

**DISTRICT OF COLUMBIA**  
**OFFICIAL CODE**

**TITLE 22.**  
**CRIMINAL OFFENSES AND PENALTIES.**

**CHAPTER 31.**  
**SEXUAL PERFORMANCE USING MINORS.**

**2001 Edition**

**DISTRICT OF COLUMBIA OFFICIAL CODE**  
**CHAPTER 31. SEXUAL PERFORMANCE USING**  
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# CHAPTER 31. SEXUAL PERFORMANCE USING MINORS.

## § 22-3101. DEFINITIONS.

For the purposes of this chapter, the term:

- (1) "Knowingly" means having general knowledge of, or reason to know or a belief or ground for belief which warrants further inspection or inquiry, or both.
- (2) "Minor" means any person under 18 years of age.
- (3) "Performance" means any play, motion picture, photograph, electronic representation, dance, or any other visual presentation or exhibition.
- (4) "Promote" means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmute, publish or distribute, circulate, disseminate, present, exhibit, or advertise, or to offer or agree to do the same.
- (5) "Sexual conduct" means:
  - (A) Actual or simulated sexual intercourse:
    - (i) Between the penis and the vulva, anus, or mouth;
    - (ii) Between the mouth and the vulva or anus; or
    - (iii) Between an artificial sexual organ or other object or instrument used in the manner of an artificial sexual organ and the anus or vulva;
  - (B) Masturbation;
  - (C) Sexual bestiality;
  - (D) Sadomasochistic sexual activity for the purpose of sexual stimulation; or
  - (E) Lewd exhibition of the genitals.
- (6) "Sexual performance" means any performance or part thereof which includes sexual conduct by a person under 18 years of age.

(Mar. 9, 1983, D.C. Law 4-173, § 2, 29 DCR 5749; Oct. 23, 2010, D.C. Law 18-239, § 205(a), 57 DCR 5405.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 22-2011.

#### *Effect of Amendments*

D.C. Law 18-239, in pars. (2) and (6), substituted "18" for "16".

#### *Legislative History of Laws*

Law 4-173, the "District of Columbia Protection of Minors Act of 1982," was introduced in Council and assigned Bill No. 4-305, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on October 19, 1982, and November 16, 1982, respectively. Signed by the Mayor on December 8, 1982, it was assigned Act No. 4-256 and transmitted to both Houses of Congress for its review.

For history of Law 18-239, see notes under § 22-3009.03.

## § 22-3102. PROHIBITED ACTS.

- (a) It shall be unlawful in the District of Columbia for a person knowingly to use a minor in a sexual

performance or to promote a sexual performance by a minor.

(1) A person is guilty of the use of a minor in a sexual performance if knowing the character and content thereof, he or she employs, authorizes, or induces a person under 18 years of age to engage in a sexual performance or being the parent, legal guardian, or custodian of a minor, he or she consents to the participation by a minor in a sexual performance.

(2) A person is guilty of promoting a sexual performance by a minor when, knowing the character and content thereof, he or she produces, directs, or promotes any performance which includes sexual conduct by a person under 18 years of age.

(b) It shall be unlawful in the District of Columbia for a person, knowing the character and content thereof, to attend, transmit, or possess a sexual performance by a minor.

(c) If the sexual performance consists solely of a still or motion picture, then this section:

(1) Shall not apply to the minor or minors depicted in a still or motion picture who possess it or transmit it to another person unless at least one of the minors depicted in it does not consent to its possession or transmission; and

(2) Shall not apply to possession of a still or motion picture by a minor, or by an adult not more than 4 years older than the minor or minors depicted in it, who receives it from a minor depicted in it unless the recipient knows that at least one of the minors depicted in the still or motion picture did not consent to its transmission.

(d) For the purposes of subsections (b) and (c) of this section, the term:

(1) "Possess," "possession," or "possessing" requires accessing the sexual performance if electronically received or available.

(2) "Still or motion picture" includes a photograph, motion picture, electronic or digital representation, video, or other visual depiction, however produced or reproduced.

(3) "Transmit" or "transmission" includes distribution, and can occur by any means, including electronically."

(Mar. 9, 1983, D.C. Law 4-173, § 3, 29 DCR 5749; Oct. 23, 2010, D.C. Law 18-239, § 205(b), 57 DCR 5405.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 22-2012.

##### *Effect of Amendments*

D.C. Law 18-239 designated the existing text as subsec. (a); in subsec. (a), substituted "18" for "16"; and added subsecs. (b) to (d).

##### *Legislative History of Laws*

For legislative history of D.C. Law 4-173, see Historical and Statutory Notes following § 22-3101.

For history of Law 18-239, see notes under § 22-3009.03.

## **§ 22-3103. PENALTIES.**

Violation of this chapter shall be a felony and shall be punished by:

(1) A fine of not more than \$5,000 or imprisonment for not more than 10 years, or both for the first offense; or

(2) A fine of not more than \$15,000 or imprisonment for not more than 20 years, or both for the 2nd and each subsequent offense.

(Mar. 9, 1983, D.C. Law 4-173, § 4, 29 DCR 5749.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 22-2013.

##### *Legislative History of Laws*

For legislative history of D.C. Law 4-173, see Historical and Statutory Notes following § 22-3101.

## **§ 22-3104. AFFIRMATIVE DEFENSES.**

(a) Under this chapter it shall be an affirmative defense that the defendant in good faith reasonably believed the person appearing in the performance was 18 years of age or over.

(b)(1) Except as provided in paragraph (2) of this subsection, in any prosecution for an offense pursuant to § 22-3102(2) it shall be an affirmative defense that the person so charged was:

(A) A librarian engaged in the normal course of his or her employment; or

(B) A motion picture projectionist, stage employee or spotlight operator, cashier, doorman, usher, candy stand attendant, porter, or in any other nonmanagerial or nonsupervisory capacity in a motion picture theater.

(2) The affirmative defense provided by paragraph (1) of this subsection shall not apply if the person described therein has a financial interest (other than his or her employment, which employment does not encompass compensation based upon any proportion of the gross receipts) in:

(A) The promotion of a sexual performance for sale, rental, or exhibition;

(B) The direction of any sexual performance; or

(C) The acquisition of the performance for sale, retail, or exhibition.

(c) It shall be an affirmative defense to a charge under § 22-3102 that the defendant:

(1) Possessed or accessed less than 6 still photographs or one motion picture, however produced or reproduced, of a sexual performance by a minor; and

(2) Promptly and in good faith, and without retaining, copying, or allowing any person, other than a law enforcement agency, to access any photograph or motion picture:

(A) Took reasonable steps to destroy each such photograph or motion picture; or

(B) Reported the matter to a law enforcement agency and afforded that agency access to each such photograph or motion picture.

(Mar. 9, 1983, D.C. Law 4-173, § 5, 29 DCR 5749; Oct. 23, 2010, D.C. Law 18-239, § 205(c), 57 DCR 5405.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 22-2014.

*Effect of Amendments*

D.C. Law 18-239, in subsec. (a), substituted "18" for "16"; and added subsec. (c).

*Legislative History of Laws*

For legislative history of D.C. Law 4-173, see Historical and Statutory Notes following § 22-3101.

For history of Law 18-239, see notes under § 22-3009.03.