

Minnesota

617.245 Civil action; use of a minor in a sexual performance.

Subdivision 1. Definitions. (a) The definitions in this subdivision apply to this section.

(b) "Minor" means any person who, at the time of use in a sexual performance, is under the age of 16.

(c) "Promote" means to produce, direct, publish, manufacture, issue, or advertise.

(d) "Sexual performance" means any play, dance, or other exhibition presented before an audience or for purposes of visual or mechanical reproduction which depicts sexual conduct as defined by paragraph (e).

(e) "Sexual conduct" means any of the following if the depiction involves a minor:

(1) an act of sexual intercourse, actual or simulated, including genital-genital, anal-genital, or oral-genital intercourse, whether between human beings or between a human being and an animal;

(2) sadomasochistic abuse, meaning flagellation, torture, or similar demeaning acts inflicted by or upon a minor who is nude, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so unclothed;

(3) masturbation or lewd exhibitions of the genitals; and

(4) physical contact or simulated physical contact with the unclothed pubic areas or buttocks of a human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

Subd. 2. Cause of action. A cause of action exists for injury caused by the use of a minor in a sexual performance. The cause of action exists against a person who promotes, employs, uses, or permits a minor to engage or assist others to engage in posing or modeling alone or with others in a sexual performance, if the person knows or has reason to know that the conduct intended is a sexual performance.

A person found liable for injuries under this section is liable to the minor for damages.

Neither consent to sexual performance by the minor or by the minor's parent, guardian, or custodian, or mistake as to the minor's age is a defense to the action.

Subd. 3. Limitation period. An action for damages

under this section must be commenced within six years of the time the plaintiff knew or had reason to know injury was caused by plaintiff's use as a minor in a sexual performance. The knowledge of a parent, guardian, or custodian may not be imputed to the minor. This section does not affect the suspension of the statute of limitations during a period of disability under section 541.15.

HIST: 1992 c 571 art 12 s 1

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609.342 Criminal sexual conduct in the first degree.

Subdivision 1. Crime defined. A person who engages in sexual penetration with another person, or in sexual contact with a person under 13 years of age as defined in section 609.341, subdivision 11, paragraph (c), is guilty of criminal sexual conduct in the first degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(b) the complainant is at least 13 years of age but less than 16 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(c) circumstances existing at the time of the act cause the complainant to have a reasonable fear of imminent great bodily harm to the complainant or another;

(d) the actor is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses or threatens to use the weapon or article to cause the complainant to submit;

(e) the actor causes personal injury to the complainant, and either of the following circumstances exist:

(i) the actor uses force or coercion to accomplish sexual penetration; or

(ii) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(f) the actor is aided or abetted by one or more accomplices within the meaning of section 609.05, and either of the following circumstances exists:

(i) an accomplice uses force or coercion to cause the complainant to submit; or

(ii) an accomplice is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant reasonably to believe it to be a dangerous weapon and uses or threatens to use the weapon or article to cause the complainant to submit;

(g) the actor has a significant relationship to the complainant and the complainant was under 16 years of age at the time of the sexual penetration. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense; or

(h) the actor has a significant relationship to the complainant, the complainant was under 16 years of age at the time of the sexual penetration, and:

(i) the actor or an accomplice used force or coercion to accomplish the penetration;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense.

Subd. 2. Penalty. (a) Except as otherwise provided in section 609.109, a person convicted under subdivision 1 may be sentenced to imprisonment for not more than 30 years or to a payment of a fine of not more than \$40,000, or both.

(b) Unless a longer mandatory minimum sentence is otherwise required by law or the sentencing guidelines provide for a longer presumptive executed sentence, the court shall presume that an executed sentence of 144 months must be imposed on an offender convicted of violating this section. Sentencing a person in a manner other than that described in this paragraph is a departure from the sentencing guidelines.

Subd. 3. Stay. Except when imprisonment is required under section 609.109, if a person is convicted under subdivision 1, clause (g), the court may stay imposition or execution of the sentence if it finds that:

(a) a stay is in the best interest of the complainant or the family unit; and

(b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

- (1) incarceration in a local jail or workhouse;
- (2) a requirement that the offender complete a treatment program; and
- (3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

HIST: 1975 c 374 s 3; 1981 c 51 s 2; 1983 c 204 s 1; 1984 c 628 art 3 s 11; 1985 c 24 s 5; 1985 c 286 s 15; 1986 c 444; 1989 c 290 art 4 s 12; 1992 c 571 art 1 s 14; 1994 c 636 art 2 s 34; 1995 c 186 s 99; 1998 c 367 art 3 s 7; art 6 s 15; 2000 c 311 art 4 s 2; 2000 c 437 s 10

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609.343 Criminal sexual conduct in the second degree.

