

CHAPTER 262  
FORMERLY  
HOUSE BILL NO. 256  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE OFFENSES OF SEXUAL SOLICITATION OF A CHILD AND PROMOTING SEXUAL SOLICITATION OF A CHILD.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 5, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§1112A. Sexual solicitation of a child; class C felony; class B felony.

(a) A person is guilty of sexual solicitation of a child if the person, being 18 years of age or older, intentionally or knowingly:

(1) Solicits, requests, commands, importunes or otherwise attempts to cause any child ~~who has not yet reached that child's eighteenth birthday~~ to engage in a prohibited sexual act; or

~~(2) Solicits, requests, commands, importunes or otherwise attempts to cause any child who has not yet reached that child's sixteenth birthday to meet with such person or any other person for the purpose of engaging in a prohibited sexual act; or~~

(2) Uses a computer, cellular telephone or other electronic device to communicate with another person, including a child, to solicit, request, command, importune, entice, encourage or otherwise attempt to cause a child to engage in a prohibited sexual act.

~~(3) Compiles, enters, accesses, transmits, receives, exchanges, disseminates, stores, makes, prints, reproduces or otherwise possesses by any means, including by means of computer, any notice, statement, document, advertisement, file or data containing the name, telephone number, address, e-mail address, school address or location, physical characteristics or other descriptive or identifying information pertaining to any child who has not yet reached that child's sixteenth birthday for the purpose of facilitating, encouraging, offering or soliciting a prohibited sexual act involving such child and such person or any other person.~~

(b) For purposes of this section, "child" means:

(1) An individual who is younger than 18 years of age; or

(2) An individual who represents himself or herself to be younger than 18 years of age; or

(3) An individual whom the person committing the offense believes to be younger than 18 years of age.

~~(c) For the purposes of this section, conduct occurring outside the State shall be sufficient to constitute this offense if such conduct is within the terms of § 204 of this title, or in the instance of any manner of electronic communication or other communication that does not occur in person, the offense is committed in this state if such communication either originated in this state or is received in this state, if the child was within the State at the time of the prohibited conduct and the defendant was aware of circumstances which rendered the presence of such child within Delaware a reasonable possibility.~~

~~(c) Sexual solicitation of a child is a class C felony.~~

(d) For the purposes of this section, and notwithstanding any section of this title to the contrary, it is a defense to prosecution that at the time the conduct described in subsection (a) occurred the person was married to the child.

(e) For the purposes of this section, it is not a defense to prosecution that at the time the conduct described in subsection (a) occurred:

(1) The solicited prohibited sexual act did not occur; or

(2) The person was engaged in a fantasy or role playing at the time of the commission of the offense.

~~(e) Nothing in this section shall preclude a separate charge, conviction and sentence for any other crime set forth in this title, or in the Delaware Code.~~

(g) Sexual solicitation of a child is a Class C felony, except as provided in subsection (h).

(h) Sexual solicitation of a child is a Class B felony if the defendant meets in person or attempts to meet in person with the child for the purpose of engaging in a prohibited sexual act.

§1112B. Promoting sexual solicitation of a child.

(a) A person is guilty of promoting sexual solicitation of a child if the person, being 18 years of age or older, intentionally or knowingly:

(1) Promotes, entices, offers, encourages, solicits or otherwise attempts to cause any child to engage in a prohibited sexual act; or

(2) Uses a computer, cellular telephone, or other electronic device to communicate with another person to solicit, request, command, importune, entice, encourage or otherwise attempt to cause that person to engage in a prohibited sexual act with a child.

(b) For purposes of this section, "child" means:

(1) An individual who is younger than 18 years of age; or

(2) An individual who represents himself or herself to be younger than 18 years of age; or

(3) An individual whom the person committing the offense believes to be younger than 18 years of age.

(c) For the purposes of this section, conduct occurring outside the State shall be sufficient to constitute this offense if such conduct is within the terms of § 204 of this title, or in the instance of any manner of electronic communication or other communication that does not occur in person, the offense is committed in this state if such communication either originated in this state or is received in this state.

(d) For the purposes of this section, it is not a defense to prosecution that at the time the conduct described in subsection (a) occurred:

(1) The solicited prohibited sexual act did not occur; or

(2) The person was engaged in a fantasy or role playing at the time of the commission of the offense.

(e) Nothing in this section shall preclude a separate charge, conviction and sentence for any other crime set forth in this title, or in the Delaware Code.

(f) Promoting sexual solicitation is a Class C felony except as provided in subsection (g).

(g) Promoting sexual solicitation of a child is a Class B felony if the defendant meets in person or attempts to meet in person with another person and a child, or otherwise produces or delivers a child to another person, for the purpose of the person engaging in a prohibited sex act with the child.

Section 2. Severability. – If any provision of these sections or the application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of these sections which can be given effect without the invalid provision or application, and to this end the provisions of these sections are severable.

Section 3. Effective date. – This act shall become effective immediately upon enactment.

Approved June 24, 2014