

AN ACT

ENTITLED, An Act to establish the elements of the offense of juvenile sexting and to provide a penalty therefor.

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

Section 1. No minor, as defined in subdivision 26-7A-1(21), may intentionally create, produce, distribute, present, transmit, post, exchange, disseminate, or possess, through any computer or digital media, any photograph or digitized image or any visual depiction of a minor in any condition of nudity, as defined in subdivision 22-24A-2(9), or involved in any prohibited sexual act, as defined in subdivision 22-24A-2(16). Any violation of this section constitutes the offense of juvenile sexting, which is a Class 1 misdemeanor.

Section 2. It is an affirmative defense to the offense of juvenile sexting that the minor has not solicited the visual depiction, that the minor does not subsequently distribute, present, transmit, post, print, disseminate, or exchange the visual depiction, and that the minor deletes or destroys the visual depiction within a reasonable time after receipt. It is an affirmative defense to the offense of juvenile sexting that the visual depiction is of a single minor, created by that minor, who does not subsequently distribute, present, transmit, post, print, disseminate, or exchange the visual depiction.

Section 3. It is not a defense to the offense of juvenile sexting that the visual depiction is of the person charged.

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I certify that the attached Act
originated in the

SENATE as Bill No. 183

Secretary of the Senate

President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 183
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