

Current Through December 31, 1999

Child Abuse and Neglect State Statutes Elements

Crimes

Number 30
Child Pornography

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Administration for Children and Families
Administration on Children, Youth and Families
Children's Bureau

NATIONAL CLEARINGHOUSE ON CHILD ABUSE AND NEGLECT INFORMATION
330 C Street, SW • Washington, DC 20447 • (703) 385-7565
Outside Metropolitan Area: (800) FYI-3366
<http://www.calib.com/nccanch>

NATIONAL CENTER FOR PROSECUTION OF CHILD ABUSE
99 Canal Center Plaza, Suite 510 • Alexandria, VA 22314 • (703) 739-0321
<http://www.ndaa-apri.org>

Child Pornography

While the elements and wording of child pornography statutes vary greatly among the states, the essence of such statutes is a prohibition of a visual depiction by any medium of a child engaging in sexually explicit conduct. Child pornography is prohibited throughout the United States and criminal statutes address the following additional issues:

- inducing or persuading a minor to be the subject of child pornography
- using a minor in the production of child pornography
- possessing child pornography
- distributing or selling child pornography
- transmitting child pornography.

Modern statutes address possession and transmission of child pornography by both print and electronic means.

Child Abuse Crimes: Child Pornography (Current through December 31, 1999)

Alabama	Ala. Code § 13A-12-191 et seq. (Michie 1994 & Supp. 1999)
Alaska	Alaska Stat. § 11.41.455 (Michie 1996) Alaska Stat. § 11.61.125 (Michie Supp. 1998) Alaska Stat. § 11.61.127 (Michie Supp. 1998)
Arizona	Ariz. Rev. Stat. Ann. § 13-3508 (West Supp. 1999) Ariz. Rev. Stat. Ann. § 13-3552 et seq. (West Supp. 1999)
Arkansas	Ark. Code Ann. § 5-27-303 et seq. (Michie 1997) Ark. Code Ann. § 5-27-402 et seq. (Michie 1997)
California	Cal. Penal Code § 311.2 et seq. (West Supp. 1999)
Colorado	Colo. Rev. Stat. § 18-6-403 (1998) Colo. Rev. Stat. § 18-6-404 (1998)
Connecticut	Conn. Gen. Stat. Ann. § 53a-193 (West 1994) Conn. Gen. Stat. Ann. § 53a-196a et seq. (West 1994)
Delaware	Del. Code Ann. tit. 11, § 1108 et seq. (1995 & Supp. 1998)
District of Columbia	D.C. Code Ann. § 22-2011 et seq. (1996)
Florida	Fla. Stat. Ann. ch. 827.071 (Harrison Supp. 2000) Fla. Stat. Ann. ch. 847.0135 (Harrison Supp. 2000)
Georgia	Ga. Code Ann. § 16-12-100 (1999)

Hawaii	Haw. Rev. Stat. Ann. § 707-750 (Michie 1999) Haw. Rev. Stat. Ann. § 707-751 (Michie 1999) Haw. Rev. Stat. Ann. § 712-1210 (Michie 1999) Haw. Rev. Stat. Ann. § 712-1211 (Michie 1999) Haw. Rev. Stat. Ann. § 712-1215 (Michie 1999)
Idaho	Idaho Code § 18-1506 et seq. (1997)
Illinois	720 Ill. Comp. Stat. Ann. § 5/11-20.1 (West Supp. 1998)
Indiana	Ind. Code § 35-42-4-4 (Michie 1998)
Iowa	Iowa Code § 728.12 (West 1993 & Supp. 1998)
Kansas	Kan. Stat. Ann. § 21-3516 (Supp. 1998)
Kentucky	Ky. Rev. Stat. Ann. § 531.300 et seq. (Banks-Baldwin 1995)
Louisiana	La. Rev. Stat. Ann. § 14:81.1 (West Supp. 2000)
Maine	Me. Rev. Stat. Ann. tit. 17, § 2921 et seq. (West 1983 & Supp. 1999)
Maryland	Md. Ann. Code art. 27, § 419A (1996) Md. Ann. Code art. 27, § 419B (1996)
Massachusetts	Mass. Gen. Laws Ann. ch. 272, § 29A et seq. (West 1992) Mass. Gen. Laws Ann. ch. 272, § 29C (West Supp. 1998)
Michigan	Mich. Stat. Ann. § 28.342a (Lexis Supp. 1998)
Minnesota	Minn. Stat. Ann. § 617.246 et seq. (West Supp. 2000)
Mississippi	Miss. Code Ann. § 97-5-31 et seq. (Supp. 1998)
Missouri	Mo. Rev. Stat. § 568.060 et seq. (1999)
Montana	Mont. Code Ann. § 45-5-625 (1999)
Nebraska	Neb. Rev. Stat. § 28-813.01 (1995) Neb. Rev. Stat. § 28-1463.02 (1995)
Nevada	Nev. Rev. Stat. Ann. § 200.710 et seq. (1997)
New Hampshire	N.H. Rev. Stat. Ann. § 649-A:2 (1996) N.H. Rev. Stat. Ann. § 649-A:3 (Supp. 1999)
New Jersey	N.J. Stat. Ann. § 2C:24-4(b) (West Supp. 1999)
New Mexico	N.M. Stat. Ann. § 30-6A-3 et seq. (Michie 1994)
New York	N.Y. Penal Law § 263.00 et seq. (McKinney 2000)

North Carolina	N.C. Gen. Stat. § 14-190.16 et seq. (1999)
North Dakota	N.D. Cent. Code § 12.1-27.2-02 et seq. (1997)
Ohio	Ohio Rev. Code Ann. § 2907.32.1 et seq. (Anderson 1999)
Oklahoma	Okla. Stat. Ann. tit. 21, § 1021 et seq. (West Supp. 2000)
Oregon	Or. Rev. Stat. § 163.670 et seq. (Supp. 1998)
Pennsylvania	18 Pa. Cons. Stat. Ann. § 6312 (Supp. 2000)
Rhode Island	R.I. Gen. Laws § 11-9-1 et seq. (1994 and Supp. 1999)
South Carolina	S.C. Code Ann. § 16-15-335 (West Supp. 1999)
South Dakota	S.D. Codified Laws § 22-22-22 et seq. (Michie 1998 & Supp. 2000)
Tennessee	Tenn. Code Ann. § 39-17-1002 et seq. (1997)
Texas	Tex. Penal Code Ann. § 43.25 et seq. (West 1994 & Supp. 2000)
Utah	Utah Code Ann. § 76-5a-2 et seq. (Supp. 1999)
Vermont	Vt. Stat. Ann. tit. 13, § 2821 et seq. (1998)
Virginia	Va. Code Ann. § 18.2-370 et seq. (Michie 1996 & Supp. 1997 & Supp. 2000)
Washington	Wash. Rev. Code Ann. § 9.68A.011 et seq. (West 1998)
West Virginia	W. Va. Code § 61-8C-1 et seq. (1997) W. Va. Code § 61-8D-6 (1997)
Wisconsin	Wis. Stat. Ann. § 948.05 (West 1996) Wis. Stat. Ann. § 948.12 (West 1996)
Wyoming	Wyo. Stat. Ann. § 6-4-303 (Supp. 1999)

FEDERAL LEGISLATION

U.S. Code	18 U.S.C.A. § 2251 (West Supp. 2000) 18 U.S.C.A. § 2252 (West Supp. 2000) 18 U.S.C.A. § 2252A (West Supp. 2000) 18 U.S.C.A. § 2256 (West Supp. 2000)
-----------	---

Child Abuse Crimes: Child Pornography
(Current through December 31, 1999)

ALABAMA**Ala. Code § 13A-12-191 (Michie 1994 & Supp. 1999)**

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

Ala. Code § 13A-12-192 (Michie 1994 & Supp. 1999)

Any person who knowingly possesses with intent to disseminate any obscene matter containing a visual reproduction of a person under the age of 17 years engaged in any act of sadomasochistic abuse, sexual intercourse, sexual excitement, masturbation, breast nudity, genital nudity, or other sexual conduct shall be guilty of a class B felony. Possession of three or more copies of the same obscene material is prima facie evidence of possession with intent to disseminate the same.

Any person who knowingly possesses any obscene matter containing a visual reproduction of a person under the age of 17 years engaged in any act of sadomasochistic abuse, sexual intercourse, sexual excitement, masturbation, genital nudity, or other sexual conduct shall be guilty of a class C felony.

Ala. Code § 13A-12-196 (Michie 1994 & Supp. 1999)

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

Ala. Code § 13A-12-197 (Michie 1994 & Supp. 1999)

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

ALASKA**Alaska Stat. § 11.41.455 (Michie 1996)**

A person commits the crime of unlawful exploitation of a minor if, in the state and with the intent of producing a live performance, film, audio recording, photograph, negative, slide, book, newspaper, magazine, or other printed material that visually depicts the conduct listed below, the person knowingly induces or employs a child under 18 years of age to engage in, or photographs, films, records, or televises a child under 18 years of age engaged in, the following actual or simulated conduct: sexual penetration; the

lewd touching of another person's genitals, anus, or breast; the lewd touching by another person of the child's genitals, anus, or breast; masturbation; bestiality; the lewd exhibition of the child's genitals; or sexual masochism or sadism.

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

Unlawful exploitation of a minor is a class B felony.

Alaska Stat. § 11.61.125 (Michie Supp. 1998)

A person commits the crime of distribution of child pornography if the person brings or causes to be brought into the state for distribution, or in the state distributes, or in the state possesses, prepares, publishes, or prints with intent to distribute, any material that visually or aurally depicts conduct described in section 11.41.455, knowing that the production of the material involved the use of a child under 18 years of age who engaged in the conduct. This section does not apply to acts that are an integral part of the exhibition or performance of a motion picture if the acts are performed within the scope of employment by a motion picture operator or projectionist employed by the owner or manager of a theater or other place for the showing of motion pictures, unless the motion picture operator or projectionist: (a) has a financial interest in the theater or place in which employed; or (b) causes the performance or motion picture to be performed or exhibited without the consent of the manager or owner of the theater or other place of showing.

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

Distribution of child pornography is a class B felony.

Alaska Stat. § 11.61.127 (Michie Supp. 1998)

A person commits the crime of possession of child pornography if the person knowingly possesses any material that visually or aurally depicts conduct described in 11.41.455(a) knowing that the production of the material involved the use of a child under 18 years of age who engaged in the conduct.

This section does not apply to persons providing plethysmograph assessments in the course of a sex offender treatment program that meets the minimum statutory standards.

Each film, audio, video, electronic, or electromagnetic recording, photograph, negative, slide, book, newspaper, magazine, or other material that visually or aurally depicts conduct described in 11.41.455(a) that is possessed by a person knowing that the production of the material involved the use of a child under 18 years of age that engaged in the conduct is a separate violation of this section.

Possession of child pornography is a class C felony.

ARIZONA**Ariz. Rev. Stat. Ann. § 13-3508 (West supp. 1999)**

It is unlawful for any person knowingly to film, photograph, develop, distribute, exhibit, electronically transmit, transport or sell any film, photograph, slide or motion picture, or the negatives thereof, or any compact or laser disc, computer diskette or computer tape, in which minors are engaged in sexual conduct which is obscene or other acts harmful to minors. A violation this section is a class 3 felony.

Ariz. Rev. Stat. Ann. § 13-3552 (West supp. 1999)

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

- Using, employing, persuading, enticing, inducing or coercing a minor to engage in or assist others to engage in exploitive exhibition or other sexual conduct for the purpose of producing any visual depiction or live act depicting such conduct.
- Using, employing, persuading, enticing, inducing or coercing a minor to expose the genitals or anus or the areola or nipple of the female breast for financial or commercial gain.
- Permitting a minor under such person's custody or control to engage in or assist others to engage in exploitive exhibition or other sexual conduct for the purpose of producing any visual depiction or live act depicting such conduct.
- Transporting or financing the transportation of any minor through or across this state with the intent that such minor engage in prostitution, exploitive exhibition, or other or sexual conduct for the purpose of producing a visual depiction or live act depicting such conduct.

Ariz. Rev. Stat. Ann. § 13-3553 (West Supp. 1999)

A person commits sexual exploitation of a minor by knowingly: recording, filming, photographing, developing or duplicating any visual depiction in which minors are engaged in exploitive exhibition or other sexual conduct; or distributing, transporting, exhibiting, receiving, selling, purchasing, possessing or exchanging any visual depiction in which minors are engaged in exploitive exhibition or other sexual conduct.

