

Vermont

The Vermont Statutes Online
Title 13: Crimes and Criminal Procedure
Chapter 64: SEXUAL EXPLOITATION OF CHILDREN

§ 2821. Definitions

As used in this chapter:

- (1) "Child" means any person under the age of 16 years.
- (2) "Sexual conduct" means any of the following:
 - (A) any conduct involving contact between the penis and the vulva, the penis and the penis, the penis and the anus, the mouth and the penis, the mouth and the anus, the vulva and the vulva or the mouth and the vulva;
 - (B) any intrusion, however slight, by any part of a person's body or any object into the genital or anal opening of another with the intent of arousing, appealing to, or gratifying the lust, passions or sexual desire of any person;
 - (C) any intentional touching, not through the clothing, of the genitals, anus or breasts of another with the intent of arousing, appealing to, or gratifying the lust, passions or sexual desire of any person;
 - (D) masturbation;
 - (E) bestiality; or
 - (F) sadomasochistic abuse for sexual purposes.
- (3) "Performance" means:
 - (A) an event which is photographed, filmed or visually recorded; or
 - (B) a play, dance or other visual presentation or exhibition before an audience.
- (4) "Sexual performance" means any performance or any part of a performance, which includes sexual conduct by a child.
- (5) "Promote" means to procure, issue, manufacture, publish, sell, give, provide, lend, mail, deliver, distribute, disseminate, circulate, present, exhibit, advertise, or offer to do the same, by any means, including electronic transmission. (Added 1983, No. 92; amended 1999, No. 122 (Adj. Sess.), § 1; No. 124 (Adj. Sess.), § 9.)

ERROR -- 13 V.S.A. § 2821. -- File Not Found

§ 2822. Use of a child in a sexual performance

- (a) No person shall, with knowledge of the character and content, promote a sexual performance by a child or a performance which contains a lewd exhibition of the genitals, anus or breasts of a child, or hire, employ, procure, use, cause or induce a child to engage in such a performance.
- (b) In any prosecution arising under this section, the defendant may raise as an affirmative defense that before the child participated in the sexual performance, the defendant, in good faith, had a reasonable and

factual basis to conclude that the child had in fact attained the age of 16; and the defendant did not rely solely upon the oral allegations or representations of the child as to his or her age. (Added 1983, No. 92; amended 1999, No. 122 (Adj. Sess.), § 2.)

ERROR -- 13 V.S.A. § 2822. -- File Not Found

§ 2823. Consenting to a sexual performance

No person who is the parent, legal guardian, or custodian of a child may, with knowledge of the character and content, consent to the participation of that child in a sexual performance or a performance including a lewd exhibition of the genitals by that child. (Added 1983, No. 92.)

ERROR -- 13 V.S.A. § 2823. -- File Not Found

§ 2824. Promoting a recording of sexual conduct

(a) No person may, with knowledge of the character and content, promote any photograph, film or visual recording of sexual conduct by a child, or of a lewd exhibition of a child's genitals or anus. This subsection does not apply to paintings, drawings, or to non-visual or written descriptions of sexual conduct.

(b) In any prosecution arising under this section, the defendant may raise any of the following affirmative defenses:

(1) that the recording was promoted for a bona fide medical, psychological, social work, legislative, judicial or law enforcement purpose, by or to a physician, psychologist, social worker, legislator, judge, prosecutor, law enforcement officer, or other person having such a bona fide interest in the subject matter.

(2) that the defendant was a bona fide school, museum or public library, or was a person acting in the course of his employment as an employee or official of such an organization or of a retail outlet affiliated with and serving the educational or intended purpose of that school, museum or library.

(3) that the defendant in good faith had a reasonable basis to conclude that the child in fact had attained the age of 16 when the recording was made. (Added 1983, No. 92; amended 1999, No. 122 (Adj. Sess.), § 3.)

ERROR -- 13 V.S.A. § 2824. -- File Not Found

§ 2825. Penalties

(a) A person who violates sections 2822, 2823, or 2824 of this title shall be imprisoned not more than 10 years or fined not more than \$20,000.00, or both.

(b) Upon conviction for a violation of sections 2822, 2823, or 2824 of this title of a person who has earlier been convicted under any of those sections, the person shall be imprisoned not less than one year nor more than 15 years or fined not more than \$50,000.00, or both.

(c) A person who violates section 2827 of this title by possessing a photograph, film or visual depiction, including a depiction stored electronically, which constitutes:

(1) a clearly lewd exhibition of a child's genitals or anus, other than a depiction of sexual conduct by a child, shall be imprisoned not more than two years or fined not more than \$5,000.00, or both;

(2) sexual conduct by a child, shall be imprisoned not more than five years or fined not more than \$10,000.00, or both.

(d) A person who violates section 2827 of this title after being convicted of a previous violation of the same section shall be imprisoned not more than 10 years or fined not more than \$50,000.00, or both.

(e) A person who violates section 2828 of this title shall be imprisoned not more than five years or fined not more than \$10,000.00, or both. (Added 1983, No. 92; amended 1999, No. 122 (Adj. Sess.), § 7.)

ERROR -- 13 V.S.A. § 2825. -- File Not Found

§ 2826. Evidence of age

The age of a person who participated in sexual conduct or a performance which contains a lewd exhibition of the genitals, anus or breasts, or who was solicited for either by means designated under section 2828 of this chapter may be established by any method acceptable under the rules of evidence, including but not limited to the following methods:

- (1) inferences drawn by the trier of fact from inspection of a document which depicts sexual conduct;
- (2) testimony as to the apparent age of the person by a witness to sexual conduct; or
- (3) expert medical testimony based upon the appearance of the person depicted in a recording of sexual conduct. (Added 1983, No. 92; amended 1999, No. 122 (Adj. Sess.), § 4.)

ERROR -- 13 V.S.A. § 2826. -- File Not Found

§ 2827. Possession of child pornography

(a) No person shall, with knowledge of the character and content, possess any photograph, film or visual depiction, including any depiction which is stored electronically, of sexual conduct by a child or of a clearly lewd exhibition of a child's genitals or anus.

(b) This section does not apply:

- (1) if the depiction was possessed for a bona fide medical, psychological, social work, legislative, judicial or law enforcement purpose, by a physician, psychologist, social worker, legislator, judge, prosecutor, law enforcement officer, or other person having such a bona fide interest in the subject matter;
- (2) if the person was a bona fide school, museum or public library, or was a person acting in the course of employment as an employee or official of such an organization or of a retail outlet affiliated with and serving the educational or intended purpose of that school, museum or library;
- (3) to paintings, drawings, or nonvisual or written descriptions of sexual conduct.

(c) In any prosecution arising under this section, the defendant may raise any of the following affirmative defenses, which shall be proven by a preponderance of the evidence:

- (1) that the defendant in good faith had a reasonable basis to conclude that the child in fact had attained the age of 16 when the depiction was made;
- (2) that the defendant in good faith took reasonable steps, whether successful or not, to destroy or eliminate the depiction. (Added 1999, No. 122 (Adj. Sess.), § 5.)

ERROR -- 13 V.S.A. § 2827. -- File Not Found

§ 2828. Use of electronic communication to lure a child

No person shall knowingly utilize an electronic communication to solicit, lure, or entice, or to attempt to solicit, lure, or entice, a child under the age of 16 or another person believed by the person to be a child under the age of 16, to engage in a sexual act as defined in section 3251 of this title or engage in lewd and lascivious conduct as defined in section 2602 of this title. (Added 1999, No. 122 (Adj. Sess.), § 6.)

ERROR -- 13 V.S.A. § 2828. -- File Not Found

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