

VERMONT STATUE

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 anus, the mouth and the penis or the mouth and the vulva;

(B) masturbation;

(C) bestiality; or

(D) 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.

§ 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 including a lewd exhibition of the genitals by 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.

§ 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.

§ 2824. PROMOTING A RECORDING OF A SEXUAL ACT

(a) No person may, with knowledge of the character and content, promote any photograph, film or visual recording of sexual conduct by a child. 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, legislative, judicial or law enforcement purpose, by or to a physician, psychologist, 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.

§ 2825. PENALTIES

(a) A person who violates section 2822, 2823, or 2824 shall be imprisoned not more than 10 years and fined not more than \$20,000.00.

(b) Upon conviction for a violation of section 2822, 2823, or 2824 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 and fined not more than \$50,000.00.

§ 2826. EVIDENCE OF AGE

The age of a person who participated in a sexual conduct 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.