
HOUSE BILL 2104

State of Washington

54th Legislature

1995 Regular Session

By Representatives Radcliff, Appelwick, Sheahan, Costa, Ballasiotes, Cody and Hatfield

Read first time . Referred to Committee on .

1 AN ACT Relating to the well-being of children; adding new sections
2 to chapter 9.68 RCW; repealing RCW 9.68.015, 9.68.050, 9.68.060,
3 9.68.070, 9.68.080, 9.68.090, 9.68.100, 9.68.110, 9.68.120, 9.68.130,
4 9.68A.140, 9.68A.150, and 9.68A.160; prescribing penalties; and
5 declaring an emergency.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** As used in sections 1 through 4 of this act,
8 the following terms have the meanings indicated unless the context
9 clearly requires otherwise.

10 (1) "Minor" means any person under the age of eighteen years.

11 (2) "Harmful to minors" means any matter or live performance:

12 (a) That the average adult person, applying contemporary community
13 standards, would find, when considered as a whole, appeals to the
14 prurient interest of minors; and

15 (b) That explicitly depicts or describes, by prevailing standards
16 in the adult community with respect to what is suitable for minors,
17 patently offensive representations or descriptions of:

18 (i) Ultimate sexual acts, normal or perverted, actual or simulated;

19 or

1 (ii) Masturbation, fellatio, cunnilingus, bestiality, excretory
2 functions, lewd exhibition of the genitals or genital area, sexually
3 explicit conduct, sexual excitement, or sexually explicit nudity; or

4 (iii) Sexual acts that are violent or destructive, including but
5 not limited to human or animal mutilation, dismemberment, rape, or
6 torture; and

7 (c) That, when considered as a whole, and in the context in which
8 it is used, lacks serious literary, artistic, political, or scientific
9 value for minors.

10 (3) "Matter" means a motion picture film, publication, sexual
11 device, or any combination thereof.

12 (4) "Motion picture film" means any:

13 (a) Film or plate negative;

14 (b) Film or plate positive;

15 (c) Film designed to be projected on a screen for exhibition;

16 (d) Film, glass slides, or transparencies, either in negative or
17 positive form, designed for exhibition by projection on a screen;

18 (e) Video tape; or

19 (f) Any other medium used to transmit or reproduce images
20 electronically on a screen.

21 (5) "Publication" means any book, magazine, article, pamphlet,
22 writing, printing illustration, picture, sound recording, telephonic
23 communication, or coin-operated machine.

24 (6) "Sexual device" means any artificial device primarily designed,
25 promoted, or marketed to physically stimulate or manipulate the human
26 genitals.

27 (7) "Live performance" means any play, show, skit, dance, or other
28 exhibition performed or presented to or before an audience of one or
29 more, in person or by electronic transmission, or by telephonic
30 communication, with or without consideration.

31 (8) "Sexual conduct" means sexual intercourse or sexual contact as
32 defined in RCW 9A.44.010.

33 (9) "Knowledge of its character" means that the person has
34 knowledge that the matter or performance contains, depicts, or
35 describes activity or conduct that is patently offensive under
36 subsection (2)(b) of this section. Such knowledge may be proved by
37 direct or circumstantial evidence, or both.

38 (10) "Knowledge" means knowledge as defined in RCW 9A.08.010(1)(b).

1 NEW SECTION. **Sec. 2.** (1) No person may, with knowledge of its
2 character:

3 (a) Present, furnish, or display to a minor any matter that is
4 harmful to minors for the purpose of promoting, encouraging, inducing,
5 facilitating, or coercing the minor's exposure to and involvement in
6 sexual conduct with the perpetrator or a third party or for the
7 perpetrator's sexual gratification;

8 (b) Present to a minor or participate in presenting to a minor any
9 live performance that is harmful to minors for the purpose of
10 promoting, encouraging, inducing, facilitating, or coercing the minor's
11 exposure to and involvement in sexual conduct with the perpetrator or
12 a third party or for the perpetrator's sexual gratification.

13 (2) A violation of this section is a class B felony.

14 NEW SECTION. **Sec. 3.** In any prosecution for a violation of
15 section 2 of this act, it shall not be a defense that the perpetrator
16 did not know that the victim was a minor, unless the defendant proves
17 by a preponderance of the evidence that at the time of the offense the
18 defendant reasonably believed the victim to be eighteen years of age or
19 older based on the victim's declarations as to his or her age.

20 NEW SECTION. **Sec. 4.** In any case where a person who has violated
21 section 2 of this act also commits any sexual offense under chapter
22 9.68A, 9A.44, or 9A.64 RCW, the perpetrator shall be prosecuted for a
23 violation of section 2 of this act in addition to the prosecution for
24 the sexual offense.

25 NEW SECTION. **Sec. 5.** The following acts or parts of acts are each
26 repealed:

27 (1) RCW 9.68.015 and 1959 c 260 s 2;

28 (2) RCW 9.68.050 and 1992 c 5 s 1 & 1969 ex.s. c 256 s 13;

29 (3) RCW 9.68.060 and 1992 c 5 s 2 & 1969 ex.s. c 256 s 14;

30 (4) RCW 9.68.070 and 1992 c 5 s 4 & 1969 ex.s. c 256 s 15;

31 (5) RCW 9.68.080 and 1969 ex.s. c 256 s 16;

32 (6) RCW 9.68.090 and 1992 c 5 s 3 & 1969 ex.s. c 256 s 17;

33 (7) RCW 9.68.100 and 1969 ex.s. c 256 s 18;

34 (8) RCW 9.68.110 and 1969 ex.s. c 256 s 19;

35 (9) RCW 9.68.120 and 1969 ex.s. c 256 s 20;

36 (10) RCW 9.68.130 and 1975 1st ex.s. c 156 s 1;

- 1 (11) RCW 9.68A.140 and 1987 c 396 s 1;
2 (12) RCW 9.68A.150 and 1987 c 396 s 2; and
3 (13) RCW 9.68A.160 and 1987 c 396 s 3.

4 NEW SECTION. **Sec. 6.** Sections 1 through 4 of this act are each
5 added to chapter 9.68 RCW.

6 NEW SECTION. **Sec. 7.** If any provision of this act or its
7 application to any person or circumstance is held invalid, the
8 remainder of the act or the application of the provision to other
9 persons or circumstances is not affected.

10 NEW SECTION. **Sec. 8.** This act is necessary for the immediate
11 preservation of the public peace, health, or safety, or support of the
12 state government and its existing public institutions, and shall take
13 effect immediately.

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