

Title 7 – Criminal Offenses
Chapter 2. Crimes Against Persons
Subchapter C. Sexual Offenses

Sec. 228. Sexual exploitation of a child.

(a) A person commits the offense of a sexual exploitation of a child if the person:

(1) Intentionally employs, uses, or permits the employment or use of a child in an exhibition of sexual conduct, actual or simulated;

(2) Intentionally photographs, films, videotapes, develops or duplicates the photographs, films, or videotapes, or records a child engaging in sexual conduct, actual or simulated;

(3) Intentionally, by any means of communication, including electronic communication, persuades, entices, counsels, or procures a child under 16 years of age or a person the offender believes to be a child under 16 years of age to engage in sexual conduct, actual or simulated;

(4) Intentionally processes, develops, prints, publishes, transports, distributes, sells, exhibits, or advertises any visual or print medium, including a medium by use of electronic communication in which a child is engaged in sexual conduct, actual or simulated;

(5) Intentionally possesses any visual or print medium, including a medium by use of electronic communication in which a child is engaged in sexual conduct, actual or simulated;

(6) Finances any of the activities described in subsections (a)(1) through (a)(4) and (a)(7), knowing that the activity is of the nature described in those subsections;

(7) Possesses with intent to sell any visual or print medium, including a medium by use of electronic communication in which a child is engaged in sexual conduct, actual or simulated;

(8) Intentionally travels within, from or to this Reservation with the intention of meeting a child under 16 years of age or a person the offender believes to be a child under 16 years of age in order to engage in sexual conduct, actual or simulated; or

(9) Intentionally coerces, entices, persuades, arranges for, or facilitates a child under 16 years of age or a person the offender believes to be a

child under 16 years of age to travel within, from or to this Reservation with the intention of engaging in sexual conduct, actual or simulated.

(b) A person convicted of sexual exploitation of a child is guilty of a felony.

(c) An offense is not committed under subsections (a)(4) through (a)(7) if the visual or print medium is processed, developed, printed, published, transported, distributed, sold, possessed, or possessed with intent to sell, or if the activity is financed, as part of a sexual offender information or treatment course or program conducted or approved by the Court and/or the Branch of Corrections of the Department of Law and Justice.

(d) As used in this section, the following definitions apply:

(1) Electronic communication means a sign, signal, writing, image, sound, data, or intelligence of any nature transmitted or created in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system.

(2) Sexual conduct means:

(A) Actual or simulated:

(i) Sexual intercourse, whether between persons of the same or opposite sex;

(ii) Penetration of the vagina or rectum by any object, except when done as part of a recognized medical procedure;

(iii) Bestiality;

(iv) Masturbation;

(v) Sadomasochistic abuse;

(vi) Lewd exhibition of the genitals, breasts, pubic or rectal area, or other intimate parts of any person; or

(vii) Defecation or urination for the purpose of the sexual stimulation of the viewer; or

(B) Depiction of a child in the nude or in a state of partial undress with the purpose to abuse, humiliate, harass, or degrade the child or to arouse or gratify the person's own sexual response or desire or the sexual response or desire of any person.

(3) Simulated means any depicting of the genitals or pubic or rectal area that gives the appearance of sexual conduct or incipient sexual conduct.

(4) Visual medium means:

(A) Any film, photograph, videotape, negative, slide, or photographic reproduction that contains or incorporates in any manner any film, photograph, videotape, negative, or slide; or

(B) Any disk, diskette, or other physical media that allows an image to be displayed on a computer or other video screen and any image transmitted to a computer or other video screen by telephone line, cable, satellite transmission, or other method.

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