

**Sec. 44. PLAN FOR STATE ASSUMPTION OF COURT ADMINISTRATION COSTS.**

The supreme court, in consultation with the conference of chief judges, is requested to prepare a plan for state assumption of court administration costs in every judicial district. The plan should include a timetable that provides for statewide assumption of court administration costs by July 1, 2003. In addition, the plan should include consideration of unique geographical concerns that may be addressed by collaboration with county boards. The supreme court is requested to report to the legislature with the results of the plan by December 15, 2000.

**Sec. 45. REPEALER.**

Minnesota Statutes 1998, sections 357.021, subdivision 2a; and 563.01, subdivision 1, are repealed.

**Sec. 46. EFFECTIVE DATES.**

**Subdivision 1. STATE TAKEOVER OF COURT ADMINISTRATION AND RELATED COSTS.** The provisions of this article continuing the state takeover of court administration costs in the eighth judicial district are effective January 1, 2000. The other provisions of this article relating to the state takeover of court administration costs in the fifth, seventh, and ninth judicial districts are effective July 1, 2000.

**Subd. 2. JURY AND COURT REPORTER TRANSCRIPT COSTS.** The provisions of this article relating to the state takeover of miscellaneous court reporter transcript and jury costs are effective July 1, 2000.

**Subd. 3. MISCELLANEOUS COST.** The provisions of sections 1, 2, and 18 to 45, relating to the state takeover of court interpreter costs, guardian ad litem costs, rule 20 and mental commitment examination costs, and in forma pauperis costs are effective January 1, 2000, in the eighth judicial district; July 1, 2000, in the fifth, seventh, and ninth judicial districts; and July 1, 2001, in the remaining judicial districts.

**Subd. 4. EFFECTIVE DATE CONTINGENCY.** Notwithstanding subdivisions 1 to 3, sections 1 to 11, 13 to 16, and 18 to 45 do not take effect unless an appropriation and off-setting state aids and fine transfers specified in the 1999 omnibus tax bill take effect in fiscal year 2001.

**Subd. 5. BOARD OF PUBLIC DEFENSE AND SUPREME COURT PLAN.** Sections 12, 17, and 44 are effective the day following final enactment.

Presented to the governor May 21, 1999

Signed by the governor May 25, 1999, 4:20 p.m.

**CHAPTER 217—S.F.No. 1404**

*An act relating to crime; providing criminal penalties for possessing and disseminating pornographic work depicting a minor; including computer-generated or computer-altered images within the definition of pornographic work; amending Minnesota Statutes 1998, sections 617.246, subdivi-*

New language is indicated by underline, deletions by ~~strikeout~~.

sions 1, 2, 3, 4, and by adding a subdivision; and 617.247, subdivisions 1, 2, 3, 4, and by adding a subdivision.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1998, section 617.246, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** (a) For the purpose of this section, the terms defined in this subdivision have the meanings given them.

(b) "Minor" means any person under the age of 18.

(c) "Promote" means to produce, direct, publish, manufacture, issue, or advertise.

(d) "Sexual performance" means any play, dance or other exhibition presented before an audience or for purposes of visual or mechanical reproduction which depicts that uses a minor to depict actual or simulated sexual conduct as defined by clause (e).

(e) "Sexual conduct" means any of the following if the depiction involves a minor:

(i) (1) an act of sexual intercourse, normal or perverted, actual or simulated, including genital-genital, anal-genital, or oral-genital intercourse, whether between human beings or between a human being and an animal;

(ii) (2) sadomasochistic abuse, meaning flagellation, torture, or similar demeaning acts inflicted by or upon a person who is nude or clad in undergarments or in a revealing costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed;

(iii) (3) masturbation or;

(4) lewd exhibitions of the genitals; or

(iv) (5) physical contact or simulated physical contact with the clothed or unclothed pubic areas or buttocks of a human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

(f) "Pornographic work" means:

(1) an original or reproduction of a picture, film, photograph, negative, slide, videotape, videodisc, or drawing of a sexual performance involving a minor; or

(2) any visual depiction, including any photograph, film, video, picture, drawing, negative, slide, or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means that:

(i) uses a minor to depict actual or simulated sexual conduct;

(ii) has been created, adapted, or modified to appear that an identifiable minor is engaging in sexual conduct; or

(iii) is advertised, promoted, presented, described, or distributed in such a manner that conveys the impression that the material is or contains a visual depiction of a minor engaging in sexual conduct.

New language is indicated by underline, deletions by ~~strikeout~~.

For the purposes of this paragraph, an identifiable minor is a person who was a minor at the time the depiction was created or altered, whose image is used to create the visual depiction.

Sec. 2. Minnesota Statutes 1998, section 617.246, subdivision 2, is amended to read:

Subd. 2. **USE OF MINOR.** It is unlawful for a person to promote, employ, use or permit a minor to engage in or assist others to engage minors in posing or modeling alone or with others in any sexual performance or pornographic work if the person knows or has reason to know that the conduct intended is a sexual performance or a pornographic work.