Subdivision 1. Crime defined. A person who engages in sexual contact with another person is guilty of criminal sexual conduct in the second degree if any of the following circumstances exists:

- (a) the complainant is under 13 years of age and the actor is more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense. In a prosecution under this clause, the state is not required to prove that the sexual contact was coerced;
- (b) the complainant is at least 13 but less than 16 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;
- (c) circumstances existing at the time of the act cause the complainant to have a reasonable fear of imminent great bodily harm to the complainant or another;
- (d) the actor is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses or threatens to use the dangerous weapon to cause the complainant to submit;
- (e) the actor causes personal injury to the complainant, and either of the following circumstances exist:
 - (i) the actor uses force or coercion to accomplish the

sexual contact; or

(ii) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(f) the actor is aided or abetted by one or more accomplices within the meaning of section 609.05, and either of the following circumstances exists:

(i) an accomplice uses force or coercion to cause the complainant to submit; or

(ii) an accomplice is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses or threatens to use the weapon or article to cause the complainant to submit;

(g) the actor has a significant relationship to the complainant and the complainant was under 16 years of age at the time of the sexual contact. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense; or

(h) the actor has a significant relationship to the complainant, the complainant was under 16 years of age at the time of the sexual contact, and:

(i) the actor or an accomplice used force or coercion to accomplish the contact;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense.

Subd. 2. Penalty. (a) Except as otherwise provided in section 609.109, a person convicted under subdivision 1 may be sentenced to imprisonment for not more than 25 years or to a payment of a fine of not more than \$35,000, or both.

(b) Unless a longer mandatory minimum sentence is otherwise required by law or the sentencing guidelines provide for a longer presumptive executed sentence, the court shall presume that an executed sentence of 90 months must be imposed on an offender convicted of violating subdivision 1, clause (c), (d), (e), (f), or (h). Sentencing a person in a manner other than that described in this paragraph is a departure from the sentencing guidelines.

Subd. 3. Stay. Except when imprisonment is required

under section 609.109, if a person is convicted under subdivision 1, clause (g), the court may stay imposition or execution of the sentence if it finds that:

(a) a stay is in the best interest of the complainant or the family unit; and

(b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

(1) incarceration in a local jail or workhouse;

(2) a requirement that the offender complete a treatment program; and

(3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

HIST: 1975 c 374 s 4; 1979 c 258 s 12; 1981 c 51 s 3; 1983 c 204 s 2; 1984 c 628 art 3 s 11; 1985 c 24 s 6; 1985 c 286 s 16; 1986 c 444; 1989 c 290 art 4 s 13; 1992 c 571 art 1 s 15; 1998 c 367 art 3 s 8; art 6 s 15; 2000 c 437 s 11; 2002 c 381 s 2

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609.344 Criminal sexual conduct in the third degree.

Subdivision 1. Crime defined. A person who engages in sexual penetration with another person is guilty of criminal sexual conduct in the third degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is no more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant shall be a defense;

(b) the complainant is at least 13 but less than 16 years of age and the actor is more than 24 months older than the complainant. In any such case it shall be an affirmative defense, which must be proved by a preponderance of the evidence, that the actor believes the complainant to be 16 years of age or older. If the actor in such a case is no more than 48 months but more than 24 months older than the complainant, the actor may be sentenced to imprisonment for not more than five years. Consent by the complainant is not a defense;

(c) the actor uses force or coercion to accomplish the penetration;

(d) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(e) the complainant is at least 16 but less than 18 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(f) the actor has a significant relationship to the complainant and the complainant was at least 16 but under 18 years of age at the time of the sexual penetration. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(g) the actor has a significant relationship to the complainant, the complainant was at least 16 but under 18 years of age at the time of the sexual penetration, and:

(i) the actor or an accomplice used force or coercion to accomplish the penetration;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist and the sexual penetration occurred:

(i) during the psychotherapy session; or

(ii) outside the psychotherapy session if an ongoing psychotherapist-patient relationship exists.

