

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

NEW SECTION. Sec. 5. Section 9, chapter 5, Laws of 1919 and RCW 18.25.060 are each repealed.

NEW SECTION. Sec. 6. If any provision of this 1980 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 20, 1980.

Passed the Senate February 14, 1980.

Approved by the Governor March 3, 1980.

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

CHAPTER 52

[House Bill No. 427]

SEARCH WARRANTS—NEWS MEDIA

AN ACT Relating to searches and seizures; and amending section 2, page 101, Laws of 1854 as last amended by section 2, chapter 75, Laws of 1972 ex. sess. and RCW 10.79.015.

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

Section 1. Section 2, page 101, Laws of 1854 as last amended by section 2, chapter 75, Laws of 1972 ex. sess. and RCW 10.79.015 are each amended to read as follows:

Any such magistrate, when satisfied that there is reasonable cause, may also, upon like complaint made on oath, issue search warrant in the following cases, to wit:

(1) To search for and seize any counterfeit or spurious coin, or forged instruments, or tools, machines or materials, prepared or provided for making either of them.

(2) To search for and seize any gaming apparatus used or kept, and to be used in any unlawful gaming house, or in any building, apartment or place, resorted to for the purpose of unlawful gaming.

(3) To search for and seize any evidence material to the investigation or prosecution of any homicide or any felony: PROVIDED, That if the evidence is sought to be secured from any radio or television station or from any regularly published newspaper, magazine or wire service, or from any employee of such station, wire service or publication, the evidence shall be secured only through a subpoena duces tecum unless: (a) There is probable cause to believe that the person or persons in possession of the evidence may be involved in the crime under investigation; or (b) there is probable cause to believe that the evidence sought to be seized will be destroyed or hidden

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