
Early Learning & Human Services Committee

SSB 6566

Brief Description: Concerning juvenile offenses.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Dhingra, Chase, Cleveland, Darneille, Saldaña and Kuderer).

Brief Summary of Substitute Bill

- Exempts minors from the crimes of 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, possession of depictions of a minor engaged in sexually explicit conduct, and viewing depictions of a minor engaged in sexually explicit conduct under certain circumstances when the depictions are of a minor over the age of 12.
- Specifies that any minor who knowingly distributes, transfers, disseminates, or exchanges a visual or printed matter that depicts any other minor over the age of 12 engaged in an act of sexually explicit conduct shall be guilty of a misdemeanor.
- Removes limitations on juvenile diversions and requires that a juvenile's first offense for distribution, transfer, dissemination, or exchange of sexually explicit images of other minors over the age of 12 be diverted.
- Specifies that a minor who possesses any depiction of any other minor engaged in an act of sexually explicit conduct or any image of any other minor which constitutes an intimate image shall be deemed to forfeit any right to continued possession of the depiction or image and may be ordered by a court to forfeit the depiction or image.

Hearing Date: 2/16/18

Staff: Luke Wickham (786-7146).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Dealing in Depictions of a Minor Engaged in Sexually Explicit Conduct.

A person commits the crime of Dealing in Depictions of a Minor Engaged in Sexually Explicit Conduct in the first degree or second degree when he or she knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells a visual or printed matter that depicts a minor engaged in sexually explicit conduct. The crime is also committed when a person possesses the visual or printed matter with the intent to develop, duplicate, publish, print, disseminate, exchange, or sell it.

The degree of the offense depends on the type of conduct depicted. The first degree offense is a class B felony and level VII offense, and the second degree offense is a class C felony and level V offense.

A minor is defined as any person under age 18.

Sending or Bringing into the State Depictions of a Minor Engaged in Sexually Explicit Conduct.

A person commits the crime of Sending or Bringing into the State Depictions of a Minor Engaged in Sexually Explicit Conduct in the first or second degree when he or she knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, a visual or printed matter that depicts a minor engaged in sexually explicit conduct. The degree of the offense depends on the type of conduct depicted. The first degree offense is a class B felony and a level VII offense, and the second degree offense is a class C felony and level V offense.

Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct.

A person commits the crime of Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct when he or she knowingly possesses a visual or printed matter depicting a minor engaged in sexually explicit conduct. For the purposes of determining the unit of prosecution, each incident of possession of one or more depictions or images of visual or printed matter constitutes a separate offense.

The degree of the offense depends on the type of conduct depicted. The first degree offense is a class B felony and level VI offense, and the second degree offense is a class C felony and level IV offense.

Viewing Depictions of a Minor Engaged in Sexually Explicit Conduct.

A person commits the crime of viewing depictions of a minor engaged in sexually explicit conduct when he or she intentionally views over the internet visual or printed matter depicting a minor engaged in sexually explicit conduct.

The degree of the offense depends on the type of conduct depicted. The first degree offense is a class B felony and level IV offense, and the second degree offense is a class C unranked felony offense.

Juvenile Sentencing and Diversion.

Juvenile court dispositions are subject to statutory sentencing guidelines.

Local sanctions is the least serious category for juvenile sentencing purposes. Local sanctions include:

- a range of up to 30 days in confinement;
- up to 12 months of community supervision;
- up to 150 hours of community service; and
- up to a \$500 fine.

Confinement imposed by a juvenile court up to 30 days is served in a county juvenile detention facility. Any confinement imposed that is greater than 30 days is served through commitment at a Department of Social and Health Services juvenile rehabilitation facility.

A juvenile diversion is a contract between a juvenile accused of an offense and a diversion unit where the juvenile agrees to certain conditions in lieu of prosecution. Diversion agreements may include community restitution not to exceed 150 hours, restitution, up to 10 hours of counseling and/or up to 20 hours of educational or informational sessions, requirements to remain during certain hours at home, school, or work, and requirements not to have contact with victims or witnesses. If a youth does not complete the diversion agreement, a prosecutor may file a criminal complaint.

Summary of Bill:

Dealing in Depictions of a Minor Engaged in Sexually Explicit Conduct.

Minors are exempted from the crime of dealing in depictions of a minor engaged in sexually explicit conduct when he or she:

- knowingly develops, duplicates, publishes, or prints a visual or printed matter that depicts any minor over the age of 12 engaged in an act of sexually explicit conduct;
- possesses any depiction of any minor over the age of 12 engaged in an act of sexually explicit conduct with the intent to develop, duplicate, publish, print, disseminate, or exchange such depiction; or
- knowingly distributes, transfers, disseminates, or exchanges a visual or printed matter that depicts themselves engaged in an act of sexually explicit conduct.

Any minor who knowingly distributes, transfers, disseminates, or exchanges a visual or printed matter that depicts any other minor over the age of 12 engaged in a an act of sexually explicit conduct shall be guilty of a misdemeanor.

Sending or Bringing into the State Depictions of a Minor Engaged in Sexually Explicit Conduct.

A minor who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for distribution, visual or printed matter depicting any minor over the age of 12 engaged in sexually explicit conduct is exempted from the crime of sending or bringing into the state depictions of a minor engaged in sexually explicit conduct.

Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct.

A minor who possesses visual or printed matter depicting any minor over the age of 12 engaged in sexually explicit conduct is exempt from the crime of possession of depictions of a minor engaged in sexually explicit conduct.

Viewing Depictions of a Minor Engaged in Sexually Explicit Conduct.

A minor who views over the internet visual or printed matter depicting a minor over the age of 12 engaged in sexually explicit conduct is exempt from the crime of intentionally viewing over the internet visual or printed matter depicting a minor engaged in sexually explicit conduct.

Diversion.

The requirement that a prosecutor file an information with juvenile court and refer a case for diversion after a juvenile has three or more diversions is removed. A juvenile's first offense for distribution, transfer, dissemination, or exchange of sexually explicit images of other minors over the age of 12 must be diverted.

Sex Offense.

The juvenile offense for distribution, transfer, dissemination, or exchange of sexually explicit images of other minors over the age of 12 is not considered a sex offense.

Forfeiture of Depictions or Images.

A minor who possesses any depiction of any other minor engaged in an act of sexually explicit conduct shall be deemed to forfeit any right to continued possession of the depiction and may be ordered by a court to forfeit the depiction to the custody of law enforcement.

A minor who possesses any image of any other minor which constitutes an intimate image shall be deemed to forfeit any right to possess the image may be ordered by a court to forfeit the image.

Appropriation: None.

Fiscal Note: Requested on February 14, 2018.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.