

Missouri
Chapter 573, Sections .010 to .065

- [Pornography and Related Offenses](#)

Definitions.

573.010. As used in this chapter the following terms shall mean:

- (1) "Child", any person under the age of fourteen;
- (2) "Child pornography", any obscene material or performance depicting sexual conduct, sexual contact, or a sexual performance, as these terms are defined in section 556.061, RSMo, and which has as one of its participants or portrays as an observer of such conduct, contact, or performance a child under the age of eighteen;
- (3) "Displays publicly", exposing, placing, posting, exhibiting, or in any fashion displaying in any location, whether public or private, an item in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a street, highway or public sidewalk, or from the property of others or from any portion of the person's store, or the exhibitor's store or property when items and material other than this material are offered for sale or rent to the public;
- (4) "Explicit sexual material", any pictorial or three dimensional material depicting human masturbation, deviate sexual intercourse, sexual intercourse, direct physical stimulation or unclothed genitals, sadomasochistic abuse, or emphasizing the depiction of postpubertal human genitals; provided, however, that works of art or of anthropological significance shall not be deemed to be within the foregoing definition;
- (5) "Furnish", to issue, sell, give, provide, lend, mail, deliver, transfer, circulate, disseminate, present, exhibit or otherwise provide;
- (6) "Material", anything printed or written, or any picture, drawing, photograph, motion picture film, videotape or videotape production, or pictorial representation, or any recording or transcription, or any mechanical, chemical, or electrical reproduction, or stored computer data, or anything which is or may be used as a means of communication. "Material" includes undeveloped photographs, molds, printing plates, stored computer data and other latent representational objects;
- (7) "Minor", any person under the age of eighteen;
- (8) "Nudity", the showing of postpubertal human genitals or pubic area, with less than a fully opaque covering;
- (9) "Obscene", any material or performance is obscene if, taken as a whole:

(a) Applying contemporary community standards, its predominant appeal is to prurient interest in sex; and

(b) The average person, applying contemporary community standards, would find the material depicts or describes sexual conduct in a patently offensive way; and

(c) A reasonable person would find the material lacks serious literary, artistic, political or scientific value;

(10) "Performance", any play, motion picture film, videotape, dance or exhibition performed before an audience of one or more;

(11) "Pornographic for minors", any material or performance is pornographic for minors if the following apply:

(a) The average person, applying contemporary community standards, would find that the material or performance, taken as a whole, has a tendency to cater or appeal to a prurient interest of minors; and

(b) The material or performance depicts or describes nudity, sexual conduct, sexual excitement, or sadomasochistic abuse in a way which is patently offensive to the average person applying contemporary adult community standards with respect to what is suitable for minors; and

(c) The material or performance, taken as a whole, lacks serious literary, artistic, political, or scientific value for minors;

(12) "Promote", to manufacture, issue, sell, provide, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, present, exhibit, or advertise, or to offer or agree to do the same, by any means including a computer;

(13) "Sadomasochistic abuse", flagellation or torture by or upon a person as an act of sexual stimulation or gratification;

(14) "Sexual conduct", actual or simulated, normal or perverted acts of human masturbation; deviate sexual intercourse; sexual intercourse; or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female in an act of apparent sexual stimulation or gratification or any sadomasochistic abuse or acts including animals or any latent objects in an act of apparent sexual stimulation or gratification;

(15) "Sexual excitement", the condition of human male or female genitals when in a state of sexual stimulation or arousal;

(16) "Wholesale promote", to manufacture, issue, sell, provide, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, or to offer or agree to do the same for purposes of resale or redistribution.

Promoting obscenity in the first degree.

573.020. 1. A person commits the crime of promoting obscenity in the first degree if, knowing its content and character:

(1) He or she wholesale promotes or possesses with the purpose to wholesale promote any obscene material; or

(2) He or she wholesale promotes for minors or possesses with the purpose to wholesale promote for minors any material pornographic for minors; or

(3) He or she promotes, wholesale promotes or possesses with the purpose to wholesale promote for minors material that is pornographic for minors via computer, Internet or computer network if the person made the matter available to a specific individual known by the defendant to be a minor.

2. Promoting obscenity in the first degree is a class D felony.

Sexual exploitation of a minor, penalties.

573.023. 1. A person commits the crime of sexual exploitation of a minor if, knowing of its content and character, such person photographs, films, videotapes, produces or otherwise creates obscene material with a minor or child pornography.

2. Sexual exploitation of a minor is a class B felony unless the minor is a child, in which case it is a class A felony.

Promoting child pornography in the first degree.

573.025. 1. A person commits the crime of promoting child pornography in the first degree if, knowing of its content and character, such person possesses with the intent to promote or promotes obscene material that has a child as one of its participants or portrays what appears to be a child as a participant or observer of sexual conduct.

2. Promoting child pornography in the first degree is a class B felony unless the person knowingly promotes such material to a minor, in which case it is a class A felony.

3. Nothing in this section shall be construed to require a provider of electronic communication services or remote computing services to monitor any user, subscriber or customer of the provider, or the content of any communication of any user, subscriber or customer of the provider.

Promoting obscenity in the second degree.

