



# United States Department of the Interior

F INDIAN AFFAIRS

Puget Sound Agency 2707  
Colby Avenue, Suite 1101  
Everett, Washington 98201

In Reply Refer To:  
Division of Tribal Government

Honorable Teri Gobin, Chairperson  
Tulalip Tribes  
6406 Marine Drive  
Tulalip, Washington 98271

Dear Chairperson Gobin:

We are in receipt of Tulalip Tribes Resolution 2024-106, Amendment to Tulalip Tribal Code 3.20 Sex Crimes.

Resolution No. 2024-106 was adopted by the Board of the Tulalip Tribes of Washington on March 1, 2024, and received by us at Puget Sound Agency on March 5, 2024. This resolution is accepted as reviewed and approved by the Superintendent on March 8, 2024. This resolution is in accordance with Article VI, Section 1(K) and (L) of the Tulalip Constitution.

The resolution is subject to a 90 day secretarial review pursuant to your Constitution and was forwarded to the regional office on March 8, 2024

If you have any questions, please email Administrative Officer, Stephanie Ancheta at [stephanie.ancheta@bia.gov](mailto:stephanie.ancheta@bia.gov).

Sincerely,

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Janine B. Van Dusen  
Superintendent

**THE TULALIP TRIBES OF WASHINGTON**  
**RESOLUTION 2024 - 106**

**Amendment to Tulalip Tribal Code 3.20 Sex Crimes**

**WHEREAS**, the Board of Directors is the governing body of the Tulalip Tribes under the Constitution and Bylaws of the Tribes approved by the United States Commissioner of Indian Affairs and the Secretary of the Interior on January 24, 1936, pursuant to the Act of June 18, 1934 (48 Stat. 984, 25 U.S.C. § 5123);

**WHEREAS**, under the Tulalip Tribes Constitution Article VI, Sections 1 (K) & (L), the Board of Directors has the authority to safeguard and promote the peace, safety, morals, and general welfare of the Tulalip Reservation by regulating the conduct of trade and the use and disposition of property upon the reservation, and to promulgate and enforce ordinances governing the conduct of members of the Tribes providing for the maintenance of law and order and the administration of justice by establishing a tribal court and defining its duties and powers; and

**WHEREAS**, the Board of Directors recognizes children and vulnerable persons must be safeguarded and that this protection should extend to school children who are sexually exploited by school employees; and


**WHEREAS**, the Board of Directors recognizes that laws prohibiting child pornography need to be updated to reflect the reality of AI created images; and

**NOW THEREFORE BE IT ENACTED**, by the Board of Directors of the Tulalip Tribes: Chapter 3.20 of the Tulalip Tribal Code and Resolutions 2022-603, 2018-444, 2012-445, and 2010-10 are hereby amended as indicated by the attached track changes ordinance.

This ordinance shall be in full force and effect on April 1, 2024.

**ADOPTED** by the Board of Directors of the Tulalip Tribes of Washington at a regular board meeting assembled on the 1st day of March, 2024, with a quorum present, by a vote of 5 For, 0 Against, and 0 Abstain.

**THE TULALIP TRIBES OF WASHINGTON**



Teri Gobin, Chair

**ATTEST:**

  
Debra Posey, Secretary

The within document is hereby approved pursuant to  
209 DM8, 230 DM 1, 3IAM 4

\_\_\_\_\_  
Superintendent, Puget Sound Agency

**3.20.010 Aggravated sexual abuse.**

(1) By Force or Threat. Whoever knowingly causes another person to engage in a sexual act:

(a) By using force against that other person; or

(b) By threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping, or attempts to do so, shall be guilty of a Class F offense.

(2) By Other Means. Whoever knowingly:

(a) Renders another person unconscious and thereby engages in a sexual act with that other person; or

(b) Administers to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby:

(i) Substantially impairs the ability of that other person to appraise or control conduct; and

(ii) Engages in a sexual act with that other person, or attempts to do so, shall be guilty of a Class F offense.

