such communication he importunes, invites or induces a minor to engage in sexual intercourse, [fig 1] oral sexual conduct or anal sexual conduct, or sexual contact

with him, or to engage in a sexual performance, obscene sexual performance, or sexual conduct for his benefit.

Disseminating indecent material to minors in the first degree is a class D felony.

## **NORTH CAROLINA**

### **N.C. Gen. Stat. § 14-202.3. Solicitation of child by computer to commit an unlawful sex act.**

(a) Offense. -- A person is guilty of solicitation of a child by a computer if the person is 16 years of age or older and the person knowingly, with the intent to commit an unlawful sex act, entices, advises, coerces, orders, or commands, by means of a computer, a child who is less than 16 years of age and at least 3 years younger than the defendant, to meet with the defendant or any other person for the purpose of committing an unlawful sex act.

(b) Jurisdiction. -- The offense is committed in the State for purposes of determining jurisdiction, if the transmission that constitutes the offense either originates in the State or is received in the State.

(c) Punishment. -- A violation of this section is a Class H felony.

## **NORTH DAKOTA**

### **N.D. Cent. Code § 12.1-20-05.1. Luring minors by computer or other electronic means.**

1. An adult is guilty of luring minors by computer or other electronic means when:

a. The adult knows the character and content of a communication that, in whole or in part, implicitly or explicitly discusses or depicts actual or simulated nudity, sexual acts, sexual contact, sadomasochistic abuse, or other sexual performances and uses any computer communication system or other electronic means that allows the input, output, examination, or transfer of data or programs from one computer or electronic device to another to initiate or engage in such communication with a person the adult believes to be a minor; and

b. By means of that communication the adult importunes, invites, or induces a person the adult believes to be a minor to engage in sexual acts or to have sexual contact with the adult, or to engage in a sexual performance, obscene sexual performance, or sexual conduct for the adult's benefit, satisfaction, lust, passions, or sexual desires.

2. A violation of this section is a class A misdemeanor if the adult is less than twenty-two years of age and reasonably believes the minor is age fifteen to seventeen. If the adult is less than twenty-two years of age and reasonably believes the minor is under age fifteen, or the adult is twenty-two years of age or older and the adult reasonably believes the minor is age fifteen to seventeen, violation of this section is a class C felony. If the adult is twenty-two years of age or older and the adult reasonably believes the minor is under

the age of fifteen, violation of this section is a class B felony. The court shall sentence an adult convicted of a class B or class C felony under this section to serve a term of imprisonment of at least one year, except the court may sentence an individual to less than one year if the individual did not take a substantial step toward meeting with the minor.

3. The attorney general may issue an administrative subpoena compelling an internet service provider or cellular phone company to provide subscriber information to a law enforcement agency investigating a possible violation of this section.

## **OHIO**

### **Ohio Rev. Code Ann. § 2907.07. Importuning.**

(A) No person shall solicit a person who is less than thirteen years of age to engage in sexual activity with the offender, whether or not the offender knows the age of such person.

(B) No person shall solicit another, not the spouse of the offender, to engage in sexual conduct with the offender, when the offender is eighteen years of age or older and four or more years older than the other person, and the other person is thirteen years of age or older but less than sixteen years of age, whether or not the offender knows the age of the other person.

(C) No person shall solicit another by means of a telecommunications device, as defined in section 2913.01 of the Revised Code, to engage in sexual activity with the offender when the offender is eighteen years of age or older and either of the following applies:

(1) The other person is less than thirteen years of age, and the offender knows that the other person is less than thirteen years of age or is reckless in that regard.

(2) The other person is a law enforcement officer posing as a person who is less than thirteen years of age, and the offender believes that the other person is less than thirteen years of age or is reckless in that regard.

(D) No person shall solicit another by means of a telecommunications device, as defined in section 2913.01 of the Revised Code, to engage in sexual activity with the offender when the offender is eighteen years of age or older and either of the following applies:

(1) The other person is thirteen years of age or older but less than sixteen years of age, the offender knows that the other person is thirteen years of age or older but less than sixteen years of age or is reckless in that regard, and the offender is four or more years older than the other person.

