

AN ACT

ENTITLED, An Act to revise provisions related to child pornography and to revise the penalty therefor.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 22-24A-1 be amended to read:

22-24A-1. Any person who sells, or displays for sale, any book, magazine, pamphlet, slide, photograph, film, or electronic or digital media image depicting a minor engaging in a prohibited sexual act, or engaging in an activity that involves nudity, or in the simulation of any such act is guilty of a Class 4 felony.

Section 2. That § 22-24A-5 be amended to read:

22-24A-5. A person is guilty of solicitation of a minor if the person eighteen years of age or older:

- (1) Solicits a minor, or someone the person reasonably believes is a minor, to engage in a prohibited sexual act; or
- (2) Knowingly compiles or transmits by means of a computer; or prints, publishes or reproduces by other computerized or any other electronic means; or buys, sells, receives, exchanges or disseminates, any notice, statement or advertisement of any minor's name, telephone number, place of residence, physical characteristics or other descriptive or identifying information for the purpose of soliciting a minor or someone the person reasonably believes is a minor to engage in a prohibited sexual act.

The fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense under this section does not constitute a defense to a prosecution under this section.

Consent to performing a prohibited sexual act by a minor or a minor's parent, guardian, or

custodian, or mistake as to the minor's age is not a defense to a charge of violating this section.

A violation of this section is a Class 4 felony.

The court shall order an assessment pursuant to § 22-22-1.3 of any person convicted of violating this section.

Nothing contained in this section shall be construed to impose liability on a provider of an electronic communication service, an information service, a mobile service, including a commercial mobile service, a telecommunication service, an interactive computer service, or a cable service.

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I certify that the attached Act
originated in the

SENATE as Bill No. 169

Secretary of the Senate

President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 169
File No. _____
Chapter No. _____

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Received at this Executive Office
this ____ day of _____ ,

20__ at _____ M.

By _____
for the Governor

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The attached Act is hereby
approved this _____ day of
_____, A.D., 20__

Governor

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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State