

# State of South Dakota

EIGHTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2012

772T0140

## SENATE BILL NO. 183

Introduced by: Senators Vehle, Cutler, Fryslie, Holien, Maher, Nygaard, Olson (Russell), Rhoden, Schlekeway, and Tidemann and Representatives Hoffman, Gosch, Rozum, Street, Tulson, Verchio, and Wismer

1 FOR AN ACT ENTITLED, An Act to establish the elements of the offense of juvenile sexting  
2 and to provide a penalty therefor.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. No minor, as defined in subdivision 26-7A-1(21), may intentionally create,  
5 produce, distribute, present, transmit, post, exchange, disseminate, or possess, through any  
6 computer or digital media, any photograph or digitized image or any visual depiction of a minor  
7 in any condition of nudity, as defined in subdivision 22-24A-2(9), or involved in any prohibited  
8 sexual act, as defined in subdivision 22-24A-2(16). Any violation of this section constitutes the  
9 offense of juvenile sexting, which is a Class 1 misdemeanor.

10 Section 2. It is an affirmative defense to the offense of juvenile sexting that the minor has  
11 not solicited the visual depiction, that the minor does not subsequently distribute, present,  
12 transmit, post, print, disseminate, or exchange the visual depiction, and that the minor deletes  
13 or destroys the visual depiction upon receipt. It is an affirmative defense to the offense of  
14 juvenile sexting that the visual depiction is of a single minor, created by that minor, who does



1 not subsequently distribute, present, transmit, post, print, disseminate, or exchange the visual  
2 depiction.

3 Section 3. It is not a defense to the offense of juvenile sexting that the visual depiction is of  
4 the person charged.