(2) The other person is a law enforcement officer posing as a person who is thirteen years of age or older but less than sixteen years of age, the offender believes that the other person is thirteen years of age or older but less than sixteen years of age or is

reckless in that regard, and the offender is four or more years older than the age the law enforcement officer assumes in posing as the person who is thirteen years of age or older but less than sixteen years of age.

(E) Divisions (C) and (D) of this section apply to any solicitation that is contained in a transmission via a telecommunications device that either originates in this state or is received in this state.

(F) (1) Whoever violates this section is guilty of importuning.

(2) Except as otherwise provided in this division, a violation of division (A) or (C) of this section is a felony of the third degree on a first offense, and, notwithstanding division (C) of section 2929.13 of the Revised Code, there is a presumption that a prison term shall be imposed as described in division (D) of section 2929.13 of the Revised Code. If the offender previously has been convicted of a sexually oriented offense or a child-victim oriented offense, a violation of division (A) or (C) of this section is a felony of the second degree, and the court shall impose upon the offender as a mandatory prison term one of the prison terms prescribed in section 2929.14 of the Revised Code for a felony of the second degree.

(3) A violation of division (B) or (D) of this section is a felony of the fifth degree on a first offense, and, notwithstanding division (B) of section 2929.13 of the Revised Code, there is a presumption that a prison term shall be imposed as described in division (D) of section 2929.13 of the Revised Code. If the offender previously has been convicted of a sexually oriented offense or a child-victim oriented offense, a violation of division (B) or (D) of this section is a felony of the fourth degree, and the court shall impose upon the offender as a mandatory prison term one of the prison terms prescribed in section 2929.14 of the Revised Code for a felony of the fourth degree that is not less than twelve months in duration.

## **OKLAHOMA**

### **Okla. Stat. Ann. tit. 21, § 1040.13a. Facilitating, encouraging, offering or soliciting sexual conduct or engaging in sexual communication with a minor or person believed to be a minor.**

A. It is unlawful for any person to facilitate, encourage, offer or solicit sexual conduct with a minor, or other individual the person believes to be a minor, by use of any technology, or to engage in any communication for sexual or prurient interest with any minor, or other individual the person believes to be a minor, by use of any technology. For purposes of this subsection, "by use of any technology" means the use of any telephone or cell phone, computer disk (CD), digital video disk (DVD), recording or sound device, CD-ROM, VHS, computer, computer network or system, Internet or World Wide Web address including any blog site or personal web address, e-mail address, Internet Protocol address (IP), text messaging or paging device, any video, audio, photographic or camera device of any computer, computer network or system, cell phone, any other electrical, electronic, computer or mechanical device, or any other device

capable of any transmission of any written or text message, audio or sound message, photographic, video, movie, digital or computer-generated image, or any other communication of any kind by use of an electronic device.

B. A person is guilty of violating the provisions of this section if the person knowingly transmits any prohibited communication by use of any technology defined herein, or knowingly prints, publishes or reproduces by use of any technology described herein any prohibited communication, or knowingly buys, sells, receives, exchanges, or disseminates any prohibited communication or any information, notice, statement, website, or advertisement for communication with a minor or access to any name, telephone number, cell phone number, e-mail address, Internet address, text message address, place of residence, physical characteristics or other descriptive or identifying information of a minor, or other individual the person believes to be a minor.

C. The fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense pursuant to this section shall not constitute a defense to a prosecution under this section.

D. Any violation of the provisions of this section shall be a felony, punishable by a fine in an amount not to exceed Ten Thousand Dollars (\$ 10,000.00), or by imprisonment in the custody of the Department of Corrections for a term of not more than ten (10) years, or by both such fine and imprisonment. For purposes of this section, each communication shall constitute a separate offense. 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 any criminal prosecution pursuant to any violation of this section, the person violating the provisions of this section shall be deemed to be within the jurisdiction of this state by the fact of accessing any computer, cellular phone or other computer-related or satellite-operated device in this state, regardless of the actual jurisdiction where the violator resides.

