

2260, 2421, 2422, or 2423 of this title and who suffers personal injury as a result of such violation may sue in any appropriate United States District Court and shall recover the actual damages such minor sustains and the cost of the suit, including a reasonable attorney's fee. Any minor as described in the preceding sentence shall be deemed to have sustained damages of no less than \$50,000 in value.

(b) Any action commenced under this section shall be barred unless the complaint is filed within six years after the right of action first accrues or in the case of a person under a legal disability, not later than three years after the disability.

(Added Pub. L. 99-500, §101(b) [title VII, §703(a)], Oct. 18, 1986, 100 Stat. 1783-39, 1783-74, and Pub. L. 99-591, §101(b) [title VII, §703(a)], Oct. 30, 1986, 100 Stat. 3341-39, 3341-74; amended Pub. L. 105-314, title VI, §605, Oct. 30, 1998, 112 Stat. 2984.)

#### CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500.

#### PRIOR PROVISIONS

A prior section 2255 was renumbered section 2256 of this title.

#### AMENDMENTS

1998—Subsec. (a). Pub. L. 105-314 substituted “2241(c), 2242, 2243, 2251, 2251A, 2252, 2252A, 2260, 2421, 2422, or 2423” for “2251 or 2252”.

### § 2256. Definitions for chapter

For the purposes of this chapter, the term—

(1) “minor” means any person under the age of eighteen years;

(2)(A) Except as provided in subparagraph (B), “sexually explicit conduct” means actual or simulated—

(i) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(ii) bestiality;

(iii) masturbation;

(iv) sadistic or masochistic abuse; or

(v) lascivious exhibition of the genitals or pubic area of any person;

(B) For purposes of subsection 8(B)<sup>1</sup> of this section, “sexually explicit conduct” means—

(i) graphic sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex, or lascivious simulated sexual intercourse where the genitals, breast, or pubic area of any person is exhibited;

(ii) graphic or lascivious simulated;

(I) bestiality;

(II) masturbation; or

(III) sadistic or masochistic abuse; or

(iii) graphic or simulated lascivious exhibition of the genitals or pubic area of any person;

(3) “producing” means producing, directing, manufacturing, issuing, publishing, or advertising;

(4) “organization” means a person other than an individual;

(5) “visual depiction” includes undeveloped film and videotape, and data stored on computer disk or by electronic means which is capable of conversion into a visual image;

(6) “computer” has the meaning given that term in section 1030 of this title;

(7) “custody or control” includes temporary supervision over or responsibility for a minor whether legally or illegally obtained;

(8) “child pornography” means any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where—

(A) the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct;

(B) such visual depiction is a digital image, computer image, or computer-generated image that is, or is indistinguishable from, that of a minor engaging in sexually explicit conduct; or

(C) such visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct.

(9) “identifiable minor”—

(A) means a person—

(i)(I) who was a minor at the time the visual depiction was created, adapted, or modified; or

(II) whose image as a minor was used in creating, adapting, or modifying the visual depiction; and

(ii) who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature; and

(B) shall not be construed to require proof of the actual identity of the identifiable minor.

(10) “graphic”, when used with respect to a depiction of sexually explicit conduct, means that a viewer can observe any part of the genitals or pubic area of any depicted person or animal during any part of the time that the sexually explicit conduct is being depicted; and

(11) the term “indistinguishable” used with respect to a depiction, means virtually indistinguishable, in that the depiction is such that an ordinary person viewing the depiction would conclude that the depiction is of an actual minor engaged in sexually explicit conduct. This definition does not apply to depictions that are drawings, cartoons, sculptures, or paintings depicting minors or adults.

(Added Pub. L. 95-225, §2(a), Feb. 6, 1978, 92 Stat. 8, §2253; renumbered §2255 and amended Pub. L. 98-292, §5, May 21, 1984, 98 Stat. 205; renumbered §2256, Pub. L. 99-500, §101(b) [title VII, §703(a)], Oct. 18, 1986, 100 Stat. 1783-39, 1783-74, and Pub. L. 99-591, §101(b) [title VII, §703(a)], Oct. 30, 1986, 100 Stat. 3341-39, 3341-74; Pub. L. 99-628, §4, Nov. 7, 1986, 100 Stat. 3510; Pub. L. 100-690, title VII,

<sup>1</sup> So in original. Probably should be “(8)(B)”.