

SENATE BILL REPORT

HB 2565

As Reported By Senate Committee On:
Judiciary, February 27, 2008

Title: An act relating to including defendants who are persons specifically authorized to assist and act at the direction of law enforcement officers for the purpose of affirmative defenses.

Brief Description: Including defendants who are persons specifically authorized to assist and act at the direction of law enforcement officers for the purpose of affirmative defenses.

Sponsors: Representatives O'Brien and Pearson; by request of Attorney General.

Brief History: Passed House: 2/13/08, 96-0.

Committee Activity: Judiciary: 2/27/08 [DPA]

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended.

Signed by Senators Kline, Chair; Tom, Vice Chair; McCaslin, Ranking Minority Member; Carrell, Hargrove, McDermott, Roach and Weinstein.

Staff: Lidia Mori (786-7755)

Background: There are several offenses relating to selling and possessing depictions of a minor engaged in sexually explicit conduct. A person is guilty of "Dealing in Depictions of a Minor Engaged in Sexually Explicit Conduct" if that person: (1) knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells any visual or printed matter that depicts a minor engaged in sexually explicit conduct; or (2) possesses with the intent to develop, duplicate, publish, print, disseminate, exchange, or sell any visual or printed matter that depicts a minor engaged in sexually explicit conduct. Dealing in depictions of a minor engaged in sexually explicit conduct is a class C felony with a seriousness level of VII.

A person is guilty of "Sending or Bringing Into the State Depictions of a Minor Engaged in Sexually Explicit Conduct" if that person knowingly sends, or causes to be sent, or brings, or causes to be brought, into the state, for sale or distribution any visual or printed matter that depicts a minor engaged in sexually explicit conduct. Sending or bringing into the state depictions of a minor engaged in sexually explicit conduct is a class C felony with a seriousness level of VII.

A person is guilty of "Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct" if that person knowingly possesses visual or printed matter depicting a minor

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engaged in sexually explicit conduct. Possession of depictions of a minor engaged in sexually explicit conduct is a class B felony with a seriousness level of VI.

In a prosecution for dealing in depictions of a minor engaged in sexually explicit conduct, sending or bringing into the state depictions of a minor engaged in sexually explicit conduct, or possession of depictions of a minor engaged in sexually explicit conduct, it is an affirmative defense that the defendant was a law enforcement officer in the process of conducting an official investigation of a sex-related crime against a minor.

Summary of Bill (Recommended Amendments): In prosecutions for the offenses of: (1) dealing in depictions of minor engaged in sexually explicit conduct; (2) sending or bringing into the state depictions of minor engaged in sexually explicit conduct; or (3) possession of depictions of minor engaged in sexually explicit conduct, it is an affirmative defense that the defendant was specifically authorized, in writing, to assist a law enforcement officer and was acting at the direction of a law enforcement officer in the process of conducting an investigation of a sex-related crime against a minor.

EFFECT OF CHANGES MADE BY JUDICIARY COMMITTEE (Recommended Amendments): In prosecutions for the offenses of: (1) dealing in depictions of minor engaged in sexually explicit conduct; (2) sending or bringing into the state depictions of minor engaged in sexually explicit conduct; or (3) possession of depictions of minor engaged in sexually explicit conduct, it is an affirmative defense that the defendant was specifically authorized, in writing, to assist a law enforcement officer and was acting at the direction of a law enforcement officer in the process of conducting an investigation of a sex-related crime against a minor.

The current crime of possession of depictions of a minor engaged in sexually explicit conduct is established as first degree possession of depictions of a minor engaged in sexually explicit conduct. The crime of second degree possession of depictions of a minor engaged in sexually explicit conduct is created. Second degree possession of depictions of a minor engaged in sexually explicit conduct is not a sex offense as defined in RCW 9.94A.030 and it is an unranked class C felony.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: None.

Persons Testifying: No one.