(3) With Children. Whoever knowingly engages in a sexual act with another person who has not attained the age of 12 years, or knowingly engages in a sexual act under the circumstances described in subsections (1) and (2) of this section with another person who has attained the age of 12 years but has not attained the age of 16 years (and is at least four years younger than the person so engaging), or attempts to do so, shall be guilty of a Class F offense.

(4) State of Mind Proof Requirement. In a prosecution under subsection (3) of this section, the Tribes need not prove that the defendant knew:

(a) The age of the other person engaging in the sexual act; or

(b) If applicable, that the requisite age difference existed between the persons so engaging.

**3.20.012 Sexual abuse.**

Whoever knowingly:

(1) Causes another person to engage in a sexual act by threatening or placing that other person in fear; or

(2) Engages in a sexual act with another person if that other person is:

(a) Incapable of appraising the nature of the conduct; or

(b) Physically incapable of declining participation in, or communicating unwillingness to engage in, that sexual act, or attempts to do so, shall be guilty of a Class F offense.

**3.20.014 Sexual abuse of a minor or ward.**

(1) Of a Minor. Whoever knowingly engages or attempts to engage in a sexual act with another person who:

(a) Has not attained the age of 18 years; and

(b) Is at least four years younger than the person so engaging shall be guilty of a Class F offense.

(2) Of a Ward. Whoever knowingly engages or attempts to engage in a sexual act with another person who is:

(a) In official detention; and

(b) Under the custodial, supervisory, or disciplinary authority of the person so engaging shall be guilty of a Class F offense.

(3) Of a student. A school employee who knowingly engages or attempts to engage in a sexual act with a student who has not attained the age of 21 years and who is at least sixty months older than the student shall be guilty of a Class F offense.

(a) "School employee" means an employee of a public or private school carrying on a program from kindergarten through twelfth grade or any part thereof, who is not enrolled as a student of that school.

(b) "Student" means any student enrolled at or attending a program hosted or sponsored by the school at which the school employee works.

(4) State of Mind Proof Requirement. In a prosecution under subsection (1) of this section, the Tribes need not prove that the defendant knew:

(a) The age of the other person engaging in the sexual act; or

(b) That the requisite age difference existed between the persons so engaging.

**3.20.016 Reserved.**

**3.20.018 Rape.**

(1) A person who knowingly has sexual intercourse without consent with another person commits the offense of rape.

(2) Rape is a Class F offense.

**3.20.020 Sexual assault.**

(1) A person commits the offense of sexual assault when he or she knowingly causes another person to have sexual contact with him or her or another without consent or by force, or who commits an assault as defined by Chapter 3.15 TTC, when such assault involves sexual contact.

(2) Sexual assault is a Class E offense.

**3.20.022 Communication with a minor for immoral purposes.**

(1) A person communicates with a minor for immoral purposes when he or she communicates about sexually explicit conduct with a minor or with someone he or she believes to be a minor, not to include communication for educational purposes by either a parent, guardian, or educator, or other person authorized by the parent.

(2) A person who communicates with a minor for immoral purposes, or a person who communicates with someone the person believes to be a minor for immoral purposes, is guilty of a Class D offense.

**3.20.024 Luring with a sexual motivation.**

(1) A person commits the crime of luring with a sexual motivation if he or she:

(a) Orders, lures, or attempts to lure a minor, a person with a developmental disability, or a person who has been adjudicated a vulnerable adult under Chapter 4.30 TTC into any area or structure that is obscured from or inaccessible to the public or into a motor vehicle;

(b) With a sexual motivation; and

(c) Is unknown to the child or developmentally disabled person or vulnerable adult.

(2) Luring with a sexual motivation is a Class E offense.

**3.20.030 Indecent exposure.**

(1) A person commits the crime of indecent exposure if, while in, or in view of, a public place the person performs:

(a) An act of sexual intercourse;

(b) A sexual act; or

(c) An act of exposing the genitals of the person with the intent of arousing the sexual desire of the person or another person.