Ariz. Rev. Stat. Ann. § 13-3554 (West Supp. 1999)

It is unlawful for any person depicted in a visual depiction or live act as a participant in any exploitive exhibition or sexual conduct to masquerade as a minor. It is unlawful for any person knowingly to produce, record, film, photograph, develop, duplicate, distribute, transport, exhibit, electronically transmit, sell, purchase or exchange any visual or print medium whose text, title or visual representation depicts a participant in any exploitative exhibition sexual conduct as a minor even though any such participant is an adult.

In a prosecution relating to the sexual exploitation of children, the trier of fact may draw the inference that a participate is a minor if the visual depiction or live act through its title, text or visual representation depicts the participant as a minor.

ARKANSAS**Ark. Code Ann. § 5-27-303 (Michie 1997)**

Any person who employs, uses, persuades, induces, entices, or coerces any child to engage in, or who has a child assist any other person to engage in, any sexually explicit conduct for the purpose of producing any visual or print medium depicting such conduct shall be guilty of a class C felony for the first offense and a class B felony of subsequent offenses. Any parent, legal guardian, or person having custody or control of a child who knowingly permits such child to engage in, or to assist any other person to engage in sexually explicit conduct for the purpose of producing any visual or print medium depicting such conduct shall be guilty of a class C felony for the first offense and a class B felony for subsequent offenses.

Ark. Code Ann. § 5-27-402 (Michie 1997)

It is unlawful for any person if, knowing the character and content thereof, he employs, authorizes, or induces a child under 17 years of age to engage in a sexual performance. It is also unlawful for a parent or legal guardian or custodian of a child younger than 17 years of age to consent to the participation by the child in a sexual performance. Any person violating this section is guilty of a class C felony.

Ark. Code Ann. § 5-27-403 (Michie 1997)

It is unlawful for any person if, knowing the character and content of the material, he produces, directs, or promotes a performance that includes sexual conduct by a child younger than 17 years of age. Any person violating this section is guilty of a class B felony.

CALIFORNIA**Cal. Penal Code § 311.2 (West Supp. 1999)**

Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, produces, duplicates, or prints, with intent to distribute or to exhibit to, or to exchange with, others for commercial consideration, or who offers to distribute, distributes, or exhibits to, or exchanges with, others for commercial consideration, any obscene matter, knowing that the matter depicts a person under the age of 18 years personally engaging in or personally simulating sexual conduct is guilty of a felony.

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

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

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

Cal. Penal Code § 311.3 (West Supp. 1999)

A person is guilty of sexual exploitation of a child when he or she knowingly develops, duplicates, prints, or exchanges any representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film or filmstrip that depicts a person under the age of 18 years engaged in an act of sexual conduct. This subdivision does not apply to matter that is unsolicited and is received without knowledge or consent through a facility, system, or network over which the person or entity has no control.

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

Every person who violates this subdivision shall be punished by a fine of not more than \$2,000 or by imprisonment in the county jail for not more than one year, or by both that fine and imprisonment.

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

Cal. Penal Code § 311.4 (West Supp. 1999)

Every person who, with knowledge that a person is a minor, or who, while in possession of any facts on the basis of which he or she should reasonably know that the person is a minor, hires, employs, or uses the minor to do or assist in doing any of the acts described in section 311.2, is, for a first offense, guilty of a misdemeanor.

Every person who, with knowledge that a person is a minor under the age of 18 years, or who, while in possession of any facts on the basis of which he or she should reasonably know that the person is a minor under the age of 18 years, knowingly promotes, employs, uses, persuades, induces, or coerces a minor under the age of 18 years, or any parent or guardian of a minor under the age of 18 years under his or her control who knowingly permits the minor, to engage in or assist others to engage in either posing or modeling alone or with others for purposes of preparing any representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser

disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film or filmstrip, or a live performance involving sexual conduct by a minor under the age of 18 years alone or with other persons or animals, for commercial purposes, is guilty of a felony.

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

This section shall not apply where the minor is legally emancipated, including lawful conduct between spouses when one or both are under the age of 18.

Cal. Penal Code § 311.10 (West 1999)

Any person who advertises for sale or distribution any obscene matter knowing that it depicts a person under the age of 18 years personally engaging in or personally simulating sexual conduct is guilty of a felony and is punishable by imprisonment in the state prison for two, three, or four years, or in a county jail not exceeding one year, or by a fine not exceeding \$50,000, or by both such fine and imprisonment. This subdivision shall not apply to the activities of law enforcement and prosecution agencies in the investigation and prosecution of criminal offenses.

Cal. Penal Code § 311.11 (West Supp. 1999)

Every person who knowingly possesses or controls any matter, representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film or filmstrip, the production of which involves the use of a person under the age of 18 years, knowing that the matter depicts a person under the age of 18 years personally engaging in or simulating sexual conduct is guilty of a public offense and shall be punished by imprisonment in the county jail for up to one year, or by a fine not exceeding \$2,500, or by both the fine and imprisonment.

If a person has been previously convicted of a violation of this section, he or she is guilty of a felony.

It is not necessary to prove that the matter is obscene in order to establish a violation of this section.

This section does not apply to drawings, figurines, statues, or any film rated by the Motion Picture Association of America, nor does it apply to live or recorded telephone messages when transmitted, disseminated, or distributed as part of a commercial transaction.

COLORADO**Colo. Rev. Stat. § 18-6-403 (1998)**

Child means a person who is less than 18 years of age.

A person commits sexual exploitation of a child if, for any purpose, he or she knowingly: causes, induces, entices, or permits a child to engage in, or be used for, any explicit sexual conduct for any commercial purpose or the making of any sexually exploitative material; or prepares, arranges for, publishes, including but not limited to publishing through digital or electronic means, produces, promotes, makes, sells, finances, offers, exhibits, advertises, deals in, or distributes, including but not limited to distributing through digital or electronic means, any sexually exploitative material; or possesses or controls any sexually exploitative material for any purpose; possesses with the intent to deal in, sell, or distribute, including but not limited to distributing through digital or electronic means, any sexually exploitative material for any commercial purpose; or causes, induces, entices, or permits a child to engage in, or be used for, any explicit sexual conduct for the purpose of producing a performance.

Although the simple possession of any sexually exploitative material is prohibited, a presumption of commercial purpose is created by the possession of three or more identical copies of any sexually exploitative material.

The sexual exploitation of a child is a class 3 felony; except that sexual exploitation of a child by possession of sexually exploitative material is a class 1 misdemeanor, but a second or subsequent offense by such possession is a class 4 felony.

Colo. Rev. Stat. § 18-6-404 (1998)

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

CONNECTICUT**Conn. Gen. Stat. Ann. § 53a-193 (West 1994)**

Minor means any person less than 17 years old as used in section 53a-196 and less than 16 years old as used in sections 53a-196a, 53a-196b and 53a-196c and harmful to minors means that quality of any description or representation, in whatever form, of a prohibited sexual act, when it predominantly appeals to the prurient, shameful or morbid interest of minors, it is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors, and taken as a whole, it lacks serious literary, artistic, educational, political or scientific value for minors.

Conn. Gen. Stat. Ann. § 53a-196a (West 1994)

A person is guilty of employing a minor in an obscene performance when: (a) he employs any minor, whether or not such minor receives any consideration, for the purpose of promoting any material or performance which is obscene as to minors, notwithstanding that such material or performance is intended for an adult audience, or (b) he permits any such minor to be employed, whether or not such minor receives any consideration, in the promotion of any material or performance which is obscene as to minors, notwithstanding that such material or performance is intended for an adult audience, and he is the

parent or guardian of such minor or otherwise responsible for the general supervision of such minor's welfare. Employing a minor in an obscene performance is a class A felony.

Conn. Gen. Stat. Ann. § 53a-196b (West 1994)

A person is guilty of promoting a minor in an obscene performance when he knowingly promotes any material or performance in which a minor is employed, whether or not such minor receives any consideration, and such material or performance is obscene as to minors notwithstanding that such material or performance is intended for an adult audience.

For purposes of this section, knowingly means having general knowledge of or reason to know or a belief or ground for belief which warrants further inspection or inquiry as to the character and content of any material or performance which is reasonably susceptible of examination by such person and the age of the minor employed.

Promoting a minor in an obscene performance is a class B felony.

Conn. Gen. Stat. Ann. § 53a-196c (West 1994)

A person is guilty of importing child pornography when, with intent to promote child pornography, he knowingly imports or causes to be imported into the state any child pornography of known content and character. Importing child pornography is a class C felony.

Importation of two or more copies of any publication containing child pornography shall be prima facie evidence that such publications were imported with intent to promote child pornography.

DELAWARE

Del. Code Ann. tit. 11, § 1108 (1995)

A person is guilty of sexual exploitation of a child when: (a) the person photographs or films a child engaging in a prohibited sexual act or in the simulation of such an act; or (b) the person finances or produces any motion picture which depicts a child engaging in a prohibited sexual act or in the simulation of such an act; or (c) the person publishes a book, magazine, pamphlet or photograph which depicts a child engaging in a prohibited sexual act or in the simulation of such an act; or (d) the person permits, causes, promotes, facilitates, finances, produces or otherwise advances an exhibition, display or performance of a child engaging in a prohibited sexual act or the simulation of such an act. Sexual exploitation of a child is a class B felony.

Del. Code Ann. tit. 11, § 1109 (Supp. 1998)

A person is guilty of dealing in material depicting a child engaging in a prohibited sexual act when: (a) the person knowingly transports, ships or mails within this state any magazine, photograph or film depicting a child engaging in a prohibited sexual act or in the simulation of such an act; or (b) the person knowingly receives for the purpose of selling or sells any magazine, photograph or film which depicts a child engaging in a prohibited sexual act or in the simulation of such an act; or (c) the person knowingly distributes or disseminates, by means of shows or viewings, any motion picture which shows a child engaging in a prohibited sexual act or the simulation of such an act. The possession or showing of such motion pictures shall create a rebuttable presumption of ownership thereof for the purposes of distribution or dissemination; or (d) the person, by means of a computer, intentionally compiles, enters, accesses,

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

Unlawfully dealing in material depicting a child engaging in a prohibited sexual act is a class D felony.

Del. Code Ann. tit. 11, § 1111 (Supp. 1998)

A person is guilty of possession of child pornography by knowingly possessing any visual matter depicting a child engaging in a prohibited sexual act or in the simulation of such an act, or any computerized file or data which contains any image depicting a child engaging in a prohibited sexual act or in the simulation of such act. Possession of child pornography is a class G misdemeanor.

DISTRICT OF COLUMBIA

D.C. Code Ann. § 22-2011 (1996)

Performance means any play, motion picture, photograph, electronic representation, dance, or any other visual presentation or exhibition.

Promote means to procure, manufacture, issue, sell, give, provide, disseminate, present, exhibit, or advertise, or to offer or agree to the same.

D.C. Code Ann. § 22-2012 (1996)

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

A person is guilty of the use of a minor in a sexual performance if knowing the character and content thereof, he or she employs, authorizes, or induces a person under 16 years of age to engage in a sexual performance or being the parent, legal guardian, or custodian of a minor, he or she consents to the participation by a minor in a sexual performance.

A person is guilty of promoting a sexual performance by a minor when, knowing the character and content thereof, he or she produces, directs, or promotes any performance which includes sexual conduct by a person under 16 years of age.

FLORIDA

Fla. Stat. Ann. ch. 827.071 (Harrison Supp. 2000)

Sexual performance means any performance or part thereof which includes sexual conduct by a child of less than 18 years of age.

A person is guilty of the use of a child in a sexual performance if, knowing the character and content thereof, he or she employs, authorizes, or induces a child less than 18 years of age to engage in a sexual performance or, being a parent, legal guardian, or custodian of such child, consents to the participation by such child in a sexual performance. Whoever violates this subsection is guilty of a felony of the second degree.

A person is guilty of promoting a sexual performance by a child when, knowing the character and content thereof, he or she produces, directs, or promotes any performance which includes sexual conduct by a child less than 18 years of age. Whoever violates this subsection is guilty of a felony of the second degree.

It is unlawful for any person to possess with the intent to promote any photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or in part, includes any sexual conduct by a child. The possession of three or more copies of such photograph, motion picture, representation, or presentation is prima facie evidence of an intent to promote. Whoever violates this subsection is guilty of a felony of the second degree.

It is unlawful for any person to knowingly possess a photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or in part, he or she knows to include any sexual conduct by a child. The possession of each such photograph, motion picture, exhibition, show, representation, or presentation is a separate offense. Whoever violates this subsection is guilty of a felony of the third degree.

Fla. Stat. Ann. ch. 847.0135 (Harrison Supp. 2000)

A person who knowingly compiles, enters into, or transmits by means of computer, or makes, prints, publishes, or reproduces by other computerized means, or 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 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.

GEORGIA

Ga. Code Ann. § 16-12-100 (1999)

Minor means any person under the age of 18 years.

