

HOUSE BILL NO. 82

INTRODUCED BY J. PARKER, AUGARE, BERGREN, CAMPBELL, COHENOUR, CORDIER, EBINGER,
FRENCH, GALLIK, HANDS, HENRY, HOLLENBAUGH, JACOBSON, KOOPMAN, KOTTEL, MCALPIN,
MCGILLVRAY, NOONAN, O'HARA, RICE, STOKER, VILLA, WARD, WILSON, WINDY BOY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE ELEMENTS OF THE CRIME OF POSSESSION OF
CHILD PORNOGRAPHY; AND AMENDING SECTION 45-5-625, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-5-625, MCA, is amended to read:

"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 ~~as defined in 45-8-213~~, 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, ~~as defined in 45-8-213~~; 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, ~~as defined in 45-8-213~~; in which a child:

(i) is engaged in sexual conduct, actual or simulated; or

(ii) is depicted 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;

(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, ~~as defined in 45-8-213~~, in which a child is engaged in sexual conduct, actual or simulated.

(2) (a) 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 sex offender information or treatment course or program conducted or approved by the department of corrections.

(4) AS USED IN THIS SECTION, "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."

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