

§284. Possession of sexually explicit material

1. A person is guilty of possession of sexually explicit material if that person:

A. Intentionally or knowingly transports, exhibits, purchases, possesses or accesses with intent to view any book, magazine, newspaper, print, negative, slide, motion picture, computer data file, videotape or other mechanically, electronically or chemically reproduced visual image or material that the person knows or should know depicts another person engaging in sexually explicit conduct, and:

- (1) The other person has not in fact attained 16 years of age; or
- (2) The person knows or has reason to know that the other person has not attained 16 years of age.

It is not a violation of this paragraph if the person depicted is 14 or 15 years of age and the person is less than 5 years older than the person depicted.

Violation of this paragraph is a Class D crime; [PL 2015, c. 394, §4 (AMD).]

B. Violates paragraph A and, at the time of the offense, has one or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Violation of this paragraph is a Class C crime; [PL 2007, c. 476, §8 (AMD).]

C. Intentionally or knowingly transports, exhibits, purchases, possesses or accesses with intent to view any book, magazine, newspaper, print, negative, slide, motion picture, computer data file, videotape or other mechanically, electronically or chemically reproduced visual image or material that the person knows or should know depicts another person engaging in sexually explicit conduct, and:

- (1) The other person has not in fact attained 12 years of age; or
- (2) The person knows or has reason to know that the other person has not attained 12 years of age.

Violation of this paragraph is a Class C crime; or [PL 2011, c. 50, §2 (AMD).]

D. Violates paragraph C and, at the time of the offense, has one or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Violation of this paragraph is a Class B crime. [PL 2007, c. 476, §9 (AMD).]

Section 9-A governs the use of prior convictions when determining a sentence.
[PL 2015, c. 394, §4 (AMD).]

2. It is a defense to a prosecution under this section that the person depicted was the spouse of the person possessing the sexually explicit material at the time the material was produced.
[PL 2003, c. 711, Pt. B, §12 (NEW).]

3. The age of the person depicted and that the person depicted is an actual person may be reasonably inferred from the depiction. Competent medical evidence or other expert testimony may be used to establish the age and authenticity of the person depicted.
[PL 2005, c. 345, §2 (AMD).]

4. Any material that depicts a person who has not attained 16 years of age engaging in sexually explicit conduct is declared to be contraband and may be seized by the State.
[PL 2005, c. 345, §2 (AMD).]

5. For purposes of this section, any element of age of the person depicted means the age of the person at the time the sexually explicit conduct occurred, not the age of the person depicted at the time of the transporting, exhibiting, purchasing, possession or accessing of the sexually explicit visual image or material.

[PL 2011, c. 464, §13 (AMD).]

SECTION HISTORY

PL 2003, c. 711, §B12 (NEW). PL 2005, c. 345, §§1,2 (AMD). PL 2007, c. 476, §§8, 9 (AMD). PL 2009, c. 608, §4 (AMD). PL 2011, c. 50, §§1-3 (AMD). PL 2011, c. 464, §13 (AMD). PL 2015, c. 394, §4 (AMD).

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