573.030. 1. A person commits the crime of promoting pornography for minors or obscenity in the second degree if, knowing its content or character, he or she:

- (1) Promotes or possesses with the purpose to promote any obscene material for pecuniary gain; or
- (2) Produces, presents, directs or participates in any obscene performance for pecuniary gain; or
- (3) Promotes or possesses with the purpose to promote any material pornographic for minors for pecuniary gain; or
- (4) Produces, presents, directs or participates in any performance pornographic for minors for pecuniary gain; or
- (5) Promotes, possesses with the purpose to promote, produces, presents, directs or participates in any performance that is pornographic for minors via computer, electronic transfer, Internet or computer network if the person made the matter available to a specific individual known by the defendant to be a minor.

2. Promoting pornography for minors or obscenity in the second degree is a class A misdemeanor unless the person has pleaded guilty to or has been found guilty of an offense pursuant to this section committed at a different time, in which case it is a class D felony.

Promoting child pornography in the second degree.

573.035. 1. A person commits the crime of promoting child pornography in the second degree if knowing of its content and character such person possesses with the intent to promote or promotes child pornography or obscene material that has a minor as one of its participants, or portrays what appears to be a minor as a participant or observer of sexual conduct.

2. Promoting child pornography in the second degree is a class C felony unless the person knowingly promotes such material to a minor, in which case it is a class B felony.

Possession of child pornography.

573.037. 1. A person commits the crime of possession of child pornography if, knowing of its content and character, such person possesses any obscene material that has a child as one of its participants or portrays what appears to be a child as an observer or participant of sexual conduct.

2. Possession of child pornography is a class A misdemeanor unless the person has pleaded guilty to or has been found guilty of an offense under this section, in which case it is a class D felony.

Furnishing pornographic materials to minors.

573.040. 1. A person commits the crime of furnishing pornographic material to minors if, knowing its content and character, he or she:

(1) Furnishes any material pornographic for minors, knowing that the person to whom it is furnished is a minor or acting in reckless disregard of the likelihood that such person is a minor; or

(2) Produces, presents, directs or participates in any performance pornographic for minors that is furnished to a minor knowing that any person viewing such performance is a minor or acting in reckless disregard of the likelihood that a minor is viewing the performance; or

(3) Furnishes, produces, presents, directs, participates in any performance or otherwise makes available material that is pornographic for minors via computer, electronic transfer, Internet or computer network if the person made the matter available to a specific individual known by the defendant to be a minor.

2. Furnishing pornographic material to minors is a class A misdemeanor unless the person has pleaded guilty to or has been found guilty of an offense pursuant to this section committed at a different time, in which case it is a class D felony.

Evidence in obscenity and child pornography cases.

573.050. 1. In any prosecution under this chapter evidence shall be admissible to show:

(1) What the predominant appeal of the material or performance would be for ordinary adults or minors;

(2) The literary, artistic, political or scientific value of the material or performance;

(3) The degree of public acceptance in this state and in the local community;

(4) The appeal to prurient interest in advertising or other promotion of the material or performance;

(5) The purpose of the author, creator, promoter, furnisher or publisher of the material or performance.

2. Testimony of the author, creator, promoter, furnisher, publisher, or expert testimony, relating to factors entering into the determination of the issues of obscenity or child pornography, shall be admissible.

3. In any prosecution for possession of child pornography or promoting child pornography in the first or second degree, the determination that the person who participated in the child pornography was younger than eighteen years of age may be made as set forth in section 568.100, RSMo, or reasonable inferences drawn by a judge or jury after viewing the alleged pornographic material shall constitute sufficient evidence of the child's age to support a conviction.

4. In any prosecution for promoting child pornography in the first or second degree, no showing is required that the performance or material involved appeals to prurient interest, that it lacks serious literary, artistic, political or scientific value, or that it is patently offensive to prevailing standards in the community as a whole.

Child pornography, attorney general authorized to investigate, when-- violator immune from civil liability, when.

573.052. Upon receipt of any information that child pornography as defined in section 573.010 is contained on a web site, the attorney general shall investigate such information. If the attorney general has probable cause to believe the web site contains child pornography, the attorney general shall notify a web site operator of any child pornography site residing on that web site operator's server, in writing. If the web site operator promptly, but in no event longer than five days after receiving notice, removes the alleged pornography from its server, and so long as the web site operator is not the purveyor of such child pornography, it shall be immune from civil liability. If the web site operator does not promptly remove the alleged pornography, the attorney general may seek an injunction pursuant to section 573.070 to remove the child pornography site from the web site operator's server. This section shall not be construed to create any defense to any criminal charges brought pursuant to this chapter or chapter 568, RSMo.

Public display of explicit sexual material.

573.060. 1. A person commits the crime of public display of explicit sexual material if he knowingly:

(1) Displays publicly explicit sexual material; or

(2) Fails to take prompt action to remove such a display from property in his possession after learning of its existence.

2. Public display of explicit sexual material is a class A misdemeanor unless the person has pleaded guilty to or has been found guilty of an offense under this section committed at a different time, in which case it is a class D felony.

3. For purposes of this section, each day there is a violation of this section shall constitute a separate offense.

Coercing acceptance of obscene material.

573.065. 1. A person commits the crime of coercing acceptance of obscene material if, knowing its content and character:

(1) He requires acceptance of obscene material as a condition to any sale, allocation, consignment or delivery of any other material; or

(2) He denies any franchise or imposes any penalty, financial or otherwise, by reason of the failure or refusal of any person to accept any material obscene or pornographic for minors.

2. Coercing acceptance of obscene material is a class D felony.