

# State of South Dakota

EIGHTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2012

772T0140

## HOUSE JUDICIARY ENGROSSED NO. **SB 183** 2/27/2012

Introduced by: Senators Vehle, Cutler, Fryslie, Holien, Maher, Nygaard, Olson (Russell), Rhoden, Schlekeway, and Tidemann and Representatives Hoffman, Gosch, Rozum, Street, Tulson, Verchio, and Wismer

1 FOR AN ACT ENTITLED, An Act to establish the elements of the offense of juvenile sexting  
2 and to provide a penalty therefor.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. No minor, as defined in subdivision 26-7A-1(21), may intentionally create,  
5 produce, distribute, present, transmit, post, exchange, disseminate, or possess, through any  
6 computer or digital media, any photograph or digitized image or any visual depiction of a minor  
7 in any condition of nudity, as defined in subdivision 22-24A-2(9), or involved in any prohibited  
8 sexual act, as defined in subdivision 22-24A-2(16). Any violation of this section constitutes the  
9 offense of juvenile sexting, which is a Class 1 misdemeanor.

10 Section 2. It is not an act of juvenile sexting if the minor has not solicited the visual  
11 depiction, if the minor does not subsequently distribute, present, transmit, post, print,  
12 disseminate, or exchange the visual depiction, and if the minor deletes or destroys the visual  
13 depiction upon receipt. It is not an Act of juvenile sexting if the visual depiction is of a single  
14 minor, created by that minor, who does not subsequently distribute, present, transmit, post, print,



1 disseminate, or exchange the visual depiction.

2 Section 3. It is not a defense to the offense of juvenile sexting that the visual depiction is of

3 the person charged.