
HOUSE BILL 2430

State of Washington

66th Legislature

2020 Regular Session

By Representatives Klippert and Eslick

Read first time 01/14/20. Referred to Committee on Human Services & Early Learning.

1 AN ACT Relating to crimes by minors relating to intimate images;
2 amending RCW 9.68A.053, 9.68A.060, 9.68A.070, and 9.68A.075; and
3 prescribing penalties.

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

5 **Sec. 1.** RCW 9.68A.053 and 2019 c 128 s 4 are each amended to
6 read as follows:

7 (1) (a) (i) A person under the age of eighteen commits the crime of
8 a minor dealing in depictions of another minor thirteen years of age
9 or older engaged in sexually explicit conduct in the first degree
10 when he or she knowingly distributes, publishes, transfers,
11 disseminates, or exchanges a visual or printed matter that depicts
12 another minor thirteen years of age or older engaged in an act of
13 sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through
14 (e).

15 (ii) Minor dealing in depictions of another minor thirteen years
16 of age or older engaged in sexually explicit conduct in the first
17 degree is a gross misdemeanor.

18 (b) (i) A person under the age of eighteen commits the crime of a
19 minor dealing in depictions of another minor thirteen years of age or
20 older engaged in sexually explicit conduct in the second degree when
21 he or she knowingly distributes, publishes, transfers, disseminates,

1 or exchanges a visual or printed matter that depicts another minor
2 thirteen years of age or older engaged in an act of sexually explicit
3 conduct as defined in RCW 9.68A.011(4) (f) or (g).

4 (ii) Minor dealing in depictions of another minor thirteen years
5 of age or older engaged in sexually explicit conduct in the second
6 degree is a misdemeanor.

7 (2)(a) A person under age eighteen commits the crime of minor
8 dealing in depictions of another minor twelve years of age or younger
9 engaged in sexually explicit conduct in the first degree when he or
10 she:

11 (i) Knowingly develops, duplicates, publishes, prints,
12 disseminates, exchanges, finances, attempts to finance, or sells a
13 visual or printed matter that depicts another minor twelve years of
14 age or younger engaged in an act of sexually explicit conduct as
15 defined in RCW 9.68A.011(4) (a) through (e); or

16 (ii) Possesses with intent to develop, duplicate, publish, print,
17 disseminate, exchange, or sell any visual or printed matter that
18 depicts another minor twelve years of age or younger engaged in an
19 act of sexually explicit conduct as defined in RCW 9.68A.011(4) (a)
20 through (e).

21 (b) Minor dealing in depictions of another minor twelve years of
22 age or younger engaged in sexually explicit conduct in the first
23 degree is a class B felony punishable under chapter 9A.20 RCW.

24 (3)(a) A person under age eighteen commits the crime of minor
25 dealing in depictions of another minor twelve years of age or younger
26 engaged in sexually explicit conduct in the second degree when he or
27 she:

28 (i) Knowingly develops, duplicates, publishes, prints,
29 disseminates, exchanges, finances, attempts to finance, or sells any
30 visual or printed matter that depicts another minor twelve years of
31 age or younger engaged in an act of sexually explicit conduct as
32 defined in RCW 9.68A.011(4) (f) or (g); or

33 (ii) Possesses with intent to develop, duplicate, publish, print,
34 disseminate, exchange, or sell any visual or printed matter that
35 depicts another minor twelve years of age or younger engaged in an
36 act of sexually explicit conduct as defined in RCW 9.68A.011(4) (f)
37 or (g).

38 (b) Minor dealing in depictions of a minor twelve years of age or
39 younger engaged in sexually explicit conduct in the second degree is
40 a class B felony punishable under chapter 9A.20 RCW.

1 (4) (a) Any person under the age of eighteen commits the crime of
2 minor financing or selling depictions of another minor engaged in
3 sexually explicit conduct when he or she finances, attempts to
4 finance, or sells a visual or printed matter that depicts a minor
5 engaged in an act of sexually explicit conduct as defined in RCW
6 9.68A.011(4) (a) through (g).

7 (b) Minor financing or selling depictions of another minor
8 engaged in sexually explicit conduct is a class B felony punishable
9 under chapter 9A.20 RCW.