It is unlawful for any person knowingly to employ, use, persuade, induce, entice, or coerce any minor to engage in or assist any other person to engage in any sexually explicit conduct for the purpose of producing any visual medium depicting such conduct.

It is unlawful for any parent, legal guardian, or person having custody or control of a minor knowingly to permit the minor to engage in or to assist any other person to engage in sexually explicit conduct for the purpose of producing any visual medium depicting such conduct.

It is unlawful for any person knowingly to employ, use, persuade, induce, entice, or coerce any minor to engage in or assist any other person to engage in any sexually explicit conduct for the purpose of any performance.

It is unlawful for any parent, legal guardian, or person having custody or control of a minor knowingly to permit the minor to engage in or to assist any other person to engage in sexually explicit conduct for the purpose of any performance.

It is unlawful for any person knowingly to create, reproduce, publish, promote, sell, distribute, give, exhibit, or possess with intent to sell or distribute any visual medium which depicts a minor engaged in any sexually explicit conduct.

It is unlawful for any person knowingly to advertise, sell, purchase, barter, or exchange any medium which provides information as to where any visual medium which depicts a minor engaged in any sexually explicit conduct can be found or purchased.

It is unlawful for any person knowingly to bring or cause to be brought into this state any material which depicts a minor engaged in any sexually explicit conduct.

Any person who violates the provisions above shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than five years nor more than 20 years and by a fine of not more than \$100,000.

It is unlawful for any person knowingly to possess or control any material which depicts a minor engaged in any sexually explicit conduct. Any person who violates this subsection shall be guilty of a misdemeanor.

HAWAII

Haw. Rev. Stat. Ann. § 707-750 (Michie 1999)

A person commits the offense of promoting child abuse in the first degree if, knowing or having reason to know its character and content, the person produces, directs, or participates in the preparation of pornographic material or engages in a pornographic performance that employs, uses, or otherwise contains a minor engaging in or assisting others to engage in sexual conduct. Promoting child abuse in the first degree is a class A felony.

Haw. Rev. Stat. Ann. § 707-751 (Michie 1999)

A person commits the offense of promoting child abuse in the second degree if, knowing or having reason to know its character and content, the person possesses or disseminates any pornographic material which employs, uses, or otherwise contains a minor engaging in or assisting others to engage in sexual conduct. Promoting child abuse in the second degree is a class C felony.

Haw. Rev. Stat. Ann. § 712-1210 (Michie 1999)

Minor means any person less than 16 years old.

Any material or performance is pornographic for minors if: it is primarily devoted to explicit and detailed narrative accounts of sexual excitement, sexual conduct, or sadomasochistic abuse; and: it is presented in such a manner that the average person applying contemporary community standards, would find that, taken as a whole, it appeals to a minor's prurient interest; and taken as a whole, it lacks serious literary, artistic, political, or scientific value; or it contains any photograph, drawing, or similar visual representation of any person of the age of puberty or older revealing such person with less than a fully opaque covering of his or her genitals and pubic area, or depicting such person in a state of sexual excitement or engaged in

acts of sexual conduct or sadomasochistic abuse; and: it is presented in such a manner that the average person, applying contemporary community standards, would find that, taken as a whole, it appeals to a minor's prurient interest; and taken as a whole, it lacks serious literary, artistic, political, or scientific value.

Haw. Rev. Stat. Ann. § 712-1211 (Michie 1999)

A person commits the offense of displaying indecent matter if the person knowingly or recklessly displays on any sign, billboard, or other object visible from any street, highway, or public sidewalk, a photograph, drawing, sculpture, or similar visual representation of any person of the age of puberty or older: (a) which reveals the person with less than a fully opaque covering over his or her genitals, pubic area, or buttocks, or depicting the person in a state of sexual excitement or engaged in an act of sexual conduct or sadomasochistic abuse; and (b) which is presented in such a manner as to exploit lust; and (c) which lacks serious literary, artistic, political, or scientific value.

Displaying indecent material is a petty misdemeanor.

Haw. Rev. Stat. Ann. § 712-1215 (Michie 1999)

A person commits the offense of promoting pornography for minors if, knowing its character and content, the person disseminates to a minor material which is pornographic for minors; or knowing the character and content of a motion picture film or other performance which, in whole or in part, is pornographic for minors, the person exhibits such motion picture film or other performance to a minor; or sells to a minor an admission ticket or pass to premises where there is exhibited or to be exhibited such motion picture film or other performance; or admits a minor to premises where there is exhibited or to be exhibited such motion picture film or other performance.

IDAHO

Idaho Code § 18-1506 (1997)

It is a felony for any person 18 years of age or older, with the intent to gratify the lust, passions, or sexual desire of the actor, minor child or third party, to make any photographic or electronic recording of such minor child. Any person guilty of a violation of the provisions of this section shall be imprisoned in the state prison for a period not to exceed 15 years.

Idaho Code § 18-1507 (1997)

Child means a person who is less than 18 years of age.

A person commits sexual exploitation of a child if, for any commercial purpose, he knowingly causes, induces, or permits a child to engage in, or be used for, any explicit sexual conduct; or prepares, arranges for, publishes, produces, promotes, makes, sells, finances, offers, exhibits, advertises, deals in, possesses, or distributes any sexually exploitative material.

The possession by any person of three or more identical copies of any sexually exploitative material shall create a presumption that such possession is for a commercial purpose.

The sexual exploitation of a child is a felony, and shall be punished by imprisonment in the state prison for a period not to exceed 15 years and by a fine not to exceed \$25,000 or by both such fine and imprisonment.

Idaho Code § 18-1507A (1997)

Every person who knowingly and willfully has in his possession any sexually exploitative material for other than a commercial purpose, is guilty of a felony, and shall be punished by imprisonment in the state prison for a period not to exceed five years and by a fine not to exceed \$5,000.

Idaho Code § 18-1508A (1997)

It is a felony for any person at least five years of age older than a minor child who is 16 or 17 years of age, who, with the intent of arousing, appealing to or gratifying the lust, passion, or sexual desires of such person, minor child, or third party, to make any photographic or electronic recording of such minor child. Any person guilty of a violation of the provisions of this subsection shall be imprisoned in the state prison for a period not to exceed 15 years.

ILLINOIS**720 Ill. Comp. Stat. Ann. § 5/11-20.1 (West Supp. 1999)**

A person commits the offense of child pornography who:

- Films, videotapes, photographs, or otherwise depicts or portrays by means of any similar visual medium or reproduction or depicts by computer any child whom he knows or reasonably should know to be under the age of 18 or where such child is: (a) actually or by simulation engaged in any act of sexual intercourse with any person or animal; or (b) actually or by simulation engaged in any act of sexual contact involving the sex organs of the child and the mouth, anus, or sex organs of another person or animal; or which involves the mouth, anus or sex organs of the child and the sex organs of another person or animal; or (c) actually or by simulation engaged in any act of masturbation; or (d) actually or by simulation portrayed as being the object of, or otherwise engaged in, any act of lewd fondling, touching, or caressing involving another person or animal; or (e) actually or by simulation engaged in any act of excretion or urination within a sexual context; or (f) actually or by simulation portrayed or depicted as bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in any sexual context; or (g) depicted or portrayed in any pose, posture or setting involving a lewd exhibition of the unclothed genitals, pubic area, buttocks, or, if such person is female, a fully or partially developed breast of the child or other person; or
- With the knowledge of the nature or content thereof, reproduces, disseminates, offers to disseminate, exhibits or possesses with intent to disseminate any film, videotape, photograph or other similar visual reproduction or depiction by computer of any child whom the person knows or reasonably should know to be under the age of 18, engaged in any activity described above; or
- With knowledge of the subject matter or theme thereof, produces any stage play, live performance, film, videotape or other similar visual portrayal or depiction by computer which includes a child whom the person knows or reasonably should know to be under the age of 18 engaged in any activity described above; or
- Solicits, uses, persuades, induces, entices, or coerces any child whom he knows or reasonably should know to be under the age of 18 to appear in any stage play, live presentation, film, videotape, photograph or other similar visual reproduction or depiction by computer in which the child is or will be depicted, actually or by simulation, in any act, pose or setting described above; or

- Is a parent, step-parent, legal guardian or other person having care or custody of a child whom the person knows or reasonably should know to be under the age of 18 and who knowingly permits, induces, promotes, or arranges for such child to appear in any stage play, live performance, film, videotape, photograph or other similar visual presentation, portrayal or simulation or depiction by computer of any act or activity described above with knowledge of the nature or content thereof, possesses any film, videotape, photograph or other similar visual reproduction or depiction by computer of any child whom the person knows or reasonably should know to be under the age of 18 engaged in any activity described above; or
- With knowledge of the nature or content thereof, possesses any film, videotape, photograph or other similar visual reproduction or depiction by computer of any child whom the person knows or reasonably should know to be under the age of 18 engaged in any activity described above; or
- Solicits, uses, persuades, induces, entices, or coerces a person to provide a child under the age of 18 to appear in any videotape, photograph, film, stage play, live presentation, or other similar visual reproduction or depiction by computer in which the child will be depicted, actually or by simulation, in any act, pose, or setting described above.

"Depict by computer" means to generate or create, or cause to be created or generated, a computer program or data that, after being processed by a computer either alone or in conjunction with one or more computer programs, results in a visual depiction on a computer monitor, screen, or display.

INDIANA

Ind. Code § 35-42-4-4 (Michie 1998)

A person who knowingly or intentionally: (a) manages, produces, sponsors, presents, exhibits, photographs, films, or videotapes any performance or incident that includes sexual conduct by a child under 18 years of age; or (b) disseminates, exhibits to another person, offers to disseminate or exhibit to another person, or sends or brings into Indiana for dissemination or exhibition matter that depicts or describes sexual conduct by a child under 18 years of age; commits child exploitation, a class D felony. However, the offense is a Class C felony if it is committed by using a computer network.

A person who knowingly or intentionally possesses a picture, a drawing, a photograph, a negative image, undeveloped film, a motion picture, a videotape, or any pictorial representation that depicts or describes sexual conduct by a child who is less than 16 years of age, or appears to be less than 16 years of age, and that lacks serious literary, artistic, political or scientific value commits possession of child pornography, a class A misdemeanor.

The above provisions do not apply to a bona fide school, museum, or public library that qualifies for certain property tax exemptions or to an employee of such a school, museum, or public library acting within the scope of the employee's employment when the possession of the listed materials are for legitimate scientific or educational purposes.

IOWA**Iowa Code § 728.12 (West 1993 & Supp. 1998)**

A person commits a class C felony when the person employs, uses, persuades, induces, entices, coerces, knowingly permits, or otherwise causes a minor to engage in a prohibited sexual act or in the simulation of a prohibited sexual act if the person knows, has reason to know, or intends that the act or simulated act may be photographed, filmed, or otherwise preserved in a negative, slide, book, magazine, or other print or visual medium.

A person commits a class D felony when the person knowingly promotes any material visually depicting a live performance of a minor engaging in a prohibited sexual act or in the simulation of a prohibited sexual act.

A person who knowingly purchases or possesses a negative, slide, book, magazine, or other print or visual medium depicting a minor engaging in a prohibited sexual act or the simulation of a prohibited sexual act commits a serious misdemeanor.

KANSAS**Kan. Stat. Ann. § 21-3516 (Supp. 1998)**

Sexual exploitation of a child is:

- 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;
- Possessing any film, photograph, negative, slide, book, magazine or other printed or visual medium or 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, in which a 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;
- 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 above; or
- Promoting any performance that includes sexually explicit conduct by a child under 18 years of age, knowing the character and content of the performance.

Sexual exploitation of a child is a severity level 5, person felony.

KENTUCKY**Ky. Rev. Stat. Ann. § 531.300 (Banks-Baldwin 1995)**

Sexual conduct by a minor means: acts of masturbation, homosexuality, lesbianism, bestiality, sexual intercourse, or deviant sexual intercourse, actual or simulated; physical contact with, or willful or

intentional exhibition of the genitals; flagellation or excretion for the purpose of sexual stimulation or gratification; or the exposure, in an obscene manner, of the unclothed or apparently unclothed human male or female genitals, pubic area or buttocks, or the female breast, whether or not subsequently obscured by a mark placed thereon, or otherwise altered, in any resulting motion picture, photograph or other visual representation, exclusive of exposure portrayed in matter of a private, family nature not intended for distribution outside the family.

Ky. Rev. Stat. Ann. § 531.310 (Banks-Baldwin 1995)

A person is guilty of the use of a minor in a sexual performance if he employs, consents to, authorizes or induces a minor to engage in a sexual performance.

