

LEGISLATIVE BILL 788

Approved by the Governor April 14, 1986

Introduced by Abboud, 12; Rupp, 22; Marsh, 29;
Hefner, 19; L. Johnson, 15; Hartnett, 45;
Remmers, 1; Conway, 17; Goodrich, 20;
Peterson, 21; Hoagland, 6

AN ACT relating to the Child Pornography Prevention Act;
to amend sections 28-1463.02 and 28-1463.05,
Reissue Revised Statutes of Nebraska, 1943; to
redefine a term; to change a penalty; and to
repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 28-1463.02, Reissue
Revised Statutes of Nebraska, 1943, be amended to read
as follows:

28-1463.02. As used in the Child Pornography
Prevention Act, unless the context otherwise requires:

(1) Child, in the case of a participant,
shall mean any person under the age of ~~sixteen~~ eighteen
years and, in the case of a portrayed observer, shall
mean any person under the age of sixteen years;

(2) Erotic fondling shall mean touching a
person's clothed or unclothed genitals or pubic area,
breasts if the person is a female, or developing breast
area if the person is a female child, for the purpose of
real or simulated overt sexual gratification or sexual
stimulation of one or more persons involved. Erotic
fondling shall not be construed to include physical
contact, even if affectionate, which is not for the
purpose of real or simulated overt sexual gratification
or sexual stimulation of one or more of the persons
involved;

(3) Erotic nudity shall mean the display of
the human male or female genitals or pubic area, the
human female breasts, or the developing breast area of
the human female child, for the purpose of real or
simulated overt sexual gratification or sexual
stimulation of one or more of the persons involved;

(4) Sadomasochistic abuse shall mean
flagellation or torture by or upon a nude person or a
person clad in undergarments, a mask, or bizarre
costume, or the condition of being fettered, bound, or
otherwise physically restrained when performed to
predominantly appeal to the morbid interest;

(5) Sexually explicit conduct shall mean: (a) Real or simulated intercourse, whether genital-genital, oral-genital, anal-genital, or oral-anal between persons of the same or opposite sex or between a human and an animal or with an artificial genital; (b) real or simulated masturbation; (c) real or simulated sadomasochistic abuse; (d) erotic fondling; (e) erotic nudity; or (f) real or simulated defecation or urination for the purpose of sexual gratification or sexual stimulation of one or more of the persons involved; and

(6) Visual depiction shall mean live performance or photographic representation.

Sec. 2. That section 28-1463.05, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-1463.05. (1) It shall be unlawful for a person to knowingly possess with intent to rent, sell, deliver, distribute, trade, or provide to any person any visual depiction of sexually explicit conduct which has a child as one of its participants or portrayed observers.

(2) Any person who violates this section shall be guilty of a ~~Class I misdemeanor for the first offense and shall be guilty of a Class IV felony for each subsequent offense.~~

Sec. 3. That original sections 28-1463.02 and 28-1463.05, Reissue Revised Statutes of Nebraska, 1943, are repealed.