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**SENATE BILL 5223**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senators C. Wilson, Dhingra, Hunt, Keiser, Nguyen, and Valdez

Read first time 01/10/23. Referred to Committee on Law & Justice.

1 AN ACT Relating to protecting minors from sexual exploitation;  
2 and amending RCW 9.68A.040 and 9.68A.053.

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

4 **Sec. 1.** RCW 9.68A.040 and 1989 c 32 s 2 are each amended to read  
5 as follows:

6 (1) A person is guilty of sexual exploitation of a minor if the  
7 person:

8 (a) Compels a minor by threat or force to engage in sexually  
9 explicit conduct, knowing that such conduct will be photographed or  
10 part of a live performance;

11 (b) Aids, invites, employs, authorizes, or causes a minor to  
12 engage in sexually explicit conduct, knowing that such conduct will  
13 be photographed or part of a live performance; ~~((or))~~

14 (c) Being a parent, legal guardian, or person having custody or  
15 control of a minor, permits the minor to engage in sexually explicit  
16 conduct, knowing that the conduct will be photographed or part of a  
17 live performance; or

18 (d) Knowingly causes a minor to be photographed or part of a live  
19 performance which depicts the minor engaged in sexually explicit  
20 conduct where the minor is unconscious or unaware of the photograph  
21 or recording.

1 (2) Sexual exploitation of a minor is a class B felony punishable  
2 under chapter 9A.20 RCW.

3 **Sec. 2.** RCW 9.68A.053 and 2019 c 128 s 4 are each amended to  
4 read as follows:

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

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

16 (b) (i) A person under the age of eighteen commits the crime of a  
17 minor dealing in depictions of another minor thirteen years of age or  
18 older engaged in sexually explicit conduct in the second degree when  
19 he or she knowingly distributes, publishes, transfers, disseminates,  
20 or exchanges a visual or printed matter that depicts another minor  
21 thirteen years of age or older engaged in an act of sexually explicit  
22 conduct as defined in RCW 9.68A.011(4) (f) or (g).

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

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

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

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

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

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

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

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

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

21 (4)(a) Any person under the age of eighteen commits the crime of  
22 minor financing or selling depictions of another minor engaged in  
23 sexually explicit conduct when he or she finances, attempts to  
24 finance, or sells a visual or printed matter that depicts a minor  
25 engaged in an act of sexually explicit conduct as defined in RCW  
26 9.68A.011(4) (a) through (g).

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

30 (5)(a) A person under the age of eighteen commits the crime of  
31 minor selling depictions of himself or herself engaged in sexually  
32 explicit conduct when he or she sells a visual or printed matter that  
33 depicts himself or herself engaged in an act of sexually explicit  
34 conduct as defined in RCW 9.68A.011(4) (a) through (g) and that  
35 visual or printed matter does not include any depiction of another  
36 minor engaged in an act of sexually explicit conduct as defined in  
37 RCW 9.68A.011(4).

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

1           (6) This section does not apply to a person under eighteen years  
2 of age who finances, attempts to finance, develops, duplicates,  
3 publishes, prints, disseminates, exchanges, or possesses a visual or  
4 printed matter that depicts himself or herself engaged in an act of  
5 sexually explicit conduct as defined in RCW 9.68A.011(4) and that  
6 visual or printed matter does not include any depiction of another  
7 minor engaged in an act of sexually explicit conduct as defined in  
8 RCW 9.68A.011(4).

9           (7) For the purposes of determining the unit of prosecution under  
10 this section, each depiction or image of visual or printed matter  
11 constitutes a separate offense.

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