Consent by the complainant is not a defense;

(i) the actor is a psychotherapist and the complainant is a former patient of the psychotherapist and the former patient is emotionally dependent upon the psychotherapist;

(j) the actor is a psychotherapist and the complainant is a patient or former patient and the sexual penetration occurred by means of therapeutic deception. Consent by the complainant is not a defense;

(k) the actor accomplishes the sexual penetration by means of deception or false representation that the penetration is for a bona fide medical purpose. Consent by the complainant is not a defense;

(1) the actor is or purports to be a member of the clergy, the complainant is not married to the actor, and:

(i) the sexual penetration occurred during the course of a meeting in which the complainant sought or received religious or spiritual advice, aid, or comfort from the actor in private; or

(ii) the sexual penetration occurred during a period of time in which the complainant was meeting on an ongoing basis with the actor to seek or receive religious or spiritual advice, aid, or comfort in private. Consent by the complainant is not a defense;

(m) the actor is an employee, independent contractor, or volunteer of a state, county, city, or privately operated adult or juvenile correctional system, including, but not limited to, jails, prisons, detention centers, or work release facilities, and the complainant is a resident of a facility or under supervision of the correctional system. Consent by the complainant is not a defense; or

(n) the actor provides or is an agent of an entity that provides special transportation service, the complainant used the special transportation service, and the sexual penetration occurred during or immediately before or after the actor transported the complainant. Consent by the complainant is not a defense.

Subd. 2. Penalty. A person convicted under subdivision 1 may be sentenced to imprisonment for not more than 15 years or to a payment of a fine of not more than \$30,000, or both.

Subd. 3. Stay. Except when imprisonment is required under section 609.109, if a person is convicted under subdivision 1, clause (f), the court may stay imposition or execution of the sentence if it finds that:

(a) a stay is in the best interest of the complainant or the family unit; and

(b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

(1) incarceration in a local jail or workhouse;

(2) a requirement that the offender complete a treatment program; and

(3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully

completed the treatment program unless approved by the treatment program and the supervising correctional agent.

HIST: 1975 c 374 s 5; 1979 c 258 s 13; 1983 c 204 s 3; 1984 c 588 s 7; 1984 c 628 art 3 s 11; 1985 c 24 s 7; 1985 c 286 s 17; 1985 c 297 s 6; 1986 c 351 s 8; 1986 c 444; 1Sp1986 c 3 art 1 s 80; 1987 c 94 s 1; 1989 c 290 art 4 s 14; 1992 c 571 art 1 s 16,17; 1993 c 326 art 4 s 20; 1994 c 636 art 2 s 35; 1998 c 367 art 3 s 9; art 6 s 15; 2000 c 437 s 12; 2001 c 210 s 22; 2002 c 381 s 3

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609.345 Criminal sexual conduct in the fourth degree.

Subdivision 1. Crime defined. A person who engages in sexual contact with another person is guilty of criminal sexual conduct in the fourth degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is no more than 36 months older than the complainant. Neither mistake as to the complainant's age or consent to the act by the complainant is a defense. In a prosecution under this clause, the state is not required to prove that the sexual contact was coerced;

(b) the complainant is at least 13 but less than 16 years of age and the actor is more than 48 months older than the complainant or in a position of authority over the complainant. Consent by the complainant to the act is not a defense. In any such case, it shall be an affirmative defense which must be proved by a preponderance of the evidence that the actor believes the complainant to be 16 years of age or older;

(c) the actor uses force or coercion to accomplish the sexual contact;

(d) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(e) the complainant is at least 16 but less than 18 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(f) the actor has a significant relationship to the complainant and the complainant was at least 16 but under 18 years of age at the time of the sexual contact. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(g) the actor has a significant relationship to the

complainant, the complainant was at least 16 but under 18 years of age at the time of the sexual contact, and:

(i) the actor or an accomplice used force or coercion to accomplish the contact;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist and the sexual contact occurred:

(i) during the psychotherapy session; or

(ii) outside the psychotherapy session if an ongoing psychotherapist-patient relationship exists. Consent by the complainant is not a defense;

(i) the actor is a psychotherapist and the complainant is a former patient of the psychotherapist and the former patient is emotionally dependent upon the psychotherapist;

(j) the actor is a psychotherapist and the complainant is a patient or former patient and the sexual contact occurred by means of therapeutic deception. Consent by the complainant is not a defense;

