

Senate Study Bill 1104

Bill Text

PAG LIN

1 1 Section 1. Section [692A.1](#), subsection 4, Code 2001, is
1 2 amended by adding the following new paragraph:
1 3 NEW PARAGRAPH. mm. Enticing away a minor in violation of
1 4 section 710.10, subsection 1.
1 5 Sec. 2. Section [692A.1](#), subsection 4, paragraph n, Code
1 6 2001, is amended to read as follows:
1 7 n. An indictable offense committed in another jurisdiction
1 8 which would constitute an indictable offense under paragraphs
1 9 "a" through

~~— "m"~~

~~— "mm".~~

1 10 Sec. 3. Section [710.10](#), Code 2001, is amended to read as
1 11 follows:
1 12 710.10 ENTICING AWAY A

~~— CHILD~~

~~— MINOR.~~

1 13 1. A person commits a class

~~— "D"~~

~~— "C" felony when, without~~

1 14 authority and with the intent to commit

~~— an illegal act~~

~~— sexual~~

1 15 abuse or sexual exploitation upon

~~— the child~~

~~— a minor under the~~

1 16 age of thirteen, the person entices away a

~~— child~~

~~— the minor~~

1 17 under the age of thirteen, or entices away a person reasonably

1 18 believed to be under the age of thirteen.

1 19 2. A person commits

~~— an aggravated misdemeanor~~

~~— a class "D"~~

1 20 felony when, without authority and with the intent to commit

1 21 an illegal act upon

~~— the child~~

~~— a minor under the age of~~

1 22 sixteen, the person

~~— attempts to entice~~

~~— entices~~ away a

~~— child~~

~~—~~

1 23 minor under the age of be sixteen, or entices away a person

1 24 reasonably believed to be under the age of sixteen.

1 25 3. A person commits an aggravated misdemeanor when,

1 26 without authority and with the intent to commit an illegal act

1 27 upon a minor under the age of sixteen, the person attempts to
1 28 entice away a minor under the age of sixteen, or attempts to
1 29 entice away a person reasonably believed to be under the age
1 30 of sixteen.
1 31

~~3.~~

- 4. A person's intent to commit

~~an illegal act upon the~~

-
1 32

~~child~~

- a violation of this section may be inferred when the

1 33

~~individual~~

- person is not known to the

~~child~~

- person being

1 34 enticed away and the

~~individual~~

- person does not have the

1 35 permission of the

~~child's~~

- parent, guardian, or custodian to

2 1 contact the

~~child~~

- person being enticed away.

2 2 5. For purposes of determining jurisdiction under section
2 3 803.1, an offense is considered committed in this state if the
2 4 communication to entice away a minor or a person believed to
2 5 be a minor who is present in this state originates from
2 6 another state, or the communication to entice away a minor a
2 7 person believed to be a minor is sent from this state.

2 8 Sec. 4. Section [728.12](#), Code 2001, is amended to read as
2 9 follows:

2 10 728.12 SEXUAL EXPLOITATION OF A MINOR.

2 11 1.

~~A person commits a class "C" felony when the person~~

-
2 12

~~employs, uses, persuades, induces, entices, coerces, knowingly~~

-
2 13

~~permits,~~

- It shall be unlawful to employ, use, persuade,

2 14 induce, entice, coerce, knowingly permit, or otherwise

~~causes~~

-
2 15 cause a minor to engage in a prohibited sexual act or in the

2 16 simulation of a prohibited sexual act

~~if the person knows,~~

-
2 17

~~has~~

~~-. A person must know, or have reason to know, or~~

~~intende~~

~~-~~
2 18 intend that the act or simulated act may be photographed,
2 19 filmed, or otherwise preserved in a negative, slide, book,
2 20 magazine, computer, computer disk, or other print or visual
2 21 medium, or be preserved in an electronic, magnetic, or optical
2 22 storage system, or in any other type of storage system. A
2 23 person who commits a violation of this subsection commits a
2 24 class "C" felony. Notwithstanding section 902.9, the court
2 25 may assess a fine of not more than fifty thousand dollars for
2 26 each offense under this subsection in addition to imposing any
2 27 other authorized sentence.
2 28 2.

~~- A person commits a class "D" felony when the person~~

~~-~~
2 29

~~knowingly promotes~~

~~-~~ It shall be unlawful to knowingly promote
2 30 any material visually depicting a live performance of a minor
2 31 or what appears to be a minor engaging in a prohibited sexual
2 32 act or in the simulation of a prohibited sexual act. A person
2 33 who commits a violation of this subsection commits a class "D"
2 34 felony. Notwithstanding section 902.9, the court may assess a
2 35 fine of not more than twenty-five thousand dollars for each
3 1 offense under this subsection in addition to imposing any
3 2 other authorized sentence.
3 3 3.