Use of a minor in a sexual performance is a class C felony if the minor so used is less than 18 years old at the time the minor engages in the prohibited activity; a class B felony if the minor so used is less than 16 years old at the time the minor engages in the prohibited activity; and a class A felony if the minor so used incurs physical injury thereby.

Ky. Rev. Stat. Ann. § 531.320 (Banks-Baldwin 1995)

A person is guilty of promoting a sexual performance by a minor when, knowing the character and content thereof, he produces, directs or promotes any performance which includes sexual conduct by a minor.

Promoting a sexual performance by a minor is a class C felony if the minor involved in the sexual performance is less than 18 years old at the time the minor engages in the prohibited activity; a class B felony if the minor involved in the sexual performance is less than 16 years old at the time the minor engages in the prohibited activity; and a class A felony if the minor involved in the sexual performance incurs physical injury thereby.

Ky. Rev. Stat. Ann. § 531.335 (Banks-Baldwin 1995)

A person is guilty of possession of matter portraying a sexual performance by a minor when, having knowledge of its content, character, and that the sexual performance is by a minor, he knowingly has in his possession or control any matter which visually depicts an actual sexual performance by a minor person. Possession of matter portraying a sexual performance by a minor is a class A misdemeanor for the first offense and a class D felony for the second and subsequent offenses.

Ky. Rev. Stat. Ann. § 531.340 (Banks-Baldwin 1995)

A person is guilty of distribution of matter portraying a sexual performance by a minor when, having knowledge of its content and character, he: sends or causes to be sent into this state for sale or distribution; or brings or causes to be brought into this state for sale or distribution; or in this state, he exhibits for profit or gain, distributes, or offers to distribute; has in his possession with intent to distribute, exhibit for profit or gain or offer to distribute, any matter portraying a sexual performance by a minor. Any person who has in his possession more than one unit of matter shall be rebuttably presumed to have such material in his possession with the intent to distribute it.

Distribution of matter portraying a sexual performance by a minor is a class D felony.

LOUISIANA**La. Rev. Stat. Ann. § 14:81.1 (West Supp. 2000)**

Pornography involving juveniles is any of the following:

- The photographing, videotaping, filming, or otherwise reproducing visually of any sexual performance involving a child under the age of 17.
- The solicitation, promotion, or coercion of any child under the age of 17 for the purpose of photographing, videotaping, filming, or otherwise reproducing visually any sexual performance involving a child under the age of 17.
- The intentional possession, sale, distribution, or possession with intent to sell or distribute of any photographs, films, videotapes, or other visual reproductions of any sexual performance involving a child under the age of 17.
- The consent of a parent, legal guardian, or custodian of a child under the age of 17 for the purpose of photographing, videotaping, filming, or otherwise reproducing visually any sexual performance involving the child.

Sexual performance means any performance or part thereof that includes sexual conduct involving a child under the age of 17.

Possession of three or more of the same photographs, films, videotapes, or other visual reproductions shall be prima facie evidence of intent to sell or distribute.

Whoever commits the crime of pornography involving juveniles shall be fined not more than \$10,000 and be imprisoned at hard labor for not less than two years or more than ten years, without benefit of parole, probation, or suspension of sentence.

MAINE**Me. Rev. Stat. Ann. tit. 17, § 2921 (West 1983 & Supp. 1999)**

Minor means a person under 18 years of age.

Me. Rev. Stat. Ann. tit. 17, § 2922 (West 1983 & Supp. 1999)

A person is guilty of sexual exploitation of a minor if: (a) knowing or intending that the conduct will be photographed, he intentionally or knowingly employs, solicits, entices, persuades, uses or compels another person, not his spouse, who is in fact a minor, to engage in sexually explicit conduct; or (b) being a parent, legal guardian or other person having care or custody of another person, who is in fact a minor, he knowingly or intentionally permits that minor to engage in sexually explicit conduct, knowing or intending that the conduct will be photographed. Sexual exploitation of a minor is a class B crime except any person convicted of this crime shall be sentenced by imprisonment for not less than five years.

Me. Rev. Stat. Ann. tit. 17, § 2923 (West 1983 & Supp. 1999)

A person is guilty of dissemination of sexually explicit material if the person intentionally or knowingly disseminates or possesses with intent to disseminate any book, magazine, print, negative, slide, motion picture, videotape, computer data file or other mechanically reproduced visual material that depicts any minor, who the person knows or has reason to know is a minor, engaging in sexually explicit conduct. Dissemination of sexually explicit materials is a class C crime except that any person convicted of this crime shall be sentenced by imprisonment for not less than two years.

For the purposes of this section, possession of ten or more copies of the same book, magazine, newspaper, print, negative, slide, motion picture, videotape or other mechanically reproduced visual image or material gives rise to a presumption that the person possesses those items with intent to disseminate.

MARYLAND**Md. Ann. Code art. 27, § 419A (1996)**

Minor means an individual under 18 years of age.

Every person who solicits, causes, induces, or knowingly permits a minor to engage as a subject in the production of any obscene matter or any visual representation or performance that depicts a minor engaged as a subject in sexual conduct or sadomasochistic abuse is subject to the penalty provided in this section.

Every person who photographs or films, or by means of computer depicts or describes a minor engaging in an obscene act or engaging in sexual conduct or sadomasochistic abuse is subject to the penalty provided in this section.

Every person who knowingly promotes, distributes, or possesses with intent to distribute any matter or other visual representation or performance that depicts a minor engaged as a subject in sexual conduct or sadomasochistic abuse is subject to the penalty provided in this section.

Every person who, by means of computer, knowingly compiles, enters, transmits, makes, prints, publishes, reproduces, causes, allows, buys, sells, receives, exchanges, or disseminates 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, facilitating, encouraging, offering, or soliciting unlawful sexual conduct or sadomasochistic abuse of or with any minor is subject to the penalty provided in this section.

Every person who violates the provisions of this section is guilty of a felony and upon conviction shall be fined not more than \$25,000 or imprisoned for 10 years, or both in the discretion of the court. A person who is convicted of a subsequent violation of this section is subject to a fine not exceeding \$50,000 or imprisonment not exceeding 20 years, or both in the discretion of the court.

In any action brought under this section where the minor's identity is unknown or where the minor is outside the jurisdiction, the state's attorney is not required to identify or produce testimony from the minor who was depicted in the obscene manner or in any visual representation or performance that depicts the minor engaged as a subject in sexual conduct.

The court or jury may determine whether an individual who is depicted in any obscene matter or any visual representation or performance as the subject in sexual conduct was a minor by observation of the matter depicting the individual, oral testimony by a witness to the production of the matter, expert medical testimony, or any other method authorized by an applicable provision of law or rule of evidence.

Md. Ann. Code art. 27, § 419B (1996)

A person may not knowingly possess any film, videotape, photograph, or other visual representation depicting an individual under the age of 16 years engaged as a subject of sadomasochistic abuse or in sexual conduct, or in a state of sexual excitement.

Nothing in this section may be construed to prohibit a parent from possessing visual representations of the parent's own child in the nude unless the visual representations depict the child engaged as a subject of sadomasochistic abuse or in sexual conduct and in a state of sexual excitement.

For the first offense a person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$2,500 or imprisonment not exceeding one year or both. For a second or subsequent offense a person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$5,000 or imprisonment not exceeding two years or both.

MASSACHUSETTS

Mass. Gen. Laws Ann. ch. 272, § 29A (West 1992)

Whoever, either with knowledge that a person is a child under 18 years of age or while in possession of such facts that he should have reason to know that such person is a child under 18 years of age, and with lascivious intent, hires, coerces, solicits or entices, employs, procures, uses, causes, encourages, or knowingly permits such child to pose or be exhibited in a state of nudity, for the purpose of representation or reproduction in any visual material, shall be punished by imprisonment in the state prison for a term of not less than 10 nor more than 20 years, or by a fine of not less than \$10,000 nor more than \$50,000 or by both such fine and imprisonment.

Whoever, either with knowledge that a person is a child under 18 years of age or while in possession of such facts that he should have reason to know that such person is a child under 18 years of age, hires, coerces, solicits or entices, employs, procures, uses, causes, encourages, or knowingly permits such child to participate or engage in any act that depicts, describes, or represents sexual conduct for the purpose of representation or reproduction in any visual material, or to engage in any live performance involving sexual conduct, shall be punished by imprisonment in the state prison for a term of not less than 10 nor more than 20 years, or by a fine of not less than \$10,000 nor more than \$50,000, or by both such fine and imprisonment.

In a prosecution under this section, a minor shall be deemed incapable of consenting to any conduct of the defendant for which said defendant is being prosecuted.

Mass. Gen. Laws Ann. ch. 272, § 29B (West 1990)

Whoever, with lascivious intent, disseminates any visual material that contains a representation or reproduction of any posture or exhibition in a state of nudity involving the use of a child who is under 18 years of age, knowing the contents of such visual material or having sufficient facts in his possession to have knowledge of the contents thereof, or has in his possession any such visual material knowing the

contents or having sufficient facts in his possession to have knowledge of the contents thereof, with the intent to disseminate the same, shall be punished in the state prison for a term of not less than 10 nor more than 20 years or by a fine of not less than \$10,000 nor more than \$50,000 or three times the monetary value of any economic gain derived from said dissemination, whichever is greater, or by both such fine and imprisonment.

Whoever with lascivious intent disseminates any visual material that contains a representation or reproduction of any act that depicts, describes, or represents sexual conduct participated or engaged in by a child who is under 18 years of age, knowing the contents of such visual material or having sufficient facts in his possession to have knowledge of the contents thereof, or whoever has in his possession any such visual material knowing the contents or having sufficient facts in his possession to have knowledge of the contents thereof, with the intent to disseminate the same, shall be punished in the state prison for a term of not less than ten nor more than 20 years or by a fine of not less than \$10,000 nor more than \$50,000 or three times the monetary value of any economic gain derived from said dissemination, whichever is greater, or by both such fine and imprisonment.

In a prosecution under this section, a minor shall be deemed incapable of consenting to any conduct of the defendant for which said defendant is being prosecuted.

Mass. Gen. Laws Ann. ch. 272, § 29C (West Supp. 1998)

Whoever knowingly purchases or possesses a negative, slide, book, magazine, film, videotape, photograph or other similar visual reproduction, or depiction by computer, of any child whom the person knows or reasonably should know to be under the age of 18 years of age and such child is:

(i) actually or by simulation engaged in any act of sexual intercourse with any person or animal; (ii) actually or by simulation engaged in any act of sexual contact involving the sex organs of the child and the mouth, anus or sex organs of the child and the sex organs of another person or animal; (iii) actually or by simulation engaged in any act of masturbation; (iv) actually or by simulation portrayed as being the object of, or otherwise engaged in, any act of lewd fondling, touching, or caressing involving another person or animal; (v) actually or by simulation engaged in any act of excretion or urination within a sexual context; (vi) actually or by simulation portrayed or depicted as bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in any sexual context; or (vii) depicted or portrayed in any pose, posture or setting involving a lewd exhibition of the unclothed genitals, pubic area, buttocks or, if such person is female, a fully or partially developed breast of the child; with knowledge of the nature or content thereof shall be punished by imprisonment in the state prison for not more than five years or in a jail or house of correction for not more than two and one-half years or by a fine of not less than \$ 1,000 nor more than \$ 10,000, or by both such fine and imprisonment for the first offense, not less than five years in a state prison or by a fine of not less than \$ 5,000 nor more than \$ 20,000, or by both such fine and imprisonment for the second offense, not less than 10 years in a state prison or by a fine of not less than \$ 10,000 nor more than \$ 30,000, or by both such fine and imprisonment for the third and subsequent offenses.

A prosecution commenced under this section shall not be continued without a finding nor placed on file.

The provisions of this section shall not apply to a law enforcement officer, licensed physician, licensed psychologist, attorney or officer of the court who is in possession of such materials in the lawful performance of his official duty. Nor shall the provisions of this section apply to an employee of a bona fide enterprise, the purpose of which enterprise is to filter or otherwise restrict access to such materials, who possesses examples of computer depictions of such material for the purposes of furthering the legitimate goals of such enterprise.

Mass. Gen. Laws Ann. ch. 272, § 31 (West 1990)

Minor – A person under 18 years of age.

MICHIGAN**Mich. Stat. Ann. § 28.342a (Lexis Supp. 1998)**

Child means a person who is less than 18 years of age and is not emancipated by operation of law.

Child sexually abusive material means a developed or undeveloped photograph, film, slide, electronic visual image, computer diskette, or sound recording of a child engaging in a listed sexual act; a book, magazine, or other visual or print medium containing such a photograph, film, slide, electronic visual image, or sound recording; or any reproduction, copy, or print of such a photograph, film, slide, electronic visual image, book, magazine, other visual or print medium, or sound recording.