**Okla. Stat. Ann. tit. 21, § 1123. Lewd or indecent proposals or acts as to child under 16 or person believed to be under 16--Sexual battery.**

A. It is a felony for any person to knowingly and intentionally:

1. Make any oral, written or electronically or computer-generated lewd or indecent proposal to any child under sixteen (16) years of age, or other individual the person believes to be a child under sixteen (16) years of age, for the child to have unlawful sexual relations or sexual intercourse with any person; or
2. Look upon, touch, maul, or feel the body or private parts of any child under sixteen (16) years of age in any lewd or lascivious manner by any acts against public decency and morality, as defined by law; or

3. Ask, invite, entice, or persuade any child under sixteen (16) years of age, or other individual the person believes to be a child under sixteen (16) years of age, to go alone with any person to a secluded, remote, or secret place, with the unlawful and willful intent and purpose then and there to commit any crime against public decency and morality, as defined by law, with the child; or

4. In any manner lewdly or lasciviously look upon, touch, maul, or feel the body or private parts of any child under sixteen (16) years of age in any indecent manner or in any manner relating to sexual matters or sexual interest; or

5. In a lewd and lascivious manner and for the purpose of sexual gratification:

a. urinate or defecate upon a child under sixteen (16) years of age,

b. ejaculate upon or in the presence of a child,

c. cause, expose, force or require a child to look upon the body or private parts of another person,

d. force or require any child under sixteen (16) years of age or other individual the person believes to be a child under sixteen (16) years of age, to view any obscene materials, child pornography or materials deemed harmful to minors as such terms are defined by Sections 1024.1 and 1040.75 of this title,

e. cause, expose, force or require a child to look upon sexual acts performed in the presence of the child, or

f. force or require a child to touch or feel the body or private parts of said child or another person.

Any person convicted of any violation of this subsection shall be punished by imprisonment in the custody of the Department of Corrections for not less than three (3) years nor more than twenty (20) years, except when the 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. The provisions of this subsection shall not apply unless the accused is at least three (3) years older than the victim. Any person convicted of a second or subsequent violation of this subsection shall be guilty of a felony punishable as provided in this subsection and shall not be eligible for probation, suspended or deferred sentence. Any person convicted of a third or subsequent violation of this subsection shall be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for a term of life or life without parole, in the discretion of the jury, or in case the jury fails or refuses to fix punishment then the same shall be pronounced by the court. Any person convicted of a violation of this subsection after having been twice convicted of a violation of subsection A of Section 1114 of this title, Section 888 of this title, sexual abuse of a child pursuant to Section 7115 of Title 10 of the Oklahoma Statutes, or of any attempt to commit any of these offenses or any combination of convictions pursuant to these sections shall be punished by imprisonment in the custody of the Department of Corrections for a term of life or life without parole.

B. No person shall commit sexual battery on any other person. "Sexual battery" shall mean the intentional touching, mauling or feeling of the body or private parts of any person sixteen (16) years of age or older, in a lewd and lascivious manner and without the

consent of that person or when committed by a state, county, municipal or political subdivision employee or a contractor or an employee of a contractor of the state, a county, a municipality or political subdivision of this state upon a person who is under the legal custody, supervision or authority of a state agency, a county, a municipality or a political subdivision of this state.

C. Any person convicted of a violation of subsection B of this section shall be deemed guilty of a felony and shall be punished by imprisonment in the custody of the Department of Corrections for not more than ten (10) years.

D. The fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense pursuant to this section shall not constitute a defense to a prosecution under this section.

E. 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.

## **OREGON**

### **ORS § 163.432. Online sexual corruption of a child in the second degree.**

(1) A person commits the crime of online sexual corruption of a child in the second degree if the person is 18 years of age or older and:

(a) For the purpose of arousing or gratifying the sexual desire of the person or another person, knowingly uses an online communication to solicit a child to engage in sexual contact or sexually explicit conduct; and

(b) Offers or agrees to physically meet with the child.