10 (5) (a) A person under the age of eighteen commits the crime of
11 minor selling depictions of himself or herself engaged in sexually
12 explicit conduct when he or she sells a visual or printed matter that
13 depicts himself or herself engaged in an act of sexually explicit
14 conduct as defined in RCW 9.68A.011(4) (a) through (g).

15 (b) Minor selling depictions of himself or herself engaged in
16 sexually explicit conduct is a misdemeanor.

17 (6) This section does not apply to a person under eighteen years
18 of age who ~~((finances, attempts to finance, develops, duplicates,~~
19 ~~publishes, prints, disseminates, exchanges, or possesses a visual or~~
20 ~~printed matter that depicts himself or herself engaged in an act of~~
21 ~~sexually explicit conduct as defined in RCW 9.68A.011(4))~~ possesses
22 an image as defined in this section of himself or herself.

23 (7) This section does not apply to a person under eighteen years
24 of age who disseminates or exchanges an image as defined in this
25 section of himself or herself with no more than one other person.

26 (8) A person under eighteen years of age who disseminates or
27 exchanges an image as defined in this section of himself or herself
28 with more than one other person is guilty of a misdemeanor.

29 (9) A person under eighteen years of age who possesses,
30 distributes, exchanges, finances, attempts to finance, sells,
31 develops, duplicates, publishes, or prints a visual or printed matter
32 that depicts himself or herself engaged in an act of sexually
33 explicit conduct as defined in RCW 9.68A.011(4) (a) through (e) and
34 (g) is guilty of a gross misdemeanor.

35 (10) A person under eighteen years of age who possesses,
36 distributes, exchanges, finances, attempts to finance, sells,
37 develops, duplicates, publishes, or prints a visual or printed matter
38 that depicts himself or herself engaged in an act of sexually
39 explicit conduct as defined in RCW 9.68A.011(4) (f) is guilty of a
40 misdemeanor.

1 (11) For purposes of this section, "image" means a photograph,
2 moving picture, or other depiction of the unclothed breast, unclothed
3 genitals, or unclothed pubic area or buttocks.

4 (12) For the purposes of determining the unit of prosecution
5 under this section, each depiction or image of visual or printed
6 matter constitutes a separate offense.

7 **Sec. 2.** RCW 9.68A.060 and 2019 c 128 s 5 are each amended to
8 read as follows:

9 (1)(a) Except as provided in subsections (3) and (4) of this
10 section, a person commits the crime of sending or bringing into the
11 state depictions of a minor engaged in sexually explicit conduct in
12 the first degree when he or she knowingly sends or causes to be sent,
13 or brings or causes to be brought, into this state for sale or
14 distribution, a visual or printed matter that depicts a minor engaged
15 in sexually explicit conduct as defined in RCW 9.68A.011(4) (a)
16 through (e).

17 (b) Sending or bringing into the state depictions of a minor
18 engaged in sexually explicit conduct in the first degree is a class B
19 felony punishable under chapter 9A.20 RCW.

20 (c) For the purposes of determining the unit of prosecution under
21 this subsection, each depiction or image of visual or printed matter
22 constitutes a separate offense.

23 (2)(a) Except as provided in subsections (3) and (4) of this
24 section, a person commits the crime of sending or bringing into the
25 state depictions of a minor engaged in sexually explicit conduct in
26 the second degree when he or she knowingly sends or causes to be
27 sent, or brings or causes to be brought, into this state for sale or
28 distribution, any visual or printed matter that depicts a minor
29 engaged in sexually explicit conduct as defined in RCW 9.68A.011(4)
30 (f) or (g).

31 (b) Sending or bringing into the state depictions of a minor
32 engaged in sexually explicit conduct in the second degree is a class
33 B felony punishable under chapter 9A.20 RCW.

34 (c) For the purposes of determining the unit of prosecution under
35 this subsection, each incident of sending or bringing into the state
36 one or more depictions or images of visual or printed matter
37 constitutes a separate offense.

38 (3) (~~This section does not apply to a~~) A minor who knowingly
39 sends or causes to be sent, or brings or causes to be brought, into

1 this state for distribution, visual or printed matter depicting any
2 minor thirteen years of age or older engaged in sexually explicit
3 conduct is guilty of a gross misdemeanor.

4 (4) (~~(This section does not apply to a)~~) A person under thirteen
5 years of age who knowingly sends or causes to be sent, or brings or
6 causes to be brought, into this state for distribution, visual or
7 printed matter depicting himself or herself engaged in sexually
8 explicit conduct is guilty of a misdemeanor.

