

**Maine**

Title 17: CRIMES

Chapter 93-B: SEXUAL EXPLOITATION OF MINORS

§2921. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms shall have the following meanings. [1977, c. 628, §1 (new).]

1. Commercial use. [1985, c. 495, §2 (rp).]
2. Disseminate. "Disseminate" means to manufacture, publish, send, promulgate, distribute, exhibit, issue, furnish, sell or transfer or to offer or agree to do any of these acts. [1999, c. 444, §1 (amd).]
3. Minor. "Minor" means a person under 18 years of age. [1983, c. 300, §8 (amd).]
4. Photograph. "Photograph" means to make, capture, generate or save a print, negative, slide, motion picture, computer data file, videotape or other mechanically, electronically or chemically reproduced visual image or material. [1999, c. 444, §2 (amd).]
5. Sexually explicit conduct. "Sexually explicit conduct" means any of the following acts:
  - A. Sexual act, as defined in Title 17-A, section 251, subsection 1, paragraph C; [1989, c. 401, Pt. B, §2 (amd).]
  - B. Bestiality; [1977, c. 628, §1 (new).]
  - C. Masturbation; [1977, c. 628, §1 (new).]
  - D. Sadoomasochistic abuse for the purpose of sexual stimulation; [1977, c. 628, §1 (new).]
  - E. Lewd exhibition of the genitals, anus or pubic area of a person; or [1987, c. 165 (amd).]
  - F. Conduct that creates the appearance of the acts in paragraphs A through D and also exhibits any uncovered or covered portions of the genitals, anus or pubic area. [1987, c. 165 (amd).]

[1989, c. 401, Pt. B, §2 (amd).]

\*\*\*\*\*

§2922. Sexual exploitation of a minor (CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

1. (TEXT EFFECTIVE UNTIL 7/1/04) Offense. A person is guilty of sexual exploitation of a minor if:
  - A. Knowing or intending that the conduct will be photographed, he intentionally or knowingly employs, solicits, entices, persuades, uses or compels another person, not his spouse, who is in fact a minor, to engage in sexually explicit conduct; or [1985, c. 495, §3 (amd).]
  - B. Being a parent, legal guardian or other person having care or custody of another person, who is in fact a minor, he knowingly or intentionally permits that minor to engage in sexually explicit conduct, knowing or intending that the conduct will be photographed. [1985, c. 495, §3 (amd).]

[1985, c. 495, §3 (amd).]

\*\*\*\*\*

§2923. Dissemination of sexually explicit materials (CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

1. (TEXT EFFECTIVE UNTIL 7/1/04) Offense. A person is guilty of dissemination of sexually explicit material if the person intentionally or knowingly disseminates or possesses with intent to disseminate any book, magazine, print, negative, slide, motion picture, videotape, computer data file or other mechanically, electronically or chemically reproduced visual image or material that depicts any minor, who the person knows or has reason to know is a minor, engaging in sexually explicit conduct. [1999, c. 444, §3 (amd).]

1. (TEXT EFFECTIVE 7/1/04) Offense. A person is guilty of dissemination of sexually explicit material if:

A. The person intentionally or knowingly disseminates or possesses with intent to disseminate any book, magazine, print, negative, slide, motion picture, videotape, computer data file or other mechanically, electronically or chemically reproduced visual image or material that depicts any minor, who the person knows or has reason to know is a minor, engaging in sexually explicit conduct; or [2003, c. 452, Pt. I, §49 (new); Pt. X, §2 (aff).]

B. The person violates paragraph A and, at the time of the offense, has one or more prior convictions for violating this section. [2003, c. 452, Pt. I, §49 (new); Pt. X, §2 (aff).]

[2003, c. 452, Pt. I, §49 (rpr); Pt. X, §2 (aff).]

2. Presumption. For the purposes of this section, possession of 10 or more copies of the same book, magazine, newspaper, print, negative, slide, motion picture, computer data file, videotape or other mechanically, electronically or chemically reproduced visual image or material gives rise to a presumption that the person possesses those items with intent to disseminate. [2001, c. 412, §1 (amd).]

3. (TEXT EFFECTIVE UNTIL 7/1/04) Penalty. Dissemination of sexually explicit materials is a Class C crime. If the State pleads and proves a prior conviction under this section, then the crime is a Class B crime. [1993, c. 727, §1 (amd).]

3. (TEXT EFFECTIVE 7/1/04) Penalty. The following penalties for dissemination of sexually explicit materials apply.

A. Violation of subsection 1, paragraph B is a Class B crime. [2003, c. 452, Pt. I, §50 (new); Pt. X, §2 (aff).]

B. Violation of subsection 1, paragraph A is a Class C crime. [2003, c. 452, Pt. I, §50 (new); Pt. X, §2 (aff).]

Title 17-A, section 9-A governs the use of prior convictions when determining a sentence.

[2003, c. 452, Pt. I, §50 (rpr); Pt. X, §2 (aff).]

\*\*\*\*\*

§2924. Possession of sexually explicit materials (CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

1. Definitions. As used in this section, the term "sexually explicit conduct" means any of the following acts:

A. Sexual act, as defined in Title 17-A, section 251, subsection 1, paragraph C; [1993, c. 727, §2 (new).]

B. Bestiality; [1993, c. 727, §2 (new).]

C. Masturbation; [1993, c. 727, §2 (new).]

D. Sadomasochistic abuse for the purpose of sexual stimulation; [1993, c. 727, §2 (new).]

E. Lewd exhibition of the unclothed genitals, anus or pubic area of a person. An exhibition is considered lewd if the depiction is designed for the purpose of eliciting or attempting to elicit a sexual response in the intended viewer; or [1993, c. 727, §2 (new).]