(k) the actor accomplishes the sexual contact by means of deception or false representation that the contact is for a bona fide medical purpose. Consent by the complainant is not a defense;

(l) the actor is or purports to be a member of the clergy, the complainant is not married to the actor, and:

(i) the sexual contact occurred during the course of a meeting in which the complainant sought or received religious or spiritual advice, aid, or comfort from the actor in private; or

(ii) the sexual contact occurred during a period of time in which the complainant was meeting on an ongoing basis with the actor to seek or receive religious or spiritual advice, aid, or comfort in private. Consent by the complainant is not a defense;

(m) the actor is an employee, independent contractor, or volunteer of a state, county, city, or privately operated adult or juvenile correctional system, including, but not limited to, jails, prisons, detention centers, or work release facilities, and the complainant is a resident of a facility or under

supervision of the correctional system. Consent by the complainant is not a defense; or

(n) the actor provides or is an agent of an entity that provides special transportation service, the complainant used the special transportation service, the complainant is not married to the actor, and the sexual contact occurred during or immediately before or after the actor transported the complainant. Consent by the complainant is not a defense.

Subd. 2. Penalty. A person convicted under subdivision 1 may be sentenced to imprisonment for not more than ten years or to a payment of a fine of not more than \$20,000, or both.

Subd. 3. Stay. Except when imprisonment is required under section 609.109, if a person is convicted under subdivision 1, clause (f), the court may stay imposition or execution of the sentence if it finds that:

(a) a stay is in the best interest of the complainant or the family unit; and

(b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

(1) incarceration in a local jail or workhouse;

(2) a requirement that the offender complete a treatment program; and

(3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

HIST: 1975 c 374 s 6; 1976 c 124 s 9; 1979 c 258 s 14; 1981 c 51 s 4; 1983 c 204 s 4; 1984 c 588 s 8; 1984 c 628 art 3 s 11; 1985 c 24 s 8; 1985 c 286 s 18; 1985 c 297 s 7; 1986 c 351 s 9; 1986 c 444; 1Sp1986 c 3 art 1 s 81; 1987 c 94 s 2; 1989 c 290 art 4 s 15; 1992 c 571 art 1 s 18,19; 1993 c 326 art 4 s 21; 1994 c 636 art 2 s 36; 1998 c 367 art 3 s 10; art 6 s 15; 2000 c 437 s 13; 2001 c 210 s 23; 2002 c 381 s 4

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617.247 Possession of pornographic work involving minors.

Subdivision 1. Policy; purpose. It is the policy of the legislature in enacting this section to protect minors from the physical and psychological damage caused by their being used in pornographic work depicting sexual conduct which involves

minors. It is therefore the intent of the legislature to penalize possession of pornographic work depicting sexual conduct which involve minors or appears to involve minors in order to protect the identity of minors who are victimized by involvement in the pornographic work, and to protect minors from future involvement in pornographic work depicting sexual conduct.

Subd. 2. Definitions. For purposes of this section, the following terms have the meanings given them:

(a) "Pornographic work" has the meaning given to it in section 617.246.

(b) "Sexual conduct" has the meaning given to it in section 617.246.

Subd. 3. Dissemination prohibited. (a) A person who disseminates pornographic work to an adult or a minor, knowing or with reason to know its content and character, is guilty of a felony and may be sentenced to imprisonment for not more than seven years and a fine of not more than \$10,000 for a first offense and for not more than 15 years and a fine of not more than \$20,000 for a second or subsequent offense.

(b) A person who violates paragraph (a) is guilty of a felony and may be sentenced to imprisonment for not more than 15 years if the violation occurs when the person is a registered predatory offender under section 243.166.

Subd. 4. Possession prohibited. (a) A person who possesses a pornographic work or a computer disk or computer or other electronic, magnetic, or optical storage system or a storage system of any other type, containing a pornographic work, knowing or with reason to know its content and character, is guilty of a felony and may be sentenced to imprisonment for not more than five years and a fine of not more than \$5,000 for a first offense and for not more than ten years and a fine of not more than \$10,000 for a second or subsequent offense.

(b) A person who violates paragraph (a) is guilty of a felony and may be sentenced to imprisonment for not more than ten years if the violation occurs when the person is a registered predatory offender under section 243.166.