A person who persuades, induces, entices, coerces, causes, or knowingly allows a child to engage in a child sexually abusive activity for the purpose of producing any child sexually abusive material, or a person who arranges for, produces, makes, or finances, or a person who attempts or prepares or conspires to arrange for, produce, make, or finance any child sexually abusive activity or child sexually abusive material is guilty of a felony.

A person who distributes or promotes, or finances the distribution or promotion of, or receives for the purpose of distributing or promoting, or conspires, attempts, or prepares to distribute, receive, finance, or promote any child sexually abusive material or child sexually abusive activity is guilty of a felony.

A person who knowingly possesses any child sexually abusive material is guilty of a misdemeanor if that person knows, has reason to know, or should reasonably be expected to know the child is a child, or that person has not taken reasonable precautions to determine the age of the child.

MINNESOTA**Minn. Stat. Ann. § 617.246 (West Supp. 2000)**

Minor means any person under the age of 18.

It is unlawful for a person to promote, employ, use or permit a minor to engage in or assist others to engage in posing or modeling alone or with others in any sexual performance or pornographic work if the person knows or has reason to know that the conduct intended is a sexual performance or a pornographic work. Any person who violates this subdivision is guilty of a felony and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000 for the first offense and \$40,000 for a second or subsequent offense, or both.

A person who owns or operates a business in which a work depicting a minor in which a pornographic work, as defined in this section, is disseminated to an adult or minor or is reproduced, and who knows the content and character of the work disseminated or reproduced, is guilty of a felony and may be sentenced to imprisonment for not more than ten years, or to payment of a fine of not more than \$20,000 for the first offense and \$40,000 for a second or subsequent offense, or both.

Neither consent to sexual performance by a minor or the minor's parent, guardian, or custodian nor mistake as to the minor's age is a defense to a charge of violation of this section.

Minn. Stat. Ann. § 617.247 (West 1987 & Supp. 1999)

A person who disseminates a photographic representation of sexual conduct which involves a minor, knowing or with reason to know its content and character and that an actual minor is an actor or photographic subject in it, is guilty of a gross misdemeanor.

A person who has in possession a photographic representation of sexual conduct which involves a minor, knowing or with reason to know its content and character and that an actual minor is an actor or photographic subject in it, is guilty of a gross misdemeanor.

MISSISSIPPI

Miss. Code Ann. § 97-5-31 (Supp. 1998)

Child means any individual who has not attained the age of 18 years.

Miss. Code Ann. § 97-5-33 (Supp. 1998)

No person for profit or commercial use shall cause or knowingly permit any child to engage in sexual conduct or in the simulation of sexual conduct.

No person shall, for profit or commercial use or for the purpose of sexual gratification, photograph, draw, sketch, film, video tape or otherwise depict or record a child engaging in sexual conduct or in the simulation of sexual conduct.

No person shall knowingly, for profit or commercial use or for the purpose of sexual gratification of the sender or the recipient, transport, ship or mail any photograph, drawing, sketch, film or video tape depicting a child engaging in sexual conduct.

No person shall distribute for sale, sell or attempt to sell in any manner any photograph, drawing, sketch, film or video tape which depicts a child engaging in sexual conduct.

MISSOURI

Mo. Rev. Stat. § 568.060 (1999)

A person commits the crime of abuse of a child if such person photographs or films a child less than 18 years old engaging in a prohibited sexual act or in the simulation of such an act or who causes or knowingly permits a child to engage in a prohibited sexual act or in the simulation of such an act for the purpose of photographing or filming the act. Abuse of a child is a class C felony.

Mo. Rev. Stat. § 568.080 (1999)

A person commits the crime of use of a child in a sexual performance if, knowing the character and content thereof, the person employs, authorizes, or induces a child less than 17 years of age to engage in a sexual performance or, being a parent, legal guardian, or custodian of such child, consents to the

participation by such child in such sexual performance. Use of a child in a sexual performance is class C felony.

Mo. Rev. Stat. § 568.090 (1999)

A person commits the crime of promoting a sexual performance if, knowing the character and content thereof, the person promotes a sexual performance by a child less than 17 years of age or produces, directs, or promotes any performance which includes sexual conduct by a child less than 17 years of age. Promoting a sexual performance is a class C felony.

MONTANA

Mont. Code Ann. § 45-5-625 (1999)

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 persuades, entices, counsels, or procures a child to engage in sexual conduct, actual or simulated, for use as designated in subsection (a), (b), or (d); (d) knowingly processes, develops, prints, publishes, transports, distributes, sells, exhibits, or advertises any visual or print medium in which children are engaged in sexual conduct, actual or simulated; (e) knowingly possesses any visual or print medium in which children are engaged in sexual conduct, actual or simulated; (f) finances any of the activities described in subsections (a) through (d) and (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 in which children are engaged in sexual conduct, actual or simulated.

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.

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 four years or more than 100 years and may be fined not more than \$10,000.

A person convicted of the offense of sexual abuse of children for the possession of material 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.

An offense is not committed 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.

NEBRASKA

Neb. Rev. Stat. § 28-813.01 (1995)

It shall be unlawful for a person to knowingly possess any visual depiction of sexually explicit conduct which has a minor as one of its participants or portrayed observers. Any person who violates this section shall be guilty of a class II misdemeanor.

Neb. Rev. Stat. § 28-1463.02 (1995)

Child, in the case of a participant, shall mean any person under the age of 18 years and, in the case of a portrayed observer, shall mean any person under the age of 16 years.

NEVADA**Nev. Rev. Stat. § 200.710 (1997)**

A person who knowingly uses, encourages, entices or permits a minor to simulate or engage in or assist others to simulate or engage in sexual conduct to produce a performance is guilty of a category A felony.

A person who knowingly uses, encourages, entices, coerces or permits a minor to be a subject of a sexual portrayal in a performance is guilty of a category A felony, regardless of whether the minor is aware that the sexual portrayal is part of a performance.

Nev. Rev. Stat. § 200.720 (1997)

A person who knowingly promotes a performance of a minor: (1) where the minor engages in or simulates, or assists others to engage in or simulate, sexual conduct, or (2) where the minor is the subject of a sexual portrayal, is guilty of a category A felony.

Nev. Rev. Stat. § 200.730 (1997)

A person who knowingly and willfully has in his possession for any purpose any film, photograph or other visual presentation depicting a person under the age of 16 years as the subject of a sexual portrayal or engaging in or simulating, or assisting others to engage in or simulate, sexual conduct: (1) for the first offense is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than one year and a maximum term of not more than six years and may be further punished by a fine of not more than \$5,000; (2) for any subsequent offense, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than one year and a maximum term or not more than 10 years and may be further punished by a fine of not more than \$5,000.

NEW HAMPSHIRE**N.H. Rev. Stat. Ann. § 649-A:2 (1996)**

Child means any person under the age of 16 years.

N.H. Rev. Stat. Ann. § 649-A:3 (Supp. 1999)

A person is guilty of a felony if he: sells, delivers or provides, or offers or agrees to sell, deliver or provide, any visual representation of a child engaging in sexual activity; or presents or directs a visual representation of a child engaging in sexual activity, or participates in that portion of such visual representation which consists of a child engaging in sexual activity; or publishes, exhibits or otherwise makes available any visual representation of a child engaging in sexual activity; or possesses any visual representation of a child engaging in sexual activity for purposes of sale or other commercial dissemination.

A person is guilty of a misdemeanor if he: buys, procures, possesses, or controls any visual representation of a child engaging in sexual activity; or brings or causes to be brought into this state any visual representation of a child engaging in sexual activity.

NEW JERSEY

N.J. Stat. Ann. § 2C:24-4(b) (West Supp. 1999)

Child shall mean any person under 16 years of age.

A person commits a crime of the second degree if he causes or permits a child to engage in a prohibited sexual act or in the simulation of such an act if the person knows, has reason to know or intends that the prohibited act may be photographed, filmed, reproduced, or reconstructed in any manner, including on the Internet, or may be part of an exhibition or performance. If the person is a parent, guardian or other person legally charged with the care or custody of the child, the person shall be guilty of a crime of the first degree.

Any person who photographs or films a child in a prohibited sexual act or in the simulation of such an act or who uses any device, including a computer, to reproduce or reconstruct the image of a child in a prohibited sexual act or in the simulation of such an act is guilty of a crime of the second degree.

Any person who knowingly receives for the purpose of selling or who knowingly sells, procures, manufactures, gives, provides, lends, trades, mails, delivers, transfers, publishes, distributes, circulates, disseminates, presents, exhibits, advertises, offers or agrees to offer, through any means, including the Internet, any photograph, film, video tape, computer program or file, video game, or any other reproduction or reconstruction which depicts a child engaging in a prohibited sexual act or in the simulation of such an act, is guilty of a crime of the second degree.

Any person who knowingly possesses or knowingly views any photograph, film, video tape, computer program or file, video game or any other reproduction or reconstruction which depicts a child engaging in a prohibited sexual act or in the simulation of such an act, including on the Internet, is guilty of a crime of the fourth degree.

A person who is depicted as or presents the appearance of being under the age of 16 in any photograph, film, videotape, computer program or file, video game or any other reproduction or reconstruction shall be rebuttably presumed to be under the age of 16. If the child who is depicted as engaging in, or who is caused to engage in, a prohibited sexual act or simulation of a prohibited sexual act is under the age of 16, the actor shall be strictly liable and it shall not be a defense that the actor did not know that the child was under the age of 16, nor shall it be a defense that the actor believed that the child was 16 years of age or older, even if such a mistaken belief was reasonable.

NEW MEXICO

N.M. Stat Ann. § 30-6A-3 (Michie 1994)

It is unlawful for any person to intentionally distribute or possess with intent to distribute any visual or print medium depicting any prohibited sexual act or simulation of such an act if that person knows or has reason to know that the medium depicts any prohibited sexual act or simulation of such act and if that person

knows or has reason to know that one or more of the participants in that act is a child under 18 years age. Any person who violates this subsection is guilty of a third degree felony.

It is unlawful for any person to intentionally to causes or permit a child under 18 years of age to engage in any prohibited sexual act or simulation of such an act if that person knows, has reason to know or intends that the act may be recorded in any visual or print medium or performed publicly. Any person who violates this subsection is guilty of a third degree felony, unless the child is under the age of 13, in which event the person is guilty of a second degree felony.

It is unlawful for any person to intentionally manufacture any visual or print medium depicting any prohibited sexual act or simulation of such an act if one or more of the participants in that act is a child under 18 years of age. Any person who violates this subsection is guilty of a second degree felony.

N.M. Stat. Ann. § 30-6A-4 (Michie 1994)

Any person knowingly receiving any pecuniary profit as a result of a child under the age of 16 engaging in a prohibited sexual act with another is guilty of a second degree felony, unless the child is under the age of 13, in which event the person is guilty of a first degree felony.

Any person hiring or offering to hire a child over the age of 13 and under the age of 16 to engage in any prohibited sexual act is guilty of a second degree felony.

Any parent, legal guardian or person having custody or control of a child under 16 years of age who knowingly permits that child to engage in or to assist any other person to engage in any prohibited sexual act or simulation of such an act for the purpose of producing any visual or print medium depicting such an act is guilty of a third degree felony.

NEW YORK

N.Y. Penal Law § 263.00 (McKinney 2000)

Sexual performance means any performance or part thereof which includes sexual conduct by a child less than 16 years of age.

N.Y. Penal Law § 263.05 (McKinney 2000)

A person is guilty of the use of a child in a sexual performance if knowing the character and content thereof he employs, authorizes or induces a child less than 16 years of age to engage in a sexual performance or being a parent, legal guardian or custodian of such child, he consents to the participation by such child in a sexual performance. Use of a child in a sexual performance is a class C felony.

N.Y. Penal Law § 263.10 (McKinney 2000)

A person is guilty of promoting an obscene sexual performance by a child when, knowing the character and content thereof, he produces, directs or promotes any obscene performance which includes sexual conduct by a child less than 16 years of age. Promoting an obscene sexual performance by a child is a class D felony.

N.Y. Penal Law § 263.11 (McKinney 2000)

A person is guilty of possessing an obscene sexual performance by a child when, knowing the character and content thereof, he knowingly has in his possession or control any obscene performance which includes sexual conduct by a child less than 16 years of age. Possessing an obscene sexual performance by a child is a class E felony.

N.Y. Penal Law § 263.15 (McKinney 2000)

A person is guilty of promoting a sexual performance by a child when, knowing the character and content thereof, he produces, directs or promotes any performance which includes sexual conduct by a child less than 16 years of age. Promoting a sexual performance by a child is a class D felony.