(2) Online sexual corruption of a child in the second degree is a Class C felony.

### **ORS § 163.433. Online sexual corruption of a child in the first degree.**

(1) A person commits the crime of online sexual corruption of a child in the first degree if the person violates ORS 163.432 and intentionally takes a substantial step toward physically meeting with or encountering the child.

(2) Online sexual corruption of a child in the first degree is a Class B felony.

### **ORS § 163.434. Provisions applicable to online sexual corruption of a child.**

(1) It is an affirmative defense to a prosecution for online sexual corruption of a child in the first or second degree that the person was not more than three years older than the

person reasonably believed the child to be.

(2) It is not a defense to a prosecution for online sexual corruption of a child in the first or second degree that the person was in fact communicating with a law enforcement officer, as defined in ORS 163.730, or a person working under the direction of a law enforcement officer, who is 16 years of age or older.

(3) Online sexual corruption of a child in the first or second degree is committed in either the county in which the communication originated or the county in which the communication was received.

## **PENNSYLVANIA**

### **18 Pa. Cons. Stat. Ann. § 6318. 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**

### **R.I. Gen. Laws § 11-37-8.8. Indecent solicitation of a child.**

(a) A person is guilty of indecent solicitation of a child if he or she knowingly solicits another person under eighteen (18) years of age or one whom he or she believes is a person under eighteen (18) years of age for the purpose of engaging in an act of prostitution or in any act in violation of chapter 9, 34, or 37 of this title.

(b) As used in this section, the word "solicit" or "solicitation" 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, through the Internet, or by advertisement of any kind.

## **SOUTH CAROLINA**

### **S.C. Code Ann § 16-15-342. Criminal solicitation of a minor; defenses; penalties.**

(A) A person eighteen years of age or older commits the offense of criminal solicitation of a minor if he knowingly contacts or communicates with, or attempts to contact or communicate with, a person who is under the age of eighteen, or a person reasonably believed to be under the age of eighteen, for the purpose of or with the intent of persuading, inducing, enticing, or coercing the person to engage or participate in a sexual activity as defined in Section 16-15-

375(5) or a violent crime as defined in Section 16-1-60, or with the intent to perform a sexual activity in the presence of the person under the age of eighteen, or person reasonably believed to be under the age of eighteen.

(B) Consent is a defense to a prosecution pursuant to this section if the person under the age of eighteen, or the person reasonably believed to be under the age of eighteen, is at least sixteen years old.

(C) Consent is not a defense to a prosecution pursuant to this section if the person under the age of eighteen, or the person reasonably believed to be under the age of eighteen, is under the age of sixteen.

(D) It is not a defense to a prosecution pursuant to this section, on the basis of consent or otherwise, that the person reasonably believed to be under the age of eighteen is a law enforcement agent or officer acting in an official capacity.

(E) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than ten years, or both.

## **SOUTH DAKOTA**

### **S.D. Codified Laws § 22-24A-4. Solicitation of minor – Definitions.**

Terms used in § 22-22-24.5 mean:

- (1) "Minor," a person fifteen years of age or younger; and
- (2) "Solicit," to seduce, lure, entice or persuade, or attempt to seduce, lure, entice or persuade a specific person by telephone, in person, by letter, by using a computer or any other electronic means.

### **S.D. Codified Laws § 22-24A-5. Solicitation of minor -- Consent or mistake not a defense -- Penalty**

A person is guilty of solicitation of a minor if the person eighteen years of age or older:

- (1) Solicits a minor, or someone the person reasonably believes is a minor, to engage in a prohibited sexual act; or
- (2) Knowingly compiles or transmits by means of a computer; or prints, publishes or reproduces by other computerized means; or buys, sells, receives, exchanges or disseminates, any notice, statement or advertisement of any minor's name, telephone number, place of residence, physical characteristics or other descriptive or identifying information for the purpose of soliciting a minor or someone the person reasonably believes is a minor to engage in a prohibited sexual act.

The fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense under this section does not constitute a defense to a prosecution under this section.

Consent to performing a prohibited sexual act 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 is a Class 5 felony.

The court shall order an assessment pursuant to § 22-22-1.3 of any person convicted of violating this section.

## **TENNESSEE**

### **Tenn. Code Ann. § 39-13-528. Offense of solicitation of a minor.**

(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 services, directly or through another, to intentionally command, request, hire, persuade, invite or attempt to induce a person whom the person making the solicitation knows, or should know, is less than eighteen (18) years of age, or solicits a law enforcement officer posing as a minor, and whom the person making the solicitation reasonably believes to be less than eighteen (18) years of age, to engage in conduct that, if completed, would constitute a violation by the soliciting adult of one (1) or more of the following offenses:

- (1) Rape of a child, pursuant to § 39-13-522;
- (2) Aggravated rape, pursuant to § 39-13-502;
- (3) Rape, pursuant to § 39-13-503;
- (4) Aggravated sexual battery, pursuant to § 39-13-504;
- (5) Sexual battery by an authority figure, pursuant to § 39-13-527;
- (6) Sexual battery, pursuant to § 39-13-505;
- (7) Statutory rape, pursuant to § 39-13-506;
- (8) Especially aggravated sexual exploitation of a minor, pursuant to § 39-17-1005; or
- (9) Sexual activity involving a minor, pursuant to § 39-13-529.

(b) It is no defense that the solicitation was unsuccessful, that the conduct solicited was not engaged in, or that the law enforcement officer could not engage in the solicited offense. It is no defense that the minor solicited was unaware of the criminal nature of the conduct solicited.

(c) A violation of this section shall constitute an offense one (1) classification lower than the most serious crime solicited, unless the offense solicited was a Class E felony, in which case the offense shall be a Class A misdemeanor.

(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 such person solicited the conduct of a minor located in this state, or solicited a law enforcement officer posing as a minor located within this state.

## **TEXAS**

### **Tex. Penal Code § 33.021. Online Solicitation of a Minor.**

(a) In this section:

(1) "Minor" means:

(A) an individual who represents himself or herself to be younger than 17 years of age; or

(B) an individual whom the actor believes to be younger than 17 years of age.

(2) "Sexual contact," "sexual intercourse," and "deviate sexual intercourse" have the meanings assigned by Section 21.01.

(3) "Sexually explicit" means any communication, language, or material, including a photographic or video image, that relates to or describes sexual conduct, as defined by Section 43.25.

(b) A person who is 17 years of age or older commits an offense if, with the intent to arouse or gratify the sexual desire of any person, the person, over the Internet, by electronic mail or text message or other electronic message service or system, or through a commercial online service, intentionally:

(1) communicates in a sexually explicit manner with a minor; or

(2) distributes sexually explicit material to a minor.

(c) A person commits an offense if the person, over the Internet, by electronic mail or text message or other electronic message service or system, or through a commercial online service, knowingly solicits a minor to meet another person, including the actor, with the intent that the minor will engage in sexual contact, sexual intercourse, or deviate sexual intercourse with the actor or another person.

(d) It is not a defense to prosecution under Subsection (c) that:

(1) the meeting did not occur;

(2) the actor did not intend for the meeting to occur; or

(3) the actor was engaged in a fantasy at the time of commission of the offense.

(e) It is a defense to prosecution under this section that at the time conduct described by Subsection (b) or (c) was committed:

(1) the actor was married to the minor; or

(2) the actor was not more than three years older than the minor and the minor consented to the conduct.

(f) An offense under Subsection (b) is a felony of the third degree, except that the offense is a felony of the second degree if the minor is younger than 14 years of age or is an individual whom the actor believes to be younger than 14 years of age at the time of the commission of the offense. An offense under Subsection (c) is a felony of the second degree.

