



1 **ARTICLE 8C. FILMING OF SEXUALLY EXPLICIT CONDUCT OF MINORS.**

2 **§61-8C-2. Use of minors in filming sexually explicit conduct**  
3 **prohibited; penalty.**

4 (a) Any person who causes or knowingly permits, uses,  
5 persuades, induces, entices or coerces ~~such~~ a minor to engage in or  
6 uses ~~such~~ the minor to do or assist in any sexually explicit  
7 conduct ~~shall be~~ is guilty of a felony when ~~such~~ the person has  
8 knowledge that ~~any such~~ the act is being photographed or filmed.  
9 Upon conviction thereof, ~~such~~ the person shall be fined not more  
10 than \$10,000, or imprisoned in ~~the penitentiary~~ a correctional  
11 facility not more than ten years, or both fined and imprisoned.

12 (b)(1) Any person who photographs or films ~~such~~ a minor  
13 engaging in any sexually explicit conduct ~~shall be~~ is guilty of a  
14 felony, and, upon conviction thereof, shall be:

15 (A) For a first offense under this article, fined not more  
16 than \$10,000, ~~or and~~ imprisoned in the penitentiary a correctional  
17 facility for at least fifteen and not more than ten thirty years;  
18 ~~or both fined and imprisoned~~

19 (B) For a second or subsequent offense under this article,  
20 fined not more than \$100,000, and imprisoned in a correctional  
21 facility for at least twenty-five and not more than fifty years.

22 (2) Notwithstanding section two, article twelve, chapter  
23 sixty-two of this code, a person sentenced under paragraph (B),  
24 subdivision (1) of this subsection, is not eligible for probation.

1 (c) (1) Any parent, legal guardian or person having custody  
 2 and control of a minor, who photographs or films ~~such~~ the minor in  
 3 any sexually explicit conduct or causes or knowingly permits, uses,  
 4 persuades, induces, entices or coerces ~~such~~ the minor child to  
 5 engage in or assist in any sexually explicit act ~~shall be~~ is guilty  
 6 of a felony when ~~such~~ the person has knowledge that ~~any such~~ the  
 7 act may be photographed or filmed. Upon conviction thereof, ~~such~~  
 8 the person shall be:

9 (A) For a first offense under this article, fined not more  
 10 than \$10,000, ~~or and~~ imprisoned in the penitentiary a correctional  
 11 facility for at least fifteen and not more than ~~ten~~ thirty years;  
 12 ~~or both fined and imprisoned and~~

13 (B) For a second or subsequent offense under this article,  
 14 fined not more than \$100,000, and imprisoned in a correctional  
 15 facility for at least twenty-five and not more than fifty years.

16 (2) Notwithstanding section two, article twelve, chapter  
 17 sixty-two of this code, a person sentenced under paragraph (B),  
 18 subdivision (1) of this subsection, is not eligible for probation.

19 **§61-8C-3. Distribution and exhibiting of material depicting**  
 20 **minors engaged in sexually explicit conduct**  
 21 **prohibited; penalty.**

22 (a) Any A person who may not, with knowledge, ~~sends or causes~~  
 23 send or cause to be sent, or ~~distributes, exhibits, possesses or~~  
 24 ~~displays or transports any~~ distribute, exhibit, possess or display

1 or transport any material visually portraying a minor engaged in  
2 any sexually explicit conduct.

3 (b) (1) A person who violates subsection (a) of this section  
4 is:

5 (A) For a first offense under this article, guilty of a  
6 felony, and, upon conviction thereof, shall be imprisoned in the  
7 penitentiary not more than two a correctional facility for not  
8 less than five nor more than twenty years, and fined not more than  
9 \$2,000; and

10 (B) For a second or subsequent offense under this article,  
11 guilty of a felony and, upon conviction thereof, shall be  
12 imprisoned in a correctional facility for not less than fifteen nor  
13 more than forty years, and fined not more than \$200,000.

14 (2) Notwithstanding section two, article twelve, chapter  
15 sixty-two of this code, a person sentenced under paragraph (B),  
16 subdivision (1) of this subsection, is not eligible for probation.

17 (c) A person or who receives five hundred or more images  
18 visually portraying a minor engaged in sexually explicit conduct  
19 is:

20 (1) For a first offense under this article, guilty of a felony  
21 and, upon conviction thereof, shall be imprisoned in a correctional  
22 facility for not less than five nor more than twenty years, and  
23 fined not more than \$2,000; and

24 (2) For a second or subsequent offense under this article,

1 guilty of a felony and, upon conviction thereof, shall be  
2 imprisoned in a correctional facility for not less than fifteen nor  
3 more than forty years, and fined not more than \$200,000.

4 (3) Notwithstanding section two, article twelve, chapter  
5 sixty-two of this code, a person sentenced under this subsection,  
6 is not eligible for probation.

7 **§61-8C-3b. Enhanced penalty for violations involving image**  
8 **showing minor subjected to pain or engaging in**  
9 **sexual activity with an animal.**

10 (a) In addition to the penalties provided in sections two and  
11 three of this article, a person convicted of a violation of those  
12 sections where the images involved include an image of a minor  
13 subjected to pain or engaging in sexual activity with an animal  
14 other than a human, shall be punished by adding an additional  
15 fifteen years to the punishment imposed pursuant to those sections.

16 (b) Notwithstanding section two, article twelve, chapter  
17 sixty-two of this code, a person whose sentence is enhanced under  
18 subsection (a) of this section, is not eligible for probation.

NOTE: The purpose of this bill is to increase certain penalties under the child pornography law to make them similar to those imposed under federal law. The bill also provides enhanced penalties for:

- (1) Second and subsequent violations under some circumstances;
- (2) Violations involving possession of five hundred or more images; and
- (3) Violations involving images showing a minor subjected to

pain or engaging in sexual activity with an animal.

The bill also provides that certain violators are not eligible for probation.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

§61-8C-3b is new; therefore, it has been completely underscoring.