N.Y. Penal Law § 263.16 (McKinney 2000)

A person is guilty of possessing a sexual performance by a child when, knowing the character and content thereof, he knowingly has in his possession or control any performance which includes sexual conduct by a child less than 16 years of age. Possessing a sexual performance by a child is a class E felony.

NORTH CAROLINA**N.C. Gen. Stat. § 14-190.16 (1999)**

A person commits the offense of first degree sexual exploitation of a minor if, knowing the character or content of the material or performance, he: uses, employs, induces, coerces, encourages, or facilitates a minor to engage in or assist others to engage in sexual activity for a live performance or for the purpose of producing material that contains a visual representation depicting this activity; permits a minor under his custody or control to engage in sexual activity for a live performance or for the purpose of producing material that contains a visual representation depicting this activity; transports or finances the transportation of a minor through or across this State with the intent that the minor engage in sexual activity for a live performance or for the purpose of producing material that contains a visual representation depicting this activity; or records, photographs, films, develops, or duplicates for sale or pecuniary gain material that contains a visual representation depicting a minor engaged in sexual activity. Violation of this section is a class D felony.

N.C. Gen. Stat. § 14-190.17 (1999)

A person commits the offense of second degree sexual exploitation of a minor if, knowing the character or content of the material, he: (a) records, photographs, films, develops, or duplicates material that contains a visual representation of a minor engaged in sexual activity; or (b) distributes, transports, exhibits, receives, sells, purchases, exchanges, or solicits material that contains a visual representation of a minor engaged in sexual activity. Violation of this act is a class H felony.

N.C. Gen. Stat. § 14-190.17A (1993 & Supp. 1996)

A person commits the offense of third degree sexual exploitation of a minor if, knowing the character or content of the material, he possesses material that contains a visual representation of a minor engaging in sexual activity. Violation of this section is a class J felony.

NORTH DAKOTA**N.D. Cent. Code § 12.1-27.2-02 (1997)**

A person is guilty of a class B felony if, knowing the character and content of a performance, that person employs, authorizes, or induces a minor to engage in sexual conduct during a performance or, if being a parent, legal guardian, or custodian of a minor, that person consents to the participation by the minor in sexual conduct during a performance.

N.D. Cent. Code § 12.1-27.2-03 (1997)

A person is guilty of a class B felony if, knowing the character and content of a performance, that person produces, directs, or promotes any obscene performance which includes sexual conduct by a person who was a minor at the time of the performance.

N.D. Cent. Code § 12.1-27.2-04 (1997)

A person is guilty of a class C felony if, knowing the character and content of a performance, that person produces, directs, or promotes any performance which includes sexual conduct by a person who was a minor at the time of the performance.

N.D. Cent. Code § 12.1-27.2-04.1 (1997)

A person is guilty of a class A misdemeanor following a first offense or a class C felony following a second or subsequent offense if, knowing of its character and content, that person knowingly possesses any motion picture, photograph, or other visual representation that includes sexual conduct by a minor.

OHIO**Ohio Rev. Code Ann. § 2907.32.1 (Anderson 1999)**

No person, with knowledge of the character of the material or performance involved, shall do any of the following: create, reproduce, or publish any obscene material that has a minor as one of its participants or portrayed observers; promote or advertise for sale or dissemination; sell, deliver, disseminate, display, exhibit, present, rent, or provide; or offer or agree to sell, deliver, disseminate, display, exhibit, present, rent, or provide, any obscene material that has a minor as one of its participants or portrayed observers; create, direct, or produce an obscene performance that has a minor as one of its participants; advertise or promote for presentation, present, or participate in presenting an obscene performance that has a minor as one of its participants; buy, procure, possess, or control any obscene material, that has a minor as one of its participants; bring or cause to be brought into this state any obscene material that has a minor as one of its participants or portrayed observers.

This section does not apply to any material or performance that is sold, disseminated, displayed, possessed, controlled, brought or caused to be brought into this state, or presented for a bona fide medical, scientific, educational, religious, governmental, judicial, or other proper purpose, by or to a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, clergyman, prosecutor, judge, or other person having a proper interest in the material or performance.

Mistake of age is not a defense to a charge under this section.

In a prosecution under this section, the trier of fact may infer that a person in the material or performance involved is a minor if the material or performance, through its title, text, visual representation, or otherwise, represents or depicts the person as a minor.

Whoever violates this section is guilty of pandering obscenity involving a minor.

Ohio Rev. Code Ann. § 2907.32.2 (Anderson 1999)

No person, with knowledge of the character of the material or performance involved, shall do any of the following: create, record, photograph, film, develop, reproduce, or publish any material that shows a minor participating or engaging in sexual activity, masturbation, or bestiality; advertise for sale or dissemination, sell, distribute, transport, disseminate, exhibit, or display any material that shows a minor participating or engaging in sexual activity, masturbation, or bestiality; create, direct, or produce a performance that shows a minor participating or engaging in sexual activity, masturbation, or bestiality; advertise for presentation, present, or participate in presenting a performance that shows a minor participating or engaging in sexual activity, masturbation, or bestiality; solicit, receive, purchase, exchange, possess or control any material that shows a minor participating or engaging in sexual activity, masturbation, or bestiality; bring or cause to be brought into this state any material that shows a minor participating or engaging in sexual activity, masturbation, or bestiality, or bring, cause to be brought, or finance the bringing of any minor into or across this state with the intent that the minor engage in sexual activity, masturbation, or bestiality in a performance or for the purpose of producing material containing a visual representation depicting the minor engaged in sexual activity, masturbation, or bestiality. Whoever violates this section is guilty of pandering sexually oriented matter involving a minor.

Ohio Rev. Code Ann. § 2907.32.3 (Anderson 1999)

No person shall do any of the following:

- Photograph any minor who is not the person's child or ward in a state of nudity, or create, direct, produce, or transfer any material or performance that shows the minor in a state of nudity, unless both of the following apply: (a) the material or performance is, or is to be, sold, disseminated, displayed, possessed, controlled, brought or caused to be brought into this state, or presented for a bona fide artistic, medical, scientific, educational, religious, governmental, judicial, or other proper purpose, by or to a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, clergyman, prosecutor, judge, or other person having a proper interest in the material or performance; (b) the minor's parents, guardian, or custodian consents in writing to the photographing of the minor, to the use of the minor in the material or performance, or to the transfer of the material and to the specific manner in which the material or performance is to be used.
- Consent to the photographing of his minor child or ward, or photograph his minor child or ward, in a state of nudity or consent to the use of his minor child or ward in a state of nudity in any material or performance, or use or transfer such material or performance, unless the material or performance is sold, disseminated, displayed, possessed, controlled, brought or caused to be brought into this state, or presented for a bona fide artistic, medical, scientific, educational, religious, governmental, judicial, or other proper purpose, by or to a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, clergyman, prosecutor, judge, or other person having a proper interest in the material or performance.
- Possess or view any material or performance that shows a minor who is not the person's child or ward in a state of nudity, unless one of the following applies: (a) the material or performance is

sold, disseminated, displayed, possessed, controlled, brought or caused to be brought into this state, or presented for a bona fide artistic, medical, scientific, educational, religious, governmental, judicial, or other proper purpose, by or to a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, clergyman, prosecutor, judge, or other person having a proper interest in the material or performance; (b) the person knows that the parents, guardian, or custodian has consented in writing to the photographing or use of the minor in a state of nudity and to the manner in which the material or performance is used or transferred.

Whoever violates this section is guilty of illegal use of a minor in a nudity-oriented material or performance.

OKLAHOMA

Okla. Stat. Ann. tit. 21, § 1021 (West Supp. 2000)

Every person who willfully solicits or aids a minor child to perform; or shows, exhibits, loans, or distributes to a minor child any obscene or indecent writing, paper, book, picture, photograph, motion picture, figure, or form of any description or any type of obscene material for the purpose of inducing said minor to participate in, any act specified above shall be guilty, upon conviction, of a felony. Persons convicted under this subsection shall not be eligible for a deferred sentence.

Okla. Stat. Ann. tit. 21, § 1021.2 (West Supp. 2000)

Any person who shall procure or cause the participation of any minor under the age of 18 years in any film, motion picture, videotape, photograph, negative, slide, drawing, painting, play, or performance or any type of obscene material wherein the minor is engaged in or portrayed, depicted, or represented as engaging in any act of sexual intercourse, in any act of fellatio or cunnilingus, in any act of excretion in the context of sexual activity, in any lewd exhibition of the uncovered genitals or pubic area or areola of the breasts in the context of masturbation or other sexual activity, or in any other exhibition of the uncovered genitals or pubic area or areola of the breasts having the purpose of sexual stimulation of the viewer, or who knowingly possesses, procures, or manufactures, or causes to be sold or distributed any obscene material involving the participation of any minor under the age of 18 shall be guilty, upon conviction, of a felony. The fine for a violation of this section shall not be more than \$25,000. Persons convicted under this section shall not be eligible for a deferred sentence.

The consent of the minor, or of the mother, father, legal guardian, or custodian of the minor to the activity prohibited by this section shall not constitute a defense.

Okla. Stat. Ann. tit. 21, § 1021.3 (West Supp. 2000)

Any parent, guardian or individual having custody of a minor under the age of 18 years who knowingly permits or consents to the participation of a minor in any film, motion picture, videotape, photograph, negative, slide, drawing, painting, play or performance or any other obscene material wherein the minor is engaged in or portrayed, depicted or represented as engaging in any act of sexual intercourse, in any act of fellatio or cunnilingus, in any act of excretion in the context of sexual activity, or in any lewd exhibition of the uncovered genitals or pubic area or areola of the breasts in the context of masturbation or other sexual activity, shall be guilty of a felony and, upon conviction, shall be imprisoned in the state penitentiary for a period of not more than 20 years or a fine of not more than \$25,000 or by both such fine and imprisonment.

The consent of the minor to the activity prohibited by this section shall not constitute a defense.

OREGON**Or. Rev. Stat. § 163.670 (1997)**

A person commits the crime of using a child in a display of sexually explicit conduct if the person employs, authorizes, permits, compels or induces a child to participate or engage in sexually explicit conduct for any person to observe or to record in a photograph, motion picture, videotape or other visual recording.

Or. Rev. Stat. § 163.682 (1997)

The provisions of section 163.665 to 163.695 do not apply to: (1) Any legitimate medical procedure performed by or under the direction of a person licensed to provide medical services for the purpose of medical diagnosis or treatment, including the recording of medical procedures; (2) Any activity undertaken in the course of bona fide law enforcement activity or necessary to the proper functioning of the criminal justice system, except that this exception shall not apply to any activity prohibited by section 163.670; (3) Any bona fide educational activity, including studies and lectures, in the fields of medicine, psychotherapy, sociology or criminology, except that this exception shall not apply to any activity prohibited by section 163.670; (4) Obtaining, viewing or possessing a photograph, motion picture, videotape or other visual recording as part of a bona fide treatment program for sexual offenders; or (5) A public library or a library exempt from taxation, except that these exceptions do not apply to any activity prohibited by section 163.670.

Or. Rev. Stat. § 163.684 (1997)

A person commits the crime of encouraging child sexual abuse in the first degree if the person: knowingly develops, duplicates, publishes, prints, disseminates, exchanges, displays, finances, attempts to finance or sells any photograph, motion picture, videotape or other visual recording of sexually explicit conduct involving a child or possesses such matter with the intent to develop, duplicate, publish, print, disseminate, exchange, display or sell it; or knowingly brings into this state, or causes to be brought or sent into this state, for sale or distribution, any photograph, motion picture, videotape or other visual recording of sexually explicit conduct involving a child; and knows or is aware of and consciously disregards the fact that creation of the visual recording of sexually explicit conduct involved child abuse. Encouraging child sexual abuse in the first degree is a Class B felony.

Or. Rev. Stat. § 163.686 (1997)

A person commits the crime of encouraging child sexual abuse in the second degree if the person: knowingly possesses or controls any photograph, motion picture, videotape or other visual recording of sexually explicit conduct involving a child for the purpose of arousing or satisfying the sexual desires of the person or another person; or knowingly pays, exchanges or gives anything of value to obtain or view a photograph, motion picture, videotape or other visual recording of sexually explicit conduct involving a child for the purpose of arousing or satisfying the sexual desires of the person or another person; and knows or is aware of and consciously disregards the fact that creation of the visual recording of sexually explicit conduct involved child abuse; or knowingly pays, exchanges or gives anything of value to observe sexually explicit conduct by a child or knowingly observes, for the purpose of arousing or gratifying the sexual desire of the person, sexually explicit conduct by a child; and knows or is aware of and consciously disregards the fact that the conduct constitutes child abuse. Encouraging child sexual abuse in the second degree is a Class C felony.

