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Federal Laws

18 U.S.C. 1466A – OBSCENE VISUAL REPRESENTATIONS OF THE SEXUAL ABUSE OF CHILDREN

It is forbidden to knowingly produce, distribute, receive, or possess with the intent to distribute, a visual depiction of any kind, including a drawing, cartoon, sculpture, or painting, that

- depicts a minor engaging in sexually explicit conduct and is obscene, or
- depicts an image that is, or appears to be, of a minor engaging in graphic bestiality, sadistic or masochistic abuse, or sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex, and such depiction lacks serious literary, artistic, political, or scientific value.

Attempts or conspiracies to knowingly produce, distribute, receive, or possess with the intent to distribute, a visual depiction of any kind, including a drawing, cartoon, sculpture, or painting, that

- depicts a minor engaging in sexually explicit conduct and is obscene, or
- depicts an image that is, or appears to be, of a minor engaging in graphic bestiality, sadistic or masochistic abuse, or sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex, and such depiction lacks serious literary, artistic, political, or scientific value, are also forbidden.

It is forbidden to knowingly possess a visual depiction of any kind, including a drawing, cartoon, sculpture, or painting, that

- depicts a minor engaging in sexually explicit conduct and is obscene, or
- depicts an image that is, or appears to be, of a minor engaging in graphic bestiality, sadistic or masochistic abuse, or sexual intercourse, including genital-genital, oral-genital,

anal-genital, or oral-anal, whether between persons of the same or opposite sex, and such depiction lacks serious literary, artistic, political, or scientific value,

if one of the...circumstances [noted below] is present

- any communication involved in or made in furtherance of the offense is communicated or transported by the mail, or in interstate or foreign commerce by any means, including by computer, or any means or instrumentality of interstate or foreign commerce is otherwise used in committing or in furtherance of the commission of the offense;
- any communication involved in or made in furtherance of the offense contemplates the transmission or transportation of a visual depiction by the mail, or in interstate or foreign commerce by any means, including by computer;
- any person travels or is transported in interstate or foreign commerce in the course of the commission or in furtherance of the commission of the offense;
- any visual depiction involved in the offense has been mailed, or has been shipped or transported in interstate or foreign commerce by any means, including by computer, or was produced using materials that have been mailed, or that have been shipped or transported in interstate or foreign commerce by any means, including by computer; or
- the offense is committed in the special maritime and territorial jurisdiction of the United States or in any territory or possession of the United States.

An attempt to knowingly possess such a visual depiction is also forbidden under the same circumstances.

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18 U.S.C. 2251 – SEXUAL EXPLOITATION OF CHILDREN

It is forbidden for any person to employ, use, persuade, induce, entice, or coerce any minor to engage or assist any other person to engage in, or to transport any minor in interstate or foreign commerce with the intent that the minor engage in, any sexually explicit conduct if such person knows or has reason to know that such visual depiction was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer, or if such visual depiction has actually been transported in interstate or foreign commerce or mailed.

It is forbidden for any parent, legal guardian, or person having custody or control of a minor to knowingly permit such minor to engage or assist any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct if the parent, legal guardian, or person knows or has reason to know that such visual depiction will be transported in interstate or foreign commerce or mailed, if that visual depiction was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer, or if such visual depiction has actually been transported in interstate or foreign commerce or mailed.

It is forbidden for any person to knowingly make, print, or publish, or cause to be made, printed, or published, any notice or advertisement seeking or offering

- to receive, exchange, buy, produce, display, distribute, or reproduce, any visual depiction, if the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct and such visual depiction is of such conduct, or

- to participate in any act of sexually explicit conduct by or with any minor for the purpose of producing a visual depiction of such conduct,

if such person knows or has reason to know that such notice or advertisement is or will be transported in interstate or foreign commerce by any means including by computer or mail.

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18 U.S.C. 2252 – MATERIAL INVOLVING THE SEXUAL EXPLOITATION OF MINORS

It is forbidden for any person to knowingly transport or ship in interstate or foreign commerce by any means, including by computer or through the mail, any visual depiction, if

- the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct, and
- such visual depiction is of such conduct.

It is forbidden for any person to knowingly

- receive or distribute any visual depiction that has been mailed, shipped, or transported in interstate or foreign commerce, or which contains materials that have been so mailed, shipped, or transported, by any means, including by computer, or
- reproduce any visual depiction for distribution in interstate or foreign commerce by any means, including by computer or through the mail,

if the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct and such visual depiction is of such conduct.

It is forbidden to knowingly sell or possess with the intent to sell any visual depiction that has been mailed, shipped, or transported in interstate or foreign commerce, or which was produced using materials that have been so mailed, shipped, or transported, by any means, including computer, if

- the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct, and
- such visual depiction is of such conduct.

