

LEGAL REFERENCE DOCUMENT

The Criminal Code prohibits a number of behaviours related to child pornography, including producing, printing, publishing, distributing, sending, making accessible, selling, importing, exporting, possessing, accessing or advertising child pornography.

Definition of child pornography

163.1 (1) In this section, child pornography means

- (a) a photographic, film, video or other visual representation, whether or not it was made by electronic or mechanical means,
 - (i) that shows a person who is or is depicted as being under the age of eighteen years and is engaged in or is depicted as engaged in explicit sexual activity or
 - (ii) the dominant characteristic of which is the depiction, for a sexual purpose, of a sexual organ or the anal region of a person under the age of eighteen years;
- (b) any written material, visual representation or audio recording that advocates or counsels sexual activity with a person under the age of eighteen years that would be an offence under this Act;
- (c) any written material whose dominant characteristic is the description, for a sexual purpose, of sexual activity with a person under the age of eighteen years that would be an offence under this Act; or
- (d) any audio recording that has as its dominant characteristic the description, presentation or representation, for a sexual purpose, of sexual activity with a person under the age of eighteen years that would be an offence under this Act.

Making child pornography

(2) Every person who makes, prints, publishes or possesses for the purpose of publication any child pornography is guilty of an indictable offence and liable to imprisonment for a term of not more than 14 years and to a minimum punishment of imprisonment for a term of one year.

Distribution, etc. of child pornography

(3) Every person who transmits, makes available, distributes, sells, advertises, imports, exports or possesses for the purpose of transmission, making available, distribution, sale, advertising or exportation any child pornography is guilty of an indictable offence and liable to imprisonment for a term of not more than 14 years and to a minimum punishment of imprisonment for a term of one year.

Possession of child pornography

- (4) Every person who possesses any child pornography is guilty of
- (a) an indictable offence and is liable to imprisonment for a term of not more than 10 years and to a minimum punishment of imprisonment for a term of one year; or
 - (b) an offence punishable on summary conviction and is liable to imprisonment for a term of not more than two years less a day and to a minimum punishment of imprisonment for a term of six months.

Accessing child pornography

- (4.1) Every person who accesses any child pornography is guilty of
- (a) an indictable offence and is liable to imprisonment for a term of not more than 10 years and to a minimum punishment of imprisonment for a term of one year; or
 - (b) an offence punishable on summary conviction and is liable to imprisonment for a term of not more than two years less a day and to a minimum punishment of imprisonment for a term of six months.

Publication, etc., of an intimate image without consent

162.1 (1) Everyone who knowingly publishes, distributes, transmits, sells, makes available or advertises an intimate image of a person knowing that the person depicted in the image did not give their consent to that conduct, or being reckless as to whether or not that person gave their consent to that conduct, is guilty

- (a) of an indictable offence and liable to imprisonment for a term of not more than five years; or
- (b) of an offence punishable on summary conviction.

Definition of intimate image

(2) In this section, intimate image means a visual recording of a person made by any means including a photographic, film or video recording,

- (a) in which the person is nude, is exposing his or her genital organs or anal region or her breasts or is engaged in explicit sexual activity;
- (b) in respect of which, at the time of the recording, there were circumstances that gave rise to a reasonable expectation of privacy; and
- (c) in respect of which the person depicted retains a reasonable expectation of privacy at the time the offence is committed.