Or. Rev. Stat. § 163.687 (Supp. 1998)

A person commits the crime of encouraging child sexual abuse in the third degree if the person: knowingly possesses or controls any photograph, motion picture, videotape or other visual recording of sexually explicit conduct involving a child for the purpose of arousing or satisfying the sexual desires of the person or another person; or knowingly pays, exchanges or gives anything of value to obtain or view a photograph, motion picture, videotape or other visual recording of sexually explicit conduct involving a child for the purpose of arousing or satisfying the sexual desires of the person or another person; and knows or fails to be aware of a substantial and unjustifiable risk that the creation of the visual recording of sexually explicit conduct involved child abuse; or knowingly pays, exchanges or gives anything of value to observe sexually explicit conduct by a child or knowingly observes, for the purpose of arousing or gratifying the sexual desire of the person, sexually explicit conduct by a child; and knows or fails to be aware of a substantial and unjustifiable risk that the conduct constitutes child abuse. Encouraging child sexual abuse in the third degree is a Class A misdemeanor.

Or. Rev. Stat. § 163.690 (1997)

It is an affirmative defense to any prosecution under sections 163.684, 163.686, 163.687 or 163.693 that the defendant, at the time of engaging in the conduct prohibited therein, did not know and did not have reason to know that the relevant sexually explicit conduct involved a child.

PENNSYLVANIA**18 Pa. Cons. Stat. Ann. § 6312 (Supp. 2000)**

Any person who causes or knowingly permits a child under the age of 18 years to engage in a prohibited sexual act or in the simulation of such act is guilty of a felony of the second degree if such person knows, has reason to know or intends that such act may be photographed, videotaped, depicted on computer or filmed. Any person who knowingly photographs videotapes, depicts on computer, or films a child under the age of 18 years engaging in a prohibited sexual act or in the simulation of such an act is guilty of a felony of the second degree.

Any person who knowingly sells, distributes, delivers, disseminates, transfers, displays or exhibits to others or who possesses for the purpose of sale, distribution, delivery, dissemination, transfer, display or exhibition to others, any book, magazine, pamphlet, slide, photograph, film, videotape, computer depiction or other material depicting a child under the age of 18 years engaging in a prohibited sexual act or in the simulation of such act is guilty of a felony of the third degree.

Any person who knowingly possesses or controls any book, magazine, pamphlet, slide, photograph, film, videotape, computer depiction, or other material depicting a child under the age of 18 years engaging in a prohibited sexual act or in the simulation of such act is guilty of a felony of the third degree.

RHODE ISLAND**R.I. Gen. Laws § 11-9-1(b) (Supp. 1999)**

Any person who shall in any manner or under any pretense sell, distribute, let out or otherwise permit any child under 18 years of age to be used in any book, magazine, pamphlet, or other publication, or in any motion picture film, photograph or pictorial representation, in a setting which taken as a whole suggests to

the average person that such child has engaged in, or is about to engage in any sexual act, which shall include but not be limited to sodomy, oral copulation, sexual intercourse, masturbation, or bestiality, shall, upon conviction thereof be punished by imprisonment for not more than 10 years, or a fine of not more than \$10,000 or both.

R.I. Gen. Laws § 11-9-1.1 (1994)

Every person, firm, association or corporation which shall publish, sell, offer for sale, loan, give away, or otherwise distribute any book, magazine, pamphlet or other publication, or any photograph, picture or film which depicts any child, or children, under the age of 18 years and known to be under the age of 18 years of age by such person, firm, association or corporation in a setting which taken as a whole suggests to the average person that such child, or children, is about to engage in or has engaged in, any sexual act, or which depicts any such child under 18 years of age, performing sodomy, oral copulation, sexual intercourse, masturbation or bestiality, shall, for the first offense be punished by imprisonment for not more than ten years, or by a fine of not more than \$10,000, or both; for any subsequent offense, by imprisonment for not more than 15 years, or by a fine of not more than \$15,000, or both.

R.I. Gen. Laws § 11-9-2 (1994)

Every person who shall take, receive, hire, employ, exhibit or have in custody, or who shall cause to be taken, hired, employed, exhibited or held in custody, any child under the age of 16 years, for any of the purposes prohibited in section 11-9-1, shall be held guilty of a misdemeanor.

SOUTH CAROLINA

S.C. Code Ann. § 16-15-335 (West Supp. 1999)

Any individual 18 years of age or older who knowingly, in any manner, hires, employs, uses, or permits any person under the age of 18 years to do or assist in doing any act or thing constituting an offense under this article (relating to obscene materials) and involving any material, act, or thing he knows or reasonably should know to be obscene is guilty of a felony and, upon conviction, must be imprisoned for not more than five years.

SOUTH DAKOTA

S.D. Codified Laws § 22-22-23 (Michie 1998)

Any person who causes or knowingly permits the photographing or filming of a minor under the age of 16 years to engage in a prohibited sexual act or in the simulation of such act is guilty of a class 4 felony. Any person who photographs or films a minor under the age of 16 years engaging in a prohibited sexual act or in the simulation of such an act is guilty of a class 4 felony.

S.D. Codified Laws § 22-22-23.1 (Michie Supp. 2000)

Any person who knowingly possesses any book, magazine, pamphlet, slide, photograph or film depicting a minor under the age of 18 years engaging in a prohibited sexual act or in the simulation of such act or whose knowing possession encourages, aids, abets or entices any person to commit a prohibited sexual act is guilty of a class 6 felony.

S.D. Codified Laws § 22-22-24 (Michie 1998)

Any person who sells, displays for sale, any book, magazine, pamphlet, slide, photograph or film depicting a minor under the age of 16 years engaging in a prohibited sexual act or in the simulation of such act is guilty of a class 6 felony.

TENNESSEE**Tenn. Code Ann. § 39-17-1002 (1997)**

Minor means any person who has not reached 18 years of age and is not emancipated.

Tenn. Code Ann. § 39-17-1003 (1997)

It is unlawful for any person to knowingly possess material that includes a minor engaged in sexual activity, or simulated sexual activity that is patently offensive. A violation of this section is a class E felony.

Tenn. Code Ann. § 39-17-1004 (1997)

It is unlawful for a person to knowingly promote, sell, distribute, transport, purchase or exchange material, or possess with the intent to promote, sell, distribute, transport, purchase or exchange material, which includes a minor engaged in sexual activity or simulated sexual activity that is patently offensive. A violation of this subsection is a class C felony.

It is unlawful for a person to knowingly promote, sell, distribute, transport, purchase or exchange material which is obscene, or possess with the intent to promote, sell, distribute, transport, purchase or exchange such material, which includes a minor engaged in sexual activity or simulated sexual activity that is patently offensive. A violation of this subsection is a class B felony.

Tenn. Code Ann. § 39-17-1005 (1997)

It is unlawful for a person to knowingly promote, employ, use, assist, transport or permit a minor to participate in the performance or in the production of material which includes the minor engaging in sexual activity or simulated sexual activity that is patently offensive. A violation of this section is a class B felony.

TEXAS**Tex. Penal Code Ann. § 43.25 (West Supp. 2000)**

Sexual performance means any performance or part thereof that includes sexual conduct by a child younger than 18 years of age.

A person commits an offense if, knowing the character and content thereof, he employs, authorizes, or induces a child younger than 18 years of age to engage in sexual conduct or a sexual performance. A parent or legal guardian or custodian of a child younger than 18 years of age commits an offense if he consents to the participation by the child in a sexual performance. An offense under this subsection is a felony of the second degree.

A person commits an offense if, knowing the character and content of the material, he produces, directs, or promotes a performance that includes sexual conduct by a child younger than 18 years of age. An offense under the above subsection is a felony of the third degree.

Tex. Penal Code Ann. § 43.26 (West Supp. 2000)

A person commits an offense if: (a) the person knowingly or intentionally possesses visual material that visually depicts a child younger than 18 years of age at the time the image of the child was made who is engaging in sexual conduct; and (b) the person knows that the material depicts the child as described in the above subdivision. An offense under the above subdivision is a felony of the third degree.

Visual material means any film, photograph, videotape, negative, or slide or any photographic reproduction that contains or incorporates in any manner any film, photograph, videotape, negative, or slide; or any disk, diskette, or other physical medium that allows an image to be displayed on a computer or other video screen and any image transmitted to a computer or other video screen by telephone line, cable, satellite transmission, or other method.

A person commits an offense if: (a) the person knowingly or intentionally promotes or possesses with intent to promote material described by this subdivision; (b) and the person knows that the material depicts the child as described by this subdivision. An offense under the above subdivision is a felony of the second degree.

A person who possesses visual material that contains six or more identical visual depictions of a child as described by this subdivision is presumed to possess the material with the intent to promote the material.

UTAH

Utah Code Ann. § 76-5a-2 (Supp. 1999)

Minor means a person younger than 18 years of age.

Utah Code Ann. § 76-5a-3 (Supp. 1999)

A person is guilty of sexual exploitation of a minor when he knowingly produces, distributes, possesses, or possesses with intent to distribute, material or a live performance depicting a nude or partially nude minor for the purpose of sexual arousal of any person or any person's engagement in sexual conduct with the minor. If he is a minor's parent or legal guardian and knowingly consents to or permits that minor to be sexually exploited under the above subsection. Sexual exploitation of a minor is a felony of the second degree.

VERMONT

Vt. Stat. Ann. tit. 13, § 2821 (1998)

Child means any person under the age of 16 years.

Vt. Stat. Ann. tit. 13, § 2822 (1998)

No person shall, with knowledge of the character and content, promote a sexual performance by a child or a performance including a lewd exhibition of the genitals by a child, or hire, employ, procure, use, cause or induce a child to engage in such a performance.

Vt. Stat. Ann. tit. 13, § 2823 (1998)

No person who is the parent, legal guardian, or custodian of a child may, with knowledge of the character and content, consent to the participation of that child in a sexual performance or a performance including a lewd exhibition of the genitals by that child.

Vt. Stat. Ann. tit. 13, § 2824 (1998)

No person may, with knowledge of the character and content, promote any photograph, film or visual recording of sexual conduct by a child. This subsection does not apply to paintings, drawings, or to non-visual or written descriptions of sexual conduct.

VIRGINIA**Va. Code Ann. § 18.2-370 (Michie 1996 & Supp. 2000)**

Any person 18 years of age or over, who, with lascivious intent, shall knowingly and intentionally receive money, property, or any other remuneration for allowing, encouraging, or enticing any person under the age of 18 years to perform in or be a subject of sexually explicit visual material or who knowingly encourages such person to perform in or be a subject of sexually explicit material; shall be guilty of a class 6 felony.

Va. Code Ann. § 18.2-374.1 (Michie 1996 & Supp. 1997)

A person shall be guilty of a class 5 felony who: accosts, entices or solicits a person less than 18 years of age with intent to induce or force such person to perform in or be a subject of sexually explicit visual material; or produces or makes or attempts or prepares to produce or make sexually explicit visual material which utilizes or has as a subject a person less than 18 years of age; or who knowingly takes part in or participates in the filming, photographing or other reproduction of sexually explicit visual material by any means, including to but not limited to, computer generated reproduction, which utilizes or has as a subject a person less than 18 years of age; or sells, gives away, distributes, electronically transmits, displays with lascivious intent, purchases, or possesses with intent to sell, give away, distribute, transmit or display with lascivious intent sexually explicit visual material which utilizes or has as a subject a person less than 18 years of age.

A person shall be guilty of a class 4 felony who knowingly finances or attempts or prepares to finance sexually explicit visual material which utilizes or has as a subject a person less than 18 years of age.

Va. Code Ann. § 18.2-374.1:1 (Michie 1996 & Supp. 1997)

Any person who knowingly possesses any sexually explicit visual material utilizing or having as a subject a person less than 18 years of age shall be guilty of a class 3 misdemeanor. Any person convicted of a second or subsequent offense under this section shall be guilty of a class 6 felony.

Va. Code Ann. § 18.2-374.3 (Michie 1996 & Supp. 2000)

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 promoting the use of a minor for any activity in violation. A violation of this section shall be punishable as a class 6 felony.

WASHINGTON**Wash. Rev. Code Ann. § 9.68A.011 (West 1998)**

Minor means any person under 18 years of age.

Wash Rev. Code Ann. § 9.68A.040 (West 1998)

A person is guilty of sexual exploitation of a minor if the person: compels a minor by threat or force to engage in sexually explicit conduct, knowing that such conduct will be photographed or part of a live performance; aids, invites, employs, authorizes, or causes a minor to engage in sexually explicit conduct, knowing that such conduct will be photographed or part of a live performance; or being a parent, legal guardian, or person having custody or control of a minor, permits the minor to engage in sexually explicit conduct, knowing that the conduct will be photographed or part of a live performance. Sexual exploitation of a minor is a class B felony.

