

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

New Draft H.P. 1937, L.D. 2017
SECOND REGULAR SESSION

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 2141

H. P. 2106

In Senate, February 14, 1978

EDWIN H. PERT, Clerk

Reported By Mr. Tarbell from the Committee on Judiciary and printed under
Joint Rules No. 2.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-EIGHT

AN ACT to Prohibit Child Pornography.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 17 MRSA c. 93-B is enacted to read:

CHAPTER 93-B

SEXUAL EXPLOITATION OF MINORS

§ 2921. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms shall have the following meanings.

1. Commercial use. "Commercial use" means sale, barter, trade or otherwise exchange for consideration.
2. Disseminate. "Disseminate" means, for consideration, to manufacture, publish, distribute, exhibit, print, sell or transfer possession or to offer or agree to do any of these acts.
3. Minor. "Minor" means a person under 16 years of age.

4. **Photograph.** “Photograph” means to make a print, negative, slide, motion picture, videotape or other mechanically reproduced visual material.

5. **Sexual conduct.** “Sexual conduct” means any of the following acts:

- A. Sexual intercourse or sexual act, as defined in Title 17-A, section 251, subsection 1, paragraphs B and C;
- B. Bestiality;
- C. Masturbation;
- D. Sadomasochistic abuse for the purpose of sexual stimulation;
- E. Lewd exhibition of the genitals or pubic area of a person; or
- F. Conduct that creates the appearance of the acts in paragraphs A through D and also exhibits any uncovered portions of the genitals or pubic area.

§ 2922. Sexual exploitation of a minor

1. **Offense.** A person is guilty of sexual exploitation of a minor if:

- A. Knowing or intending that the conduct will be photographed for commercial use, he intentionally or knowingly employs, solicits, entices, persuades, uses or compels another person, who is in fact a minor, to engage in sexual conduct; or
- B. Being a parent, legal guardian or other person having care or custody of another person, who is in fact a minor, he knowingly or intentionally permits that minor to engage in sexual conduct, knowing or intending that the conduct will be photographed for commercial use.

2. **Penalty.** Sexual exploitation of a minor is a Class B crime, except that any person convicted of this crime shall be sentenced by imprisonment for not less than 5 years. The minimum term of imprisonment shall not be suspended unless the court sets forth in detail in writing the reasons for suspending the sentence. The court shall consider the nature and circumstances of the crime, the physical and mental well-being of the minor, the history and character of the defendant, and shall only suspend the minimum term if it is of the opinion that the exceptional features of the case justify the imposition of another sentence.

§ 2923. Dissemination of sexually exploitive matter

1. **Offense.** A person is guilty of dissemination of sexually exploitive materials if he intentionally or knowingly disseminates or possesses with intent to disseminate any book, magazine, newspaper, print, negative, slide, motion picture, videotape or other mechanically reproduced visual material, which:

- A. Depicts any minor, whom the person knows or has reason to know is a minor, engaging in sexual conduct;**
- B. To the average individual, applying contemporary community standards, considered as a whole, appeals to the prurient interest; and**
- C. Considered as a whole, lacks serious literary, artistic, political or scientific value.**

2. Presumption. For the purposes of this section, possession of 10 or more copies of the same book, magazine, newspaper, print, negative, slide, motion picture, videotape or other mechanically reproduced visual material shall give rise to a presumption that the person possesses those items with intent to disseminate.

3. Penalty. Dissemination of sexually exploitive materials is a Class C crime, except that any person convicted of this crime shall be sentenced by imprisonment for not less than 2 years. The minimum term of imprisonment shall not be suspended unless the court sets forth in detail in writing the reasons for suspending the sentence. The court shall consider the nature and circumstances of the crime, the physical and mental well-being of the minor, the history and character of the defendant, and shall only suspend the minimum term if it is of the opinion that the exceptional features of the case justify the imposition of another sentence.

Sec. 2. 30 MRSA § 506, as amended by PL 1973, c. 567, § 15, is further amended by adding at the end the following new paragraph:

The District Attorney shall not make public any information that may identify the victim of an offense under Title 17, chapter 93-B, or Title 17-A, chapter 11 or section 556, when the victim is a minor.