~~- A person who~~

~~-~~ It shall be unlawful to knowingly
3 4

~~purchase or possesses~~

~~-~~ purchase or possess a negative, slide,
3 5 book, magazine, computer, computer disk, or other print or
3 6 visual medium

~~depicting~~

~~-~~ or an electronic, magnetic, or
3 7 optical storage system, or any other type of storage system
3 8 which depicts a minor or what appears to be a minor engaging
3 9 in a prohibited sexual act or the simulation of a prohibited
3 10 sexual act

~~commits a serious misdemeanor~~

~~-~~ A person who
3 11 commits a violation of this subsection commits an aggravated
3 12 misdemeanor. A person who commits a second or subsequent
3 13 violation of this subsection, or a person who commits a
3 14 violation of this subsection and who has committed a prior
3 15 offense in another jurisdiction which would constitute a
3 16 violation under this subsection, commits a class "D" felony.
3 17 4.

~~However, this~~

~~-~~ This section does not apply to law
3 18 enforcement officers, court personnel, licensed physicians,
3 19 licensed psychologists, or attorneys in the performance of
3 20 their official duties.
3 21 Sec. 5. Section 901A.1, subsection 1, Code 2001, is
3 22 amended by adding the following new paragraph:
3 23 NEW PARAGRAPH. bb. Enticing a minor away in violation of
3 24 section 710.10, subsection 1.

EXPLANATION

3 25

3 26 This bill relates to the criminal offenses of enticing a
3 27 minor away and sexual exploitation of a minor.

3 28 The bill changes the name of the crime of enticing a child
3 29 away to enticing a minor away, and makes changes to the
3 30 penalties. The bill provides that a person commits a class
3 31 "C" felony, if the person entices away a minor under the age
3 32 of 13 or a person believed to be under the age of 13 with the
3 33 intent to commit sexual abuse or sexual exploitation. The
3 34 bill provides that a person commits a class "D" felony, if the
3 35 person entices a minor away under the age of 16 or a person
4 1 believed to be under the age of 16, with the intent to commit
4 2 an illegal act. The bill provides that a person commits an
4 3 aggravated misdemeanor, if the person attempts to entice a
4 4 minor away who is under the age of 16 or a person believed to
4 5 be under the age of 16. Under current law, a person commits a
4 6 class "D" felony for enticing a minor away, and an aggravated
4 7 misdemeanor for attempting to entice a minor away.

4 8 The bill also provides that the offense is considered
4 9 committed in this state, if the communication to entice away a
4 10 minor or person believed to be a minor who is present in this
4 11 state originates in another state, or the communication to
4 12 entice away a minor or person believed to be a minor which is
4 13 sent from this state.

4 14 The bill adds enticing a minor away under the age of 13 in
4 15 violation of Code section 710.10, subsection 1, to the list of
4 16 sexually predatory offenses in Code chapter 901A. A person
4 17 convicted of a sexually predatory offense will serve a greater
4 18 sentence than if only convicted of the underlying offense.
4 19 The bill also requires that a person who commits enticing a
4 20 minor away under the age of 13 register as a sex offender.

4 21 The bill also makes changes to the definition of the
4 22 criminal offense of sexual exploitation of a minor. The bill
4 23 makes it unlawful to induce or permit a minor to engage in a
4 24 sex act if the person knows or should know that the sex act
4 25 will be preserved in some manner on a computer, computer disk,
4 26 or be placed in an electronic storage system, or in any other
4 27 type of storage system. Under current law it is unlawful to
4 28 induce or permit a minor to engage in a sex act if the person
4 29 knows or should have known that the sex act may be
4 30 photographed, filmed, or otherwise preserved in a negative,
4 31 slide, book, magazine, or other print or visual medium. A
4 32 person who commits sexual exploitation of a minor by
4 33 unlawfully inducing or permitting a minor to engage in a sex
4 34 act commits a class "C" felony.

4 35 The bill also makes it unlawful to knowingly purchase or
5 1 possess images of a minor or what appears to be a minor
5 2 engaged in a sex act if the images are contained in a
5 3 computer, computer disk, or in an electronic storage system,
5 4 or in any other type of storage system. Under current law, it
5 5 is unlawful to knowingly purchase or possess images of a minor
5 6 in a sex act if the image is in a negative, slide, book, or
5 7 magazine, or other print or visual medium. The bill increases
5 8 the penalty for purchasing or possessing sexually exploitive
5 9 images from a serious misdemeanor to an aggravated
5 10 misdemeanor. In addition, the bill provides that if a person
5 11 commits a second or subsequent offense of purchasing or
5 12 possessing sexually exploitive images, the person commits a
5 13 class "D" felony.

5 14 An aggravated misdemeanor is punishable by confinement for
5 15 no more than two years and a fine of at least \$500 but not
5 16 more than \$5,000. A class "D" felony is punishable by
5 17 confinement for no more than five years and a fine of at least
5 18 \$750 but not more than \$7,500. A class "C" felony is
5 19 punishable by confinement for no more than 10 years and a fine
5 20 of at least \$1,000 but not more than \$10,000.

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