Wash Rev. Code Ann. § 9.68A.050 (West 1998)

A person who: (a) knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells any visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct; or (b) possesses with intent to develop, duplicate, publish, print, disseminate, exchange, or sell any visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct is guilty of a class C felony.

Wash Rev. Code Ann. § 9.68A.060 (West 1998)

A person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, any visual or printed matter that depicts a minor engaged in sexually explicit conduct is guilty of a class C felony.

Wash Rev. Code Ann. § 9.68A.070 (West 1998)

A person who knowingly possesses visual or printed matter depicting a minor engaged in sexually explicit conduct is guilty of a class C felony.

WEST VIRGINIA**W. Va. Code § 61-8C-1 (1997)**

Minor means any child under 18 years of age.

W. Va. Code § 61-8C-2 (1997)

Any person who causes or knowingly permits, uses, persuades, induces, entices or coerces such minor to engage in or uses such minor to do or assist in any sexually explicit conduct shall be guilty of a felony when such person has knowledge that any such act is being photographed or filmed. Upon conviction thereof, such persons shall be fined not more than \$10,000 or imprisoned in the penitentiary not more than ten years, or both fined and imprisoned.

Any person who photographs or films such minor engaging in any sexually explicit conduct shall be guilty of a felony, and, upon conviction thereof, shall be fined not more than \$10,000, or imprisoned in the penitentiary not more than ten years, or both fined and imprisoned.

Any parent, legal guardian or person having custody and control of a minor, who photographs or films such minor in any sexually explicit conduct or causes or knowingly permits, uses, persuades, induces, entices or coerces such minor child to engage in or assist in any sexually explicit act shall be guilty of a felony when such person has knowledge that any such act may be photographed or filmed. Upon conviction thereof, such persons shall be fined not more than \$10,000, or imprisoned in the penitentiary not more than ten years, or both fined and imprisoned.

W. Va. Code § 61-8C-3 (1997)

Any person who, with knowledge, sends or causes to be sent, or distributes, exhibits, possesses or displays or transports any material visually portraying a minor engaged in any sexually explicit conduct is guilty of a felony, and upon conviction thereof, shall be imprisoned in the penitentiary not more than two years, and fined not more than \$2,000.

W. Va. Code § 61-8D-6 (1997)

Any parent, guardian or custodian who, with knowledge, sends or causes to be sent, or distributes, exhibits, possesses, displays or transports, any material visually portraying a child under his or her care, custody or control engaged in any sexually explicit conduct, is guilty of a felony, and, upon conviction thereof, shall be imprisoned in the penitentiary not more than two years, and fined not less than \$400 nor more than \$4,000.

WISCONSIN**Wis. Stat. Ann. § 948.05 (West 1996)**

Whoever does any of the following with knowledge of the character and content of the sexually explicit conduct involving the child is guilty of a class C felony: employs, uses, persuades, induces, entices or coerces any child to engage in sexually explicit conduct for the purpose of photographing, filming, videotaping, recording the sounds of or displaying in any way the conduct; photographs, films, videotapes, records the sounds of or displays in any way a child engaged in sexually explicit conduct; produces, performs in, profits from, promotes, imports into the state, reproduces, advertises, sells, distributes or possesses with intent to sell or distribute, any undeveloped film, photographic negative, photograph, motion picture, videotape, sound recording or other reproduction of a child engaging in sexually explicit conduct.

A person responsible for a child's welfare who knowingly permits, allows or encourages the child to engage in sexually explicit conduct for a purpose proscribed above is guilty of a class C felony.

Wis. Stat. Ann. § 948.12 (West 1996)

Whoever possesses any undeveloped film, photographic negative, photograph, motion picture, videotape or other pictorial reproduction or audio recording of a child engaged in sexually explicit conduct under all of the following circumstances is guilty of a class E felony: the person knows that he or she possesses the material; the person knows the character and content of the sexually explicit conduct shown in the material; the person knows or reasonably should know that the child engaged in sexually explicit conduct has not attained the age of 18 years.

WYOMING**Wyo. Stat. Ann. § 6-4-303 (Supp. 1999)**

A person is guilty of sexual exploitation of a child if, for any purpose, he knowingly: Causes, induces, entices, coerces or permits a child to engage in, or be used for, the making of child pornography; Causes, induces, entices or coerces a child to engage in, or be used for, any explicit sexual conduct; Manufactures, generates, creates, receives, distributes, reproduces, delivers or possesses with the intent to deliver, including through digital or electronic means, whether or not by computer, any child pornography; Possesses child pornography, except that this paragraph shall not apply to: (A) Peace officers, court personnel or district attorneys engaged in the lawful performance of their official duties; (B) Physicians, psychologists, therapists or social workers, provided such persons are duly licensed in Wyoming and the persons possess such materials in the course of a bona fide treatment or evaluation program at the treatment or evaluation site; or (C) Counsel for a person charged under this section.

The sexual exploitation of a child is a felony punishable by imprisonment for not more than twelve (12) years, a fine of not more than ten thousand dollars (\$10,000.00), or both. The sexual exploitation of a child by possession of sexually exploitive material pursuant to paragraph (b)(iv) of this section is a felony punishable by imprisonment for not more than ten (10) years, a fine of not more than ten thousand dollars (\$10,000.00), or both. A second or subsequent conviction pursuant to paragraphs (b)(i) through (iv) of this section, or of a substantially similar law of any other jurisdiction, or any violation of this section involving child pornography depicting a child under the age of twelve (12) years, is a felony punishable by imprisonment for not more than twelve (12) years, a fine of not more than ten thousand dollars (\$10,000.00), or both. Any person who is convicted of an offense under this section shall forfeit to the state the person's interest in:

- (i) Any visual depiction of a child engaging in explicit sexual conduct in violation of this section, or any book, magazine, periodical, film, videotape or other matter which contains any such visual depiction, which was produced, transported, mailed, shipped, possessed or received in violation of this section; (ii) Any property, real or personal, constituting or traceable to gross proceeds obtained from such offense; (iii) Any property, real or personal, used or intended to be used to commit or to promote the commission of such offense.

FEDERAL LEGISLATION**U.S. CODE****18 U.S.C.A. § 2251 (West Supp. 2000)**

Any person who employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, or who transports any minor in interstate or foreign commerce, or in any Territory or Possession of the United States, with the intent that such minor engage in, any sexually explicit conduct for the purpose of producing any visual depiction of such conduct, shall be punished as provided herein, if such person knows or has reason to know that such visual depiction will be transported in interstate or foreign commerce or mailed, if that visual depiction was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer, or if such visual depiction has actually been transported in interstate or foreign commerce or mailed.

Any parent, legal guardian, or person having custody or control of a minor who knowingly permits such minor to engage in, or to assist any other person to engage in, sexually explicit conduct for the purpose of producing any visual depiction of such conduct shall be punished as provided herein, if such parent, legal guardian, or person knows or has reason to know that such visual depiction will be transported in interstate or foreign commerce or mailed, if that visual depiction was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer, or if such visual depiction has actually been transported in interstate or foreign commerce or mailed.

Any person who, in a circumstance described in this subsection, knowingly makes, prints, or publishes, or causes to be made, printed, or published, any notice or advertisement seeking or offering: (A) to receive, exchange, buy, produce, display, distribute, or reproduce, any visual depiction, if the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct and such visual depiction is of such conduct; or (B) participation in any act of sexually explicit conduct by or with any minor for the purpose of producing a visual depiction of such conduct; shall be punished as provided herein. The circumstance referred to above is that: (A) such person knows or has reason to know that such notice or advertisement will be transported in interstate or foreign commerce by any means including by computer or mailed; or (B) such notice or advertisement is transported in interstate or foreign commerce by any means including by computer or mailed.

Any individual who violates, or attempts or conspires to violate, this section shall be fined under this title or imprisoned not less than 10 years nor more than 20 years, or both, but if such person has one prior conviction under this chapter or chapter 109A (18 USCS §§ 2251 et seq. or 2241 et seq.) or under the laws of any State relating to the sexual exploitation of children, such person shall be fined under this title and imprisoned for not less than 15 years nor more than 30 years, but if such person has 2 or more prior convictions under this chapter or chapter 109A, or under the laws of any State relating to the sexual exploitation of children, such person shall be fined under this title and imprisoned not less than 30 years nor more than life. Any organization that violates, or attempts or conspires to violate, this section shall be fined under this title. Whoever, in the course of an offense under this section, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.

18 U.S.C.A. § 2252 (West Supp. 2000)

Any person who:

- Knowingly transports or ships in interstate or foreign commerce by any means including by computer or mails, any visual depiction, if: (A) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and (B) such visual depiction is of such conduct;
- Knowingly receives, or distributes any visual depiction that has been mailed, or has been shipped or transported in interstate or foreign commerce, or which contains materials which have been mailed or so shipped or transported, by any means including by computer, or knowingly reproduces any visual depiction for distribution in interstate or foreign commerce by any means including by computer or through the mails, if: (A) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and (B) such visual depiction is of such conduct;
- Either: (A) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the Government of the United States, or in the Indian country as defined in section 1151 of this title, knowingly sells or possesses with intent to sell any visual depiction; or (B) knowingly sells or possesses with intent to sell any visual depiction that has been mailed, or has been shipped or transported in interstate or foreign commerce, or which was produced using materials which have been mailed or so shipped or transported, by any means, including by computer, if: (i) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and (ii) such visual depiction is of such conduct; or
- Either: (A) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the Government of the United States, or in the Indian country as defined in section 1151 of this title, knowingly possesses 1 or more books, magazines, periodicals, films, video tapes, or other matter which contain any visual depiction; or (B) knowingly possesses 1 or more books, magazines, periodicals, films, video tapes, or other matter which contain any visual depiction that has been mailed, or has been shipped or transported in interstate or foreign commerce, or which was produced using materials which have been mailed or so shipped or transported, by any means including by computer, if: (i) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and (ii) such visual depiction is of such conduct; shall be punished as provided in this section.

18 U.S.C.A. § 2252A (West Supp. 2000)

Any person who:

- Knowingly mails, or transports or ships in interstate or foreign commerce by any means, including by computer, any child pornography;
- Knowingly receives or distributes: (A) any child pornography that has been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer; or (B) any material that contains child pornography that has been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer;

- Knowingly reproduces any child pornography for distribution through the mails, or in interstate or foreign commerce by any means, including by computer;
- Either: (A) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the United States Government, or in the Indian country (as defined in section 1151), knowingly sells or possesses with the intent to sell any child pornography; or (B) knowingly sells or possesses with the intent to sell any child pornography that has been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer, or that was produced using materials that have been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer;

shall be punished as provided herein.

It shall be an affirmative defense to a charge of violating the above provisions that: (1) the alleged child pornography was produced using an actual person or persons engaging in sexually explicit conduct; (2) each such person was an adult at the time the material was produced; and (3) the defendant did not advertise, promote, present, describe, or distribute the material in such a manner as to convey the impression that it is or contains a visual depiction of a minor engaging in sexually explicit conduct.

Any person who either: (A) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the United States Government, or in the Indian country (as defined in section 1151), knowingly possesses any book, magazine, periodical, film, videotape, computer disk, or any other material that contains 3 or more images of child pornography; or (B) knowingly possesses any book, magazine, periodical, film, videotape, computer disk, or any other material that contains 3 or more images of child pornography that has been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer, or that was produced using materials that have been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer, shall be punished as provided herein.

18 U.S.C.A. § 2256 (West Supp. 2000)

Minor means any person under the age of eighteen years.

Sexually explicit conduct means actual or simulated: (A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex; (B) bestiality; (C) masturbation; (D) sadistic or masochistic abuse; or (E) lascivious exhibition of the genitals or pubic area of any person.

Producing means producing, directing, manufacturing, issuing, publishing, or advertising.

Organization means a person other than an individual.

Visual depiction includes undeveloped film and videotape, and data stored on computer disk or by electronic means which is capable of conversion into a visual image.

Computer has the meaning given that term in section 1030 of this title.

Custody or control includes temporary supervision over or responsibility for a minor whether legally or illegally obtained.

Child pornography means any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where: (A) the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct; (B) such visual depiction is, or appears to be, of a minor engaging in sexually explicit conduct; (C) such visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct; or (D) such visual depiction is advertised, promoted, presented, described, or distributed in such a manner that conveys the impression that the material is or contains a visual depiction of a minor engaging in sexually explicit conduct.

Identifiable minor: (A) means a person: who was a minor at the time the visual depiction was created, adapted, or modified or whose image as a minor was used in creating, adapting, or modifying the visual depiction; and who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature; and (B) shall not be construed to require proof of the actual identity of the identifiable minor.