

# **TITLE 17: CRIMES**

## **CHAPTER 93-B: SEXUAL EXPLOITATION OF MINORS**

### **§ 2921. Definitions**

#### **§ 2921. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms shall

have the following meanings. [1977, c. 628, § 1 (new).]

1. Commercial use. [1985, c. 495, § 2 (rp).]

2. Disseminate. "Disseminate" means, for consideration, to manufacture, publish, distribute, exhibit, print, sell or transfer possession or to offer or agree to do any of these acts. [1977, c. 628, § 1 (new).]

3. Minor. "Minor" means a person under 18 years of age. [1983, c. 300, § 8 (amd).]

4. Photograph. "Photograph" means to make a print, negative, slide, motion picture, videotape or other mechanically reproduced visual material. [1977, c. 628, § 1 (new).]

5. Sexually explicit conduct. "Sexually explicit conduct" means any of the following acts:

A. Sexual act, as defined in Title 17-A, section 251, subsection 1, paragraph C; [1989, c. 401, Pt. B, §2 (amd).]

B. Bestiality; [1977, c. 628, § 1 (new).]

C. Masturbation; [1977, c. 628, § 1 (new).]

D. Sadomasochistic abuse for the purpose of sexual stimulation; [1977, c. 628, § 1 (new).]

E. Lewd exhibition of the genitals, anus or pubic area of a person; or [1987, c. 165 (amd).]

F. Conduct that creates the appearance of the acts in paragraphs A through D and also exhibits any uncovered or covered portions of the genitals, anus or pubic area. [1987, c. 165 (amd).]

[1989, c. 401, Pt. B, §2 (amd).]

Section History:

1977, c. 628, § 1 (NEW).

1983, c. 300, § 8 (AMD).

1985, c. 495, § 2 (AMD).

1987, c. 165 (AMD).

1989, c. 401, § B2 (AMD).

**§ 2922. Sexual exploitation of a minor**

1. Offense. 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 [1985, c. 495, § 3 (amd).]

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. [1985, c. 495, §3 (amd).] [1985, c. 495, § 3 (amd).]

2. Penalty. Sexual exploitation of a minor is a Class B crime, except that any person convicted of this crime shall be sentenced by imprisonment for not less than 5 years. If the State pleads and proves a prior conviction under this section, then the crime is a Class A crime, except that any person convicted of this 2nd crime shall be sentenced by imprisonment for not less than 10 years. The court shall not suspend either minimum term of imprisonment unless it sets forth in detail, in writing, the reasons for suspending the sentence. The court shall consider the nature and circumstances of the crime, the physical and mental wellbeing of the

minor, the history and character of the defendant, and shall only suspend the minimum term if it is of the opinion that the exceptional features of the case justify the imposition of another sentence. [1977, c. 628, § 1 (new).]

Section History:

1977, c. 628, § 1 (NEW).

1985, c. 495, § 3 (AMD).

**§ 2923. Dissemination of sexually explicit materials**

1. Offense. A person is guilty of dissemination of sexually explicit material if he intentionally or knowingly disseminates or possesses with intent to disseminate any book, magazine, print, negative, slide, motion picture, videotape or other mechanically reproduced visual material which depicts any minor, who the person knows or has reason to know is a minor, engaging in sexually explicit conduct.

[1983, c. 223 (rpr).]

2. Presumption. For the purposes of this section, possession of 10 or more copies of the same book, magazine, newspaper, print, negative, slide, motion picture, videotape or other mechanically reproduced visual material shall give rise to a presumption that the person possesses those items with intent to disseminate.

[1977, c. 628, § 1 (new).]

3. Penalty. Dissemination of sexually explicit materials is a Class C crime. If the State pleads and proves a prior conviction under this section, then the crime is a Class B crime.

[1993, c. 727, §1 (amd).]

Section History:

1977, c. 628, § 1 (NEW).

1983, c. 223 (AMD).

1993, c. 727, § 1 (AMD).

**§ 2924. Possession of sexually explicit materials**

1. Definitions. As used in this section, the term "sexually explicit conduct"

means any  
of the following acts:

A. Sexual act, as defined in Title 17-A, section 251, subsection 1, paragraph C;  
[1993, c. 727, §2 (new).]

B. Bestiality; [1993, c. 727, §2 (new).]

C. Masturbation; [1993, c. 727, §2 (new).]

D. Sadomasochistic abuse for the purpose of sexual stimulation; [1993, c. 727, §2 (new).]

E. Lewd exhibition of the unclothed genitals, anus or pubic area of a person. An exhibition is considered lewd if the depiction is designed for the purpose of eliciting or attempting to elicit a sexual response in the intended viewer; or [1993, c. 727, §2 (new).]

F. Conduct that creates the appearance of the acts in paragraphs A to D and also exhibits any uncovered or covered portions of the genitals, anus or pubic area. [1993, c. 727, §2 (new).]

[1993, c. 727, §2 (new).]

2. Offense. A person is guilty of possession of sexually explicit material if that person intentionally or knowingly transports, exhibits, purchases or possesses any book, magazine, print, negative, slide, motion picture, videotape or other mechanically reproduced visual material that the person knows or should know depicts another person engaging in sexually explicit conduct, and:

A. The other person has not in fact attained the age of 14 years; or [1993, c. 727, §2 (new).]

B. The person knows or has reason to know that the other person has not attained the age of 14 years. [RR 1993, c. 2, §8 (cor).]

[RR 1993, c. 2, §8 (cor).]

3. Defense. It is a defense to a prosecution under this section that the person depicted was the spouse of the person possessing the sexually explicit material at the time the material was produced.

[1993, c. 727, §2 (new).]

4. Age of person depicted. The age of the person depicted may be reasonably inferred from the depiction. Competent medical evidence or other expert testimony may be used to establish the age of the person depicted.

[1993, c. 727, §2 (new).]

5. Penalty. Possession of sexually explicit material is a Class D crime. If the State pleads and proves a prior conviction under this section, the crime is a Class C crime.

[1993, c. 727, §2 (new).]

6. Contraband. Any material that depicts a person who has not attained the age of 14 years engaging in sexually explicit conduct is declared to be contraband and may be seized by the State.

[1993, c. 727, §2 (new).]

Section History:

1993, c. 727, § 2 (NEW).

1993, RR c. 2, § 8 (COR).