F. Conduct that creates the appearance of the acts in paragraphs A to D and also exhibits any uncovered or covered portions of the genitals, anus or pubic area. [1993, c. 727, §2 (new).]

[1993, c. 727, §2 (new).]

2. (TEXT EFFECTIVE UNTIL 7/1/04) Offense. A person is guilty of possession of sexually explicit material if that person intentionally or knowingly transports, exhibits, purchases or possesses any book, magazine, print, negative, slide, motion picture, computer data file, videotape or other mechanically, electronically or chemically reproduced visual image or material that the person knows or should know depicts another person engaging in sexually explicit conduct, and:

A. The other person has not in fact attained the age of 14 years; or [1993, c. 727, §2 (new).]

B. The person knows or has reason to know that the other person has not attained the age of 14 years. [RR 1993, c. 2, §8 (cor).]

[2001, c. 412, §2 (amd).]

2. (TEXT REPEALED 7/1/04) Offense. [2003, c. 452, Pt. I, §51 (rp); Pt. X, §2 (aff).]

2-A. (TEXT EFFECTIVE 7/1/04) Offense. A person is guilty of possession of sexually explicit material if that person:

A. Intentionally or knowingly transports, exhibits, purchases or possesses any book, magazine, print, negative, slide, motion picture, computer data file, videotape or other mechanically, electronically or chemically reproduced visual image or material that the person knows or should know depicts another person engaging in sexually explicit conduct, and:

(1) The other person has not in fact attained the age of 14 years; or

(2) The person knows or has reason to know that the other person has not attained the age of 14 years; or [2003, c. 452, Pt. I, §52 (new); Pt. X, §2 (aff).]

B. Violates paragraph A and, at the time of the offense, has one or more prior convictions for violating this section. [2003, c. 452, Pt. I, §52 (new); Pt. X, §2 (aff).]

[2003, c. 452, Pt. I, §52 (new); Pt. X, §2 (aff).]

3. Defense. It is a defense to a prosecution under this section that the person depicted was the spouse of the person possessing the sexually explicit material at the time the material was produced. [1993, c. 727, §2 (new).]

4. Age of person depicted. The age of the person depicted may be reasonably inferred from the depiction. Competent medical evidence or other expert testimony may be used to establish the age of the person depicted. [1993, c. 727, §2 (new).]

5. (TEXT EFFECTIVE UNTIL 7/1/04) Penalty. Possession of sexually explicit material is a Class D crime. If the State pleads and proves a prior conviction under this section, the crime is a Class C crime. [1993, c. 727, §2 (new).]

5. (TEXT EFFECTIVE 7/1/04) Penalty. The following penalties for possession of sexually explicit material apply.

A. Violation of subsection 2-A, paragraph B is a Class C crime. [2003, c. 452, Pt. I, §53 (new); Pt. X, §2 (aff).]

B. Violation of subsection 2-A, paragraph A is a Class D crime. [2003, c. 452, Pt. I, §53 (new); Pt. X, §2 (aff).]

Title 17-A, section 9-A governs the use of prior convictions when determining a sentence.

[2003, c. 452, Pt. I, §53 (rpr); Pt. X, §2 (aff).]

6. Contraband. Any material that depicts a person who has not attained the age of 14 years engaging in sexually explicit conduct is declared to be contraband and may be seized by the State. [1993, c. 727, §2 (new).]

\*\*\*\*\*  
§2925. Forfeiture of equipment used to facilitate violations

1. Motion; notice. Upon a finding of guilt of any violation of this chapter, but prior to sentencing, an attorney for the State may, in writing, move the court for an order requiring the forfeiture to the State of any equipment, including computers, that may have facilitated the commission of the offense. Notice of the motion may be made by the State to the defendant and any party of interest by registered mail. [1999, c. 444, §5 (new).]

2. In rem forfeiture proceeding. If contesting the forfeiture, the defendant or other party-in-interest in the in rem civil forfeiture proceeding may request a jury trial. Absent that request, the proceeding must be before the court. [1999, c. 444, §5 (new).]

3. Burden of proof. At the jury trial or court hearing, the State has the burden of proving to the fact finder by a preponderance of the evidence that the equipment was used in violation of this chapter. [1999, c. 444, §5 (new).]

4. Order of forfeiture; distribution. Upon a finding by a preponderance of the evidence that the equipment was used to facilitate the commission of a violation of this chapter, the court shall order the equipment forfeited and may, upon the written recommendation of the attorney for the State, provide in its

order for the disposition or use of the equipment by any state, county or municipal law enforcement agency that made a substantial contribution to the investigation or prosecution of the case. Any equipment forfeited that is not transferred to an investigating or prosecuting agency must be sold and the proceeds deposited in the General Fund. [1999, c. 444, §5 (new).]

5. Rules. The Attorney General may adopt by rule guidelines regulating the disposition and use of property forfeited or sought for forfeiture under this section. Rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. [1999, c. 444, §5 (new).]

=====  
=====