

if subpoena duces tecum procedures are followed. As used in this subsection, "person or persons" includes both natural and judicial persons.

(4) To search for and seize any instrument, apparatus or device used to obtain telephone or telegraph service in violation of RCW 9.45.240.

Passed the House February 21, 1980.

Passed the Senate February 18, 1980.

Approved by the Governor March 3, 1980.

Filed in Office of Secretary of State March 3, 1980.

## CHAPTER 53

[Substitute House Bill No. 551]

### CHILD PORNOGRAPHY

AN ACT Relating to child pornography; adding a new chapter to Title 9 RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Commercial use" means to sell, barter, trade, or otherwise exchange for consideration.

(2) "Minor" means a person under the age of eighteen years.

(3) "Photograph" means to make a print, negative, slide, motion picture, videotape, or other mechanically reproduced visual material.

(4) "Erotic fondling" means the touching of a person's clothed or unclothed genitals, pubic area, buttocks, or a female breast area for the purpose of sexual stimulation or gratification of the audience.

(5) "Sexually explicit conduct" means actual or simulated:

(a) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(b) Bestiality;

(c) Masturbation;

(d) Sado-masochistic abuse for the purpose of sexual stimulation;

(e) Erotic fondling; and

(f) Lewd exhibition of the male or female genitals or buttocks, or female breasts.

(6) Visual or printed matter means any film, photograph, negative, slide, motion picture, video tape, book, magazine, or other mechanically reproduced visual or printed material.

NEW SECTION. Sec. 2. A person who:

(1) Knowing that such conduct will be photographed or displayed for commercial use, employs, uses, persuades, induces, entices, or coerces a minor to engage in sexually explicit conduct; or

(2) Being a parent, legal guardian, or person having custody or control of a minor, knowingly permits the minor to engage in sexually explicit conduct, knowing that the conduct will be photographed or displayed for commercial use;

is guilty of a Class B felony.

In a prosecution under this chapter, it is not a defense that the defendant did not know the victim's age: PROVIDED, That it is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense the defendant reasonably believed the alleged victim to be at least eighteen years of age based on declarations by the alleged victim.

NEW SECTION. Sec. 3. A person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, or prints with intent to distribute, sell, or exhibit to others for commercial consideration, any visual or printed matter which is obscene, knowing that the production of such matter involves the use of a minor engaged in sexually explicit conduct and that the matter depicts such conduct, is guilty of a Class C felony.

This section does not apply to acts which are an integral part of the exhibition or performance of the motion picture when such acts are done within the scope of employment by a motion picture operator or projectionist employed by the owner or manager of a theater or other place for the showing of motion pictures, unless the motion picture operator or projectionist has a financial interest in such theater or place wherein employed or unless the operator or projectionist caused to be performed or exhibited the performance or motion picture without the consent of the manager or owner of the theater or other place of showing.

NEW SECTION. Sec. 4. Sections 1 through 3 of this act shall constitute a new chapter in Title 9 RCW.

NEW SECTION. Sec. 5. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House February 21, 1980.

Passed the Senate February 15, 1980.

Approved by the Governor March 3, 1980.

Filed in Office of Secretary of State March 3, 1980.

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## CHAPTER 54

[House Bill No. 762]

### SAVINGS AND LOAN ASSOCIATIONS—NEGOTIABLE INSTRUMENTS OF WITHDRAWAL