(2) Indecent exposure is a Class E offense.

**3.20.032 Voyeurism.**

(1) A person commits the offense of voyeurism if, for the purpose of arousing or gratifying the sexual desire of any person, he or she knowingly views, photographs, or films:

(a) Another person without that person's knowledge and consent while the person being viewed, photographed, or filmed is in a place where he or she would have a reasonable expectation of privacy; or

(b) The intimate areas of another person without that person's knowledge and consent and under circumstances where the person has a reasonable expectation of privacy, whether in a public or private place.

(2) Voyeurism is a Class E offense.

(3) If a person is convicted of a violation of this section, the Court may order the destruction of any photograph, motion picture film, digital image, videotape, or any other recording of an image that was made by the person in violation of this section.

(4) As used in this section:

(a) "Intimate areas" means any portion of a person's body or undergarments that is typically covered by clothing and intended to be protected from public view;

(b) "Photographs" or "films" means the making of a photograph, motion picture film, videotape, digital image, or any other recording or transmission of the image of a person;

(c) "Place where he or she would have a reasonable expectation of privacy" means:

(i) A place where a reasonable person would believe that he or she could disrobe in privacy, without being concerned that his or her undressing was being photographed or filmed by another; or

(ii) A place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance;

(d) "Surveillance" means secret observation of the activities of another person for the purpose of spying upon and invading the privacy of the person;

(e) "Views" means the intentional looking upon of another person for more than a brief period of time, in other than a casual or cursory manner, with the unaided eye or with a device designed or intended to improve visual acuity.

### **3.20.034 Sexual exploitation of a minor, developmentally delayed adult or vulnerable adult.**

(1) A person is guilty of sexual exploitation of a minor, developmentally delayed adult, or vulnerable adult if the person:

(a) Compels a person covered by this section by threat or force to engage in sexually explicit conduct, knowing that such conduct will be photographed or part of a live performance;

(b) Aids, invites, employs, authorizes, or causes a person covered by this section to engage in sexually explicit conduct, knowing that such conduct will be photographed or part of a live performance; or

(c) Being a parent, legal guardian, or person having custody or control of a person covered by this section, permits the person to engage in sexually explicit conduct, knowing that the conduct will be photographed or part of a live performance.

(2) Persons covered by this section include:

(a) Persons under the age of 18;

(b) Developmentally delayed adults; or

(c) A person who has been adjudicated a vulnerable adult under Chapter 4.30 TTC.

(3) Violation of this section is a Class E offense.

### **3.20.036 Possessing depictions of a minor engaged in sexually explicit conduct.**

(1) A person commits the crime of possessing depictions of a minor engaged in sexually explicit conduct when he or she knowingly possesses, creates, develops, duplicates, publishes, prints, disseminates, exchanges, finances, or sells child pornography.

(2) Possessing depictions of a minor engaged in sexually explicit conduct is a Class F offense.

(3) Each depiction that violates this section constitutes a separate offense.

### **3.20.038 Sending or bringing depictions of minor engaged in sexually explicit conduct.**

(1) A person commits the crime of sending or bringing into Tulalip depictions of a minor engaged in sexually explicit conduct when he or she knowingly sends or causes to be sent, or brings or causes to be brought, child pornography onto the Tulalip Reservation.

(2) Sending or bringing depictions of a minor engaged in sexually explicit conduct is a Class F offense.

(3) Each depiction that violates this section constitutes a separate offense.

**3.20.040 Viewing depictions of a minor engaged in sexually explicit conduct.**

(1) A person who intentionally views child pornography over the Internet, cellphone network, or by other means is guilty of viewing depictions of a minor engaged in sexually explicit conduct.

(2) Viewing depictions of a minor engaged in sexually explicit conduct is a Class E offense.

(3) For the purposes of determining whether a person intentionally viewed child pornography, the trier of fact shall consider the title, text, and content of the visual or printed matter, as well as the Internet history, search terms, thumbnail images, downloading activity, expert computer forensic testimony, number of visual depictions, defendant's