(g) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

**UTAH**

**Utah Code Ann. § 76-4-401 Enticing a minor over the Internet -- Elements -- Penalties**

(1) (a) A person commits enticement of a minor over the Internet when the person knowingly uses a computer to solicit, seduce, lure, or entice, or attempts to use a computer to solicit, seduce, lure, or entice a minor or a person the defendant 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 over the Internet when the person knowingly uses a computer to initiate contact with a minor or a person the defendant believes to be a minor and subsequently, 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 defendant believes to be the minor to engage in any sexual activity which is a violation of state criminal law.

(2) It is not a defense to the crime of enticing a minor under Subsection (1), 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.

(3) An enticement of a minor under Subsection (1) with the intent to commit:

(a) a first degree felony is a:

(i) second degree felony upon the first conviction for violation of this Subsection

(3)(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 (3)(a);

(b) a second degree felony is a third degree felony;

(c) a third degree felony is a class A misdemeanor;

(d) a class A misdemeanor is a class B misdemeanor; and

(e) a class B misdemeanor is a class C misdemeanor.

(4) (a) When a person who commits a felony violation of this section has been previously convicted of an offense under Subsection (4)(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 (4)(a) are:

(i) Section 76-4-401, enticing a minor over the Internet;

(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 (4)(b)(i) through (xi); or
- (xiii) the attempt to commit any of the offenses in Subsections (4)(b)(i) through (xii).

## **VERMONT**

### **Vt. Stat. Ann. tit. 13 § 2828. Luring a child.**

- (a) No person shall knowingly solicit, lure, or entice, or to attempt to solicit, lure, or entice, a child under the age of 16 or another person believed by the person to be a child under the age of 16, to engage in a sexual act as defined in section 3251 of this title or engage in lewd and lascivious conduct as defined in section 2602 of this title.
- (b) This section applies to solicitation, luring, or enticement by any means, including in person, through written or telephonic correspondence or electronic communication.
- (c) This section shall not apply if the person is less than 19 years old, the child is at least 15 years old, and the conduct is consensual.

## **VIRGINIA**

### **Va. Code Ann. § 18.2-374.3. Use of communications systems to facilitate certain offenses involving children.**

- A. As used in subsections C, D, and E "use a communications system" means making personal contact or direct contact through any agent or agency, any print medium, the United States mail, any common carrier or communication common carrier, any electronic communications system, the Internet, or any telecommunications, wire, computer network, or radio communications system.
- B. It shall be unlawful for any person to use a communications system, including but not limited to computers or computer networks or bulletin boards, or any other electronic means for the purposes of procuring or promoting the use of a minor for any activity in violation of § 18.2-370 or § 18.2-374.1. A violation of this subsection is a Class 6 felony.
- C. It shall be unlawful for any person 18 years of age or older to use a communications system, including but not limited to computers or computer networks or bulletin boards, or any other electronic means, for the purposes of soliciting, with lascivious intent, any person he knows or has reason to believe is a child less than 15 years of age to knowingly and intentionally:
  - 1. Expose his sexual or genital parts to any child to whom he is not legally married or propose that any such child expose his sexual or genital parts to such person;

2. Propose that any such child feel or fondle 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;

3. Propose to such child the performance of an act of sexual intercourse or any act constituting an offense under § 18.2-361; or

4. Entice, allure, persuade, or invite any such child to enter any vehicle, room, house, or other place, for any purposes set forth in the preceding subdivisions.

Any person who violates this subsection is guilty of a Class 5 felony. However, if the person is at least seven years older than the child he knows or has reason to believe is less than 15 years of age, 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 mandatory minimum term of imprisonment. Any person who commits a second or subsequent violation of this subsection when the person is at least seven years older than the child he knows or has reason to believe is less than 15 years of age shall be punished by a term of imprisonment of not less than 10 years nor more than 40 years, 10 years of which shall be a mandatory minimum term of imprisonment.