9 **Sec. 3.** RCW 9.68A.070 and 2019 c 128 s 6 are each amended to
10 read as follows:

11 (1)(a) Except as provided in subsections (3) and (4) of this
12 section, a person commits the crime of possession of depictions of a
13 minor engaged in sexually explicit conduct in the first degree when
14 he or she knowingly possesses a visual or printed matter depicting a
15 minor engaged in sexually explicit conduct as defined in RCW
16 9.68A.011(4) (a) through (e).

17 (b) Possession of depictions of a minor engaged in sexually
18 explicit conduct in the first degree is a class B felony punishable
19 under chapter 9A.20 RCW.

20 (c) For the purposes of determining the unit of prosecution under
21 this subsection, each depiction or image of visual or printed matter
22 constitutes a separate offense.

23 (2)(a) Except as provided in subsections (3) and (4) of this
24 section, a person commits the crime of possession of depictions of a
25 minor engaged in sexually explicit conduct in the second degree when
26 he or she knowingly possesses any visual or printed matter depicting
27 a minor engaged in sexually explicit conduct as defined in RCW
28 9.68A.011(4) (f) or (g).

29 (b) Possession of depictions of a minor engaged in sexually
30 explicit conduct in the second degree is a class B felony punishable
31 under chapter 9A.20 RCW.

32 (c) For the purposes of determining the unit of prosecution under
33 this subsection, each incident of possession of one or more
34 depictions or images of visual or printed matter constitutes a
35 separate offense.

36 (3) (~~(This section does not apply to a)~~) A minor(~~(s)~~) in
37 possession of visual or printed matter depicting any minor thirteen
38 years of age or older engaged in sexually explicit conduct is guilty
39 of a misdemeanor.

1 (4) (~~This section does not apply to a~~) A person under thirteen
2 years of age in possession of visual or printed matter depicting
3 himself or herself engaged in sexually explicit conduct is guilty of
4 a misdemeanor.

5 **Sec. 4.** RCW 9.68A.075 and 2019 c 128 s 7 are each amended to
6 read as follows:

7 (1) Except as provided in subsections (5) and (6) of this
8 section, a person who intentionally views over the internet visual or
9 printed matter depicting a minor engaged in sexually explicit conduct
10 as defined in RCW 9.68A.011(4) (a) through (e) is guilty of viewing
11 depictions of a minor engaged in sexually explicit conduct in the
12 first degree, a class B felony punishable under chapter 9A.20 RCW.

13 (2) Except as provided in subsections (5) and (6) of this
14 section, a person who intentionally views over the internet visual or
15 printed matter depicting a minor engaged in sexually explicit conduct
16 as defined in RCW 9.68A.011(4) (f) or (g) is guilty of viewing
17 depictions of a minor engaged in sexually explicit conduct in the
18 second degree, a class C felony punishable under chapter 9A.20 RCW.

19 (3) For the purposes of determining whether a person
20 intentionally viewed over the internet a visual or printed matter
21 depicting a minor engaged in sexually explicit conduct in subsection
22 (1) or (2) of this section, the trier of fact shall consider the
23 title, text, and content of the visual or printed matter, as well as
24 the internet history, search terms, thumbnail images, downloading
25 activity, expert computer forensic testimony, number of visual or
26 printed matter depicting minors engaged in sexually explicit conduct,
27 defendant's access to and control over the electronic device and its
28 contents upon which the visual or printed matter was found, or any
29 other relevant evidence. The state must prove beyond a reasonable
30 doubt that the viewing was initiated by the user of the computer
31 where the viewing occurred.

32 (4) For the purposes of this section, each separate internet
33 session of intentionally viewing over the internet visual or printed
34 matter depicting a minor engaged in sexually explicit conduct
35 constitutes a separate offense.

36 (5) (~~This section does not apply to a~~) A minor who
37 intentionally views over the internet visual or printed matter
38 depicting a minor thirteen years of age or older engaged in sexually
39 explicit conduct is guilty of a misdemeanor.

1 (6) (~~This section does not apply to a~~) A person under thirteen
2 years of age who intentionally views over the internet visual or
3 printed matter depicting himself or herself engaged in sexually
4 explicit conduct is guilty of a misdemeanor.

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