Subd. 5. Exception. This section does not apply to the performance of official duties by peace officers, court personnel, or attorneys, nor to licensed physicians, psychologists, or social workers or persons acting at the direction of a licensed physician, psychologist, or social worker in the course of a bona fide treatment or professional education program.

Subd. 6. Consent. Consent to sexual performance by a minor or the minor's parent, guardian, or custodian is not a defense to a charge of violation of this section.

Subd. 7. Second offense. If a person is convicted of a second or subsequent violation of this section within 15 years of the prior conviction, the court shall order a mental examination of the person. The examiner shall report to the court whether treatment of the person is necessary.

Subd. 8. Affirmative defense. It shall be an affirmative defense to a charge of violating this section that the pornographic work was produced using only persons who were 18 years or older.

HIST: 1982 c 604 s 3; 1983 c 204 s 12; 1986 c 444; 1999 c 217 s 6-10; 2001 c 197 s 4,5; 1Sp2001 c 8 art 8 s 28

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617.246 Use of minors in sexual performance prohibited.

Subdivision 1. Definitions. (a) For the purpose of this section, the terms defined in this subdivision have the meanings given them.

(b) "Minor" means any person under the age of 18.

(c) "Promote" means to produce, direct, publish, manufacture, issue, or advertise.

(d) "Sexual performance" means any play, dance or other exhibition presented before an audience or for purposes of visual or mechanical reproduction that uses a minor to depict actual or simulated sexual conduct as defined by clause (e).

(e) "Sexual conduct" means any of the following:

(1) an act of sexual intercourse, normal or perverted, including genital-genital, anal-genital, or oral-genital intercourse, whether between human beings or between a human being and an animal;

(2) sadomasochistic abuse, meaning flagellation, torture, or similar demeaning acts inflicted by or upon a person who is nude or clad in undergarments or in a revealing costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed;

(3) masturbation;

(4) lewd exhibitions of the genitals; or

(5) physical contact with the clothed or unclothed pubic areas or buttocks of a human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

(f) "Pornographic work" means:

(1) an original or reproduction of a picture, film, photograph, negative, slide, videotape, videodisc, or drawing of a sexual performance involving a minor; or

(2) any visual depiction, including any photograph, film, video, picture, drawing, negative, slide, or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means that:

(i) uses a minor to depict actual or simulated sexual conduct;

(ii) has been created, adapted, or modified to appear that an identifiable minor is engaging in sexual conduct; or

(iii) is advertised, promoted, presented, described, or distributed in such a manner that conveys the impression that the material is or contains a visual depiction of a minor engaging in sexual conduct.

For the purposes of this paragraph, an identifiable minor is a person who was a minor at the time the depiction was created or altered, whose image is used to create the visual depiction.

Subd. 2. Use of minor. It is unlawful for a person to promote, employ, use or permit a minor to engage in or assist others to engage minors in posing or modeling alone or with others in any sexual performance or pornographic work if the person knows or has reason to know that the conduct intended is a sexual performance or a pornographic work.

Any person who violates this subdivision is guilty of a felony and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000 for the first offense and \$40,000 for a second or subsequent offense, or both.

Subd. 3. Operation or ownership of business. A person who owns or operates a business in which a pornographic work, as defined in this section, is disseminated to an adult or a minor or is reproduced, and who knows the content and character of the pornographic work disseminated or reproduced, is guilty of a felony and may be sentenced to imprisonment for not more than ten years, or to payment of a fine of not more than \$20,000 for the first offense and \$40,000 for a second or subsequent offense, or both.

Subd. 4. Dissemination. A person who, knowing or with reason to know its content and character, disseminates for profit to an adult or a minor a pornographic work, as defined in this section, is guilty of a felony and may be sentenced to

imprisonment for not more than ten years, or to payment of a fine of not more than \$20,000 for the first offense and \$40,000 for a second or subsequent offense, or both.

Subd. 5. Consent; mistake. Neither consent to sexual performance by a minor or the minor's parent, guardian, or custodian nor mistake as to the minor's age is a defense to a charge of violation of this section.

Subd. 6. Affirmative defense. It shall be an affirmative defense to a charge of violating this section that the sexual performance or pornographic work was produced using only persons who were 18 years or older.

HIST: 1977 c 371 s 1; 1982 c 604 s 2; 1983 c 204 s 11; 1984 c 628 art 3 s 7-9; 1986 c 444; 1999 c 217 s 1-5

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