D. Any person who uses a communications system, including but not limited to computers or computer networks or bulletin boards, or any other electronic means, for the purposes of soliciting, with lascivious intent, any child he knows or has reason to believe is at least 15 years of age but less than 18 years of age to knowingly and intentionally commit any of the activities listed in subsection C if the person is at least seven years older than the child is guilty of a Class 5 felony. Any person who commits a second or subsequent violation of this subsection shall be punished by a term of imprisonment of not less than one nor more than 20 years, one year of which shall be a mandatory minimum term of imprisonment.

E. Any person 18 years of age or older who uses a communications system, including but not limited to computers or computer networks or bulletin boards, or any other electronic means, for the purposes of soliciting any person he knows or has reason to believe is a child less than 18 years of age for (i) any activity in violation of § 18.2-355 or 18.2-361, (ii) any activity in violation of § 18.2-374.1, or (iii) a violation of § 18.2-374.1:1 is guilty of a Class 5 felony.

## WASHINGTON

### **Rev. Code Wash. (ARCW) § 9.68A.090. Communication with minor for immoral purposes – Penalties.**

(1) Except as provided in subsection (2) of this section, a person who communicates with a minor for immoral purposes, or a person who communicates with someone the person believes to be a minor for immoral purposes, is guilty of a gross misdemeanor.

(2) A person who communicates with a minor for immoral purposes is guilty of a class C felony punishable according to chapter 9A.20 RCW if the person has previously been

convicted under this section or of a felony sexual offense under chapter 9.68A, 9A.44, or 9A.64 RCW or of any other felony sexual offense in this or any other state or if the person communicates with a minor or with someone the person believes to be a minor for immoral purposes through the sending of an electronic communication.

## **WEST VIRGINIA**

### **W. Va. Code § 61-3C-14b. Soliciting, etc. a minor via computer; penalty.**

Any person over the age of eighteen, who knowingly uses a computer to solicit, entice, seduce or lure, or attempt to solicit, entice, seduce or lure, a minor known or believed to be at least four years younger than the person using the computer or a person he or she believes to be such a minor, to commit any illegal act proscribed by the provisions of article eight [ §§ 61-8-1 et seq. ], eight-b [ §§ 61-8B-1 et seq. ], eight-c [ §§ 61-8C-1 et seq. ] or eight-d [ §§ 61-8D-1 et seq. ] of this chapter, or any felony offense under section four hundred one [ § 60A-4-401 ], article four, chapter sixty-a of this code, is guilty of a felony and, upon conviction thereof, shall be fined not more than five thousand dollars or imprisoned in a state correctional facility not less than two nor more than ten years, or both.

## **WISCONSIN**

### **Wis. Stat. Ann. § 948.075. Use of a computer to facilitate a child sex crime.**

(1) Whoever uses a computerized communication system to communicate with an individual who the actor believes or has reason to believe has not attained the age of 16 years with intent to have sexual contact or sexual intercourse with the individual in violation of s. 948.02 (1) or (2) is guilty of a Class C felony.

(2) This section does not apply if, at the time of the communication, the actor reasonably believed that the age of the person to whom the communication was sent was no more than 24 months less than the age of the actor.

(3) Proof that the actor did an act, other than use a computerized communication system to communicate with the individual, to effect the actors intent under sub. (1) shall be necessary to prove that intent.

## **WYOMING**

### **Wyo. Stat. § 6-2-318. Soliciting to engage in illicit sexual relations; penalty.**

Except under circumstance constituting sexual assault in the first, second or third degree as defined by W.S. 6-2-302 through 6-2-304, or sexual abuse of a minor in the first, second, third or fourth degree as defined by W.S. 6-2-314 through 6-2-317, anyone who has reached the age of majority and who solicits, procures or knowingly encourages anyone less than the age of fourteen (14) years, or a person purported to be less than the age of fourteen (14) years, to engage in sexual intrusion as defined in W.S. 6-2-301 is guilty of a felony, and upon conviction shall be imprisoned for a term of not more than five (5) years.