

CHAPTER 31

[Substitute Senate Bill No. 5041]

INMATE TELEPHONE CALL MONITORING

AN ACT Relating to electronic monitoring of inmate telephone calls within state correctional facilities; and adding a new section to chapter 9.73 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 9.73 RCW to read as follows:

(1) RCW 9.73.030 through 9.73.080 shall not apply to employees of the Washington state department of corrections in the following instances: Intercepting, recording, or divulging any telephone calls from an inmate or resident of a Washington state correctional facility. For the purposes of this section, a "Washington state correctional facility" is defined as any and all facilities that are under the control and authority of the Washington state department of corrections, and used for the incarceration, treatment, or rehabilitation of convicted felons.

(2) All personal calls made by inmates shall be collect calls only. The calls will be "operator announcement" type calls. The operator shall notify the receiver of the call that the call is coming from a prison inmate, and that it will be recorded and may be monitored.

(3) The Washington state department of corrections shall adhere to the following procedures and restrictions when intercepting, recording, or divulging any telephone calls from an inmate or resident of a Washington state correctional facility as provided for by this section:

(a) Before the implementation of this section, all inmates or residents of a Washington state correctional facility shall be notified in writing that, as of the effective date of this section, their telephone conversations may be intercepted, recorded, and/or divulged.

(b) Unless otherwise provided for in this section, after intercepting or recording a telephone conversation, only the superintendent and his or her designee shall have access to that recording.

(c) The contents of an intercepted and recorded telephone conversation shall be divulged only as is necessary to safeguard the orderly operation of the correctional facility, in response to a court order, or in the prosecution or investigation of any crime.

(d) All telephone conversations that are recorded according to this chapter, unless being used in the ongoing investigation or prosecution of a crime, or as is necessary to assure the orderly operation of the correctional facility, shall be destroyed one year after the intercepting and recording.

(4) So as to safeguard the sanctity of the attorney-client privilege, the department of corrections shall not intercept, record, or divulge any conversation between an inmate or resident and an attorney. The department is

charged with the responsibility of drafting or developing policies and procedures to implement this statute.

Passed the Senate March 1, 1989.

Passed the House April 3, 1989.

Approved by the Governor April 18, 1989.

Filed in Office of Secretary of State April 18, 1989.

CHAPTER 32

[Substitute House Bill No. 1658]

SEXUAL EXPLOITATION OF CHILDREN

AN ACT Relating to sexual exploitation of children; amending RCW 9.68A.011, 9.68A.040, 9.68A.050, 9.68A.060, 9.68A.070, 9.68A.080, 9.68A.090, 9.68A.100, and 9.68A.110; and prescribing penalties.

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

Sec. 1. Section 2, chapter 262, Laws of 1984 and RCW 9.68A.011 are each amended to read as follows:

Unless the context clearly indicates otherwise, the definitions in this section apply throughout ~~((the [this]))~~ this chapter.

(1) To "photograph" means to make a print, negative, slide, motion picture, or videotape. A "photograph" means any tangible item produced by photographing.

(2) "Visual or printed matter" means any photograph or other material that contains a reproduction of a photograph.

(3) "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 or between humans and animals;

(b) Penetration of the vagina or rectum by any object;

(c) Masturbation(~~(, for the purpose of sexual stimulation of the viewer));~~);

(d) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer;

(e) Exhibition of the genitals or unclothed pubic or rectal areas of any minor, or the unclothed breast of a female minor, for the purpose of sexual stimulation of the viewer;

(f) Defecation or urination for the purpose of sexual stimulation of the viewer; and

(g) Touching of a person's clothed or unclothed genitals, pubic area, buttocks, or breast area for the purpose of sexual stimulation of the viewer.

(4) "Minor" means any person under eighteen years of age.

(5) "Live performance" means any play, show, skit, dance, or other exhibition performed or presented to or before an audience of one or more, with or without consideration.