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18 U.S.C. 2252A – MATERIAL CONSTITUTING OR CONTAINING CHILD PORNOGRAPHY¹

It is forbidden for any person to knowingly

- mail, or transport or ship in interstate or foreign commerce by any means, including by computer, any child pornography;
- receive or distribute any
 - child pornography that has been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer or
 - material that contains child pornography that has been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer;
- advertise, promote, present, distribute, or solicit through the mail, or in interstate or foreign commerce by any means, including by computer, any material or purported material in a manner that reflects the belief, or that is intended to cause another to believe, that the material or purported material is, or contains

- an obscene visual depiction of a minor engaging in sexually explicit conduct; or
 - a visual depiction of an actual minor engaging in sexually explicit conduct;
- reproduces any child pornography for distribution through the mails, or in interstate or foreign commerce by any means, including by computer;
- sell or possess with the intent to sell any child pornography;
- possess any book, magazine, periodical, film, videotape, computer disk, or any other material that contains an image of child pornography; or
- distribute, offer, send, or provide to a minor any visual depiction, including any photograph, film, video, picture, or computer generated image or picture, whether made or produced by electronic, mechanical, or other means, where such visual depiction is, or appears to be, of a minor engaging in sexually explicit conduct
 - that has been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer;
 - that was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer; or
 - if such distribution, offer, sending, or provision is accomplished using the mails or by transmitting or causing to be transmitted any wire communication in interstate or foreign commerce, including by computer, for the purpose of inducing or persuading a minor to participate in any activity that is illegal.

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18 U.S.C. 2256 – “CHILD PORNOGRAPHY” DEFINED

Child pornography is defined as any visual depiction, including any photograph, film, video, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where

- the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct;
- such visual depiction is a digital image, computer image, or computer-generated image that is, or is indistinguishable from, that of a minor engaging in sexually explicit conduct; or
- such visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct.

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42 U.S.C. 13032 – REPORTING OF CHILD PORNOGRAPHY BY ELECTRONIC COMMUNICATION SERVICE PROVIDERS

Whoever, while providing an electronic communication service or a remote computing service to the public through a facility or means of interstate or foreign commerce, obtains knowledge of facts or circumstances from which a violation of certain offenses involving child pornography is apparent, must report those facts or circumstances to the [CyberTipline] at the National Center for Missing [&] Exploited Children as soon as is reasonably possible.

State Laws

State governments have taken a number of steps to prevent the sexual exploitation of children. Today every state, as well as the District of Columbia, has enacted statutes that specifically address this problem. At this time all states impose criminal liability on

producers and distributors.

For information regarding your state's laws, please contact the agencies noted below.

National Association of Counsel for Children

Suite 340
1825 Marion Street
Denver, CO 80218-1125
Toll-Free: 1-888-828-NACC
Telephone: 303-864-5320
Fax: 303-864-5351
<http://www.naccchildlaw.org>

The National Center for Prosecution of Child Abuse

American Prosecutors Research Institute
Suite 510
99 Canal Center Plaza
Alexandria, VA 22314-1588
Telephone: 703-549-4253
Fax: 703-836-3195
<http://www.ndaa-apri.org>

The National Clearinghouse on Child Abuse and Neglect Information

330 C Street, SW
Washington, DC 20447-0001
Toll-Free: 1-800-FYI-3366
Telephone: 703-385-7565
Fax: 703-385-3206
E-mail: nccanch@calib.com
<http://www.calib.com/nccanch>

National Conference of State Legislatures

7700 East First Place
Denver, CO 80230-7143
Telephone: 303-364-7700
Fax: 303-364-7800
<http://www.ncsl.org>

Please note that we provide this list as a public service. The National Center for Missing & Exploited Children does not sponsor or endorse any group listed.

End Note

¹As stated by Janis Wolak, Kimberly Mitchell, and David Finkelhor in *Internet Sex Crimes Against Minors: The Response of Law Enforcement* (Alexandria, Virginia: National Center for Missing & Exploited Children, November 2003, page vii), "The term 'child pornography,' because it implies simply conventional pornography with child subjects, is an inappropriate term to describe the true nature and extent of sexually exploitive images of child victims. Use of this term should not be taken to imply that children 'consented' to the sexual acts depicted in these photographs; however, it is the term most readily recognized by the public, at this point in time, to describe this form of child sexual exploitation. It is used in this [document] to refer to illegal pictorial material involving children under the standards developed by statute, case law, and law-enforcement-agency protocols. It is hoped that a more accurate term will be recognized, understood, and accepted for use in the near future."

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