Any person who violates this subdivision is guilty of a felony and may be sentenced to imprisonment for not more than ~~five ten~~ years or to payment of a fine of not more than ~~\$10,000~~ \$20,000 for the first offense and ~~\$20,000~~ \$40,000 for a second or subsequent offense, or both.

Sec. 3. Minnesota Statutes 1998, section 617.246, subdivision 3, is amended to read:

Subd. 3. **OPERATION OR OWNERSHIP OF BUSINESS.** A person who owns or operates a business in which a ~~work depicting a minor in a sexual performance~~ pornographic work, as defined in this section, is disseminated to an adult or a minor or is reproduced, and who knows the content and character of the pornographic work disseminated or reproduced, is guilty of a felony and may be sentenced to imprisonment for not more than ~~five ten~~ years, or to payment of a fine of not more than ~~\$10,000~~ \$20,000 for the first offense and ~~\$20,000~~ \$40,000 for a second or subsequent offense, or both.

Sec. 4. Minnesota Statutes 1998, section 617.246, subdivision 4, is amended to read:

Subd. 4. **DISSEMINATION.** A person who, knowing or with reason to know its content and character, disseminates for profit to an adult or a minor a pornographic work depicting a minor in sexual performance, as defined in this section, is guilty of a felony and may be sentenced to imprisonment for not more than ~~five ten~~ years, or to payment of a fine of not more than ~~\$10,000~~ \$20,000 for the first offense and ~~\$20,000~~ \$40,000 for a second or subsequent offense, or both.

Sec. 5. Minnesota Statutes 1998, section 617.246, is amended by adding a subdivision to read:

Subd. 6. **AFFIRMATIVE DEFENSE.** It shall be an affirmative defense to a charge of violating this section that the sexual performance or pornographic work was produced using only persons who were 18 years or older.

Sec. 6. Minnesota Statutes 1998, section 617.247, subdivision 1, is amended to read:

Subdivision 1. **POLICY; PURPOSE.** It is the policy of the legislature in enacting this section to protect minors from the physical and psychological damage caused by their being used in photographic representations of pornographic work depicting sexual conduct which involves minors. It is therefore the intent of the legislature to penalize possession of photographic representations of pornographic work depicting sexual conduct which involve minors or appears to involve minors in order to protect the identity of minors who are victimized by involvement in the photographic representations pornographic work, and to protect minors from future involvement in photographic representations of pornographic work depicting sexual conduct.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 7. Minnesota Statutes 1998, section 617.247, subdivision 2, is amended to read:

Subd. 2. **DEFINITIONS.** For purposes of this section, the following terms have the meanings given them:

(a) "Photographic representation" means an original or reproduction of a film, videotape, videodisc, photograph, negative, or slide "Pornographic work" has the meaning given to it in section 617.246.

(b) "Sexual conduct" has the meaning given to it in section 617.246.

Sec. 8. Minnesota Statutes 1998, section 617.247, subdivision 3, is amended to read:

Subd. 3. **DISSEMINATION PROHIBITED.** A person who disseminates a photographic representation of sexual conduct which involves a minor pornographic work to an adult or a minor, knowing or with reason to know its content and character and that an actual minor is an actor or photographic subject in it, is guilty of a gross misdemeanor felony and may be sentenced to imprisonment for not more than five years and a fine of not more than \$10,000 for a first offense and for not more than ten years and a fine of not more than \$20,000 for a second or subsequent offense.

Sec. 9. Minnesota Statutes 1998, section 617.247, subdivision 4, is amended to read:

Subd. 4. **POSSESSION PROHIBITED.** A person who has in possession possesses a photographic representation of sexual conduct which involves a minor pornographic work or a computer disk or computer or other electronic, magnetic, or optical storage system or a storage system of any other type, containing a pornographic work, knowing or with reason to know its content and character and that an actual minor is an actor or photographic subject in it, is guilty of a gross misdemeanor felony and may be sentenced to imprisonment for not more than three years and a fine of not more than \$5,000 for a first offense and for not more than five years and a fine of not more than \$10,000 for a second or subsequent offense.

Sec. 10. Minnesota Statutes 1998, section 617.247, is amended by adding a subdivision to read:

Subd. 8. **AFFIRMATIVE DEFENSE.** It shall be an affirmative defense to a charge of violating this section that the pornographic work was produced using only persons who were 18 years or older.

Sec. 11. **EFFECTIVE DATE.**

Sections 1 to 10 are effective August 1, 1999, and apply to crimes committed on or after that date.

Presented to the governor May 21, 1999

Signed by the governor May 24, 1999, 9:46 a.m.

## CHAPTER 218—S.F.No. 441

*An act relating to crime prevention; modifying the criminal penalties for certain crimes to provide more uniformity; creating a pretrial diversion program for writers of dishonored checks;*

New language is indicated by underline, deletions by ~~strikeout~~.