

SENATE BILL No. 583

By Committee on Ways and Means

2-7

9 AN ACT concerning crimes, criminal procedure and punishment; relat-
10 ing to sexual exploitation of a child; amending K.S.A. 21-3516 and
11 repealing the existing section.
12

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

14 Section 1. K.S.A. 21-3516 is hereby amended to read as follows: 21-
15 3516. (a) Sexual exploitation of a child is:

16 (1) Except as provided in subsection (a)(5), employing, using, per-
17 suading, inducing, enticing or coercing a child under 18 years of age to
18 engage in sexually explicit conduct for the purpose of promoting any
19 performance;

20 (2) possessing any visual depiction, including any photograph, film,
21 video picture, digital or computer generated image or picture, whether
22 made or produced by electronic, mechanical or other means, where such
23 visual depiction of a child under 18 years of age is shown or heard en-
24 gaging in sexually explicit conduct with intent to arouse or satisfy the
25 sexual desires or appeal to the prurient interest of the offender, the child
26 or another;

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

31 (4) except as provided in subsection (a)(6), promoting any perform-
32 ance that includes sexually explicit conduct by a child under 18 years of
33 age, knowing the character and content of the performance;

34 (5) employing, using, persuading, inducing, enticing or coercing a
35 child under 14 years of age to engage in sexually explicit conduct for the
36 purpose of promoting any performance; or

37 (6) promoting any performance that includes sexually explicit conduct
38 by a child under 14 years of age, knowing the character and content of
39 the performance.

40 (b) As used in this section:

41 (1) "Sexually explicit conduct" means actual or simulated: Exhibition
42 in the nude; sexual intercourse or sodomy, including genital-genital, oral-
43 genital, anal-genital or oral-anal contact, whether between persons of the

- 1 same or opposite sex; masturbation; sado-masochistic abuse for the pur-
2 pose of sexual stimulation; or lewd exhibition of the genitals, female
3 breasts or pubic area of any person.
- 4 (2) "Promoting" means procuring, selling, providing, lending, mail-
5 ing, delivering, transferring, transmitting, distributing, circulating, dis-
6 seminating, presenting, producing, directing, manufacturing, issuing,
7 publishing, displaying, exhibiting or advertising:
- 8 (A) For pecuniary profit; or
9 (B) with intent to arouse or gratify the sexual desire or appeal to the
10 prurient interest of the offender, the child or another.
- 11 (3) "Performance" means any film, photograph, negative, slide, book,
12 magazine or other printed or visual medium, any audio tape recording or
13 any photocopy, video tape, video laser disk, computer hardware, software,
14 floppy disk or any other computer related equipment or computer gen-
15 erated image that contains or incorporates in any manner any film, pho-
16 tograph, negative, photocopy, video tape or video laser disk or any play
17 or other live presentation.
- 18 (4) "Nude" means any state of undress in which the human genitals,
19 pubic region, buttock or female breast, at a point below the top of the
20 areola, is less than completely and opaquely covered.
- 21 (5) *"Possessing any visual depiction" shall include, but not be limited*
22 *to, the presence of any such depictions in the form of a temporary internet*
23 *file, which was recorded upon a computer at a time when such computer*
24 *was operated by the person charged pursuant to this section, whether or*
25 *not such person had knowledge of the recordation of such temporary*
26 *internet file.*
- 27 (c) Except as provided further, sexual exploitation of a child is a se-
28 verity level 5, person felony. Sexual exploitation of a child as described in
29 subsection (a)(5) or (a)(6) when the offender is 18 years of age or older
30 is an off-grid person felony.
- 31 (d) This section shall be part of and supplemental to the Kansas crim-
32 inal code.
- 33 Sec. 2. K.S.A. 21-3516 is hereby repealed.
- 34 Sec. 3. This act shall take effect and be in force from and after its
35 publication in the statute book.