

SENATE BILL No. 633

By Committee on Federal and State Affairs

2-25

AN ACT concerning crimes, criminal procedure and punishment; relating to sexual exploitation of a child; amending K.S.A. 2001 Supp. 21-3516 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2001 Supp. 21-3516 is hereby amended to read as follows: 21-3516. (a) Sexual exploitation of a child is:

(1) Employing, using, persuading, inducing, enticing or coercing a child under 18 years of age to engage in sexually explicit conduct for the purpose of promoting any performance;

(2) possessing any *electronic image*, film, photograph, negative, slide, book, magazine or other printed or visual medium or any audio tape recording or any photocopy, video tape; *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. Each sexually explicit electronic image shall be a violation regardless of whether it is stored on video laser disk, computer hardware, software, floppy disk, compact disc, DVD 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;*

(3) being a parent, guardian or other person having custody or control of a child under 18 years of age and knowingly permitting such child to engage in, or assist another to engage in, sexually explicit conduct for any purpose described in subsection (a)(1) or (2); or

(4) promoting any performance that includes sexually explicit conduct by a child under 18 years of age, knowing the character and content of the performance.

(b) As used in this section:

(1) "Sexually explicit conduct" means actual or simulated: Exhibition in the nude; sexual intercourse or sodomy, including genital-genital, oral-

1 genital, anal-genital or oral-anal contact, whether between persons of the
2 same or opposite sex; masturbation; sado-masochistic abuse for the pur-
3 pose of sexual stimulation; or lewd exhibition of the genitals, female
4 breasts or pubic area of any person.

5 (2) "Promoting" means procuring, selling, providing, lending, mail-
6 ing, delivering, transferring, transmitting, distributing, circulating, dis-
7 seminating, presenting, producing, directing, manufacturing, issuing,
8 publishing, displaying, exhibiting or advertising:

9 (A) For pecuniary profit; or

10 (B) with intent to arouse or gratify the sexual desire or appeal to the
11 prurient interest of the offender, the child or another.

12 (3) "Performance" means any *electronic image*, film, photograph,
13 negative, slide, book, magazine or other printed or visual medium, any
14 audio tape recording or any photocopy, video tape, video laser disk, com-
15 puter hardware, software, floppy disk, *compact disc*, *DVD* or any other
16 computer related equipment or computer generated image that contains
17 or incorporates in any manner any film, photograph, negative, photocopy,
18 video tape or video laser disk or any play or other live presentation.

19 (4) "Nude" means any state of undress in which the human genitals,
20 pubic region, buttock or female breast, at a point below the top of the
21 areola, is less than completely and opaquely covered.

22 (c) Sexual exploitation of a child is a severity level 5, person felony.

23 (d) This section shall be part of and supplemental to the Kansas crim-
24 inal code.

25 Sec. 2. K.S.A. 2001 Supp. 21-3516 is hereby repealed.

26 Sec. 3. This act shall take effect and be in force from and after its
27 publication in the statute book.

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