

State of South Dakota

NINETY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2016

427X0407

SENATE JUDICIARY ENGROSSED NO. **SB 169** - 02/23/2016

Introduced by: Senators Holien, Fiegen, Haggar (Jenna), Heineman (Phyllis), Monroe, Peterson (Jim), Shorma, and Sutton and Representatives Craig, Campbell, Otten (Herman), Qualm, Werner, and Wiik

1 FOR AN ACT ENTITLED, An Act to revise provisions related to child pornography and to
2 revise the penalty therefor.

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

4 Section 1. That § 22-24A-1 be amended to read:

5 22-24A-1. Any person who sells, or displays for sale, any book, magazine, pamphlet, slide,
6 photograph, film, or electronic or digital media image depicting a minor engaging in a
7 prohibited sexual act, or engaging in an activity that involves nudity, or in the simulation of any
8 such act is guilty of a ~~Class 6~~ Class 4 felony.

9 Section 2. That § 22-24A-5 be amended to read:

10 22-24A-5. A person is guilty of solicitation of a minor if the person eighteen years of age
11 or older:

12 (1) Solicits a minor, or someone the person reasonably believes is a minor, to engage in
13 a prohibited sexual act; or

14 (2) Knowingly compiles or transmits by means of a computer; or prints, publishes or



reproduces by other computerized or any other electronic means; or buys, sells, receives, exchanges or disseminates, any notice, statement or advertisement of any minor's name, telephone number, place of residence, physical characteristics or other descriptive or identifying information for the purpose of soliciting a minor or someone the person reasonably believes is a minor to engage in a prohibited sexual act.

The fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense under this section does not constitute a defense to a prosecution under this section.

Consent to performing a prohibited sexual act by a minor or a minor's parent, guardian, or custodian, or mistake as to the minor's age is not a defense to a charge of violating this section.

A violation of this section is a Class 4 felony.

The court shall order an assessment pursuant to § 22-22-1.3 of any person convicted of violating this section.

Nothing contained in this section shall be construed to impose liability on a provider of an electronic communication service, an information service, a mobile service, including a commercial mobile service, a telecommunication service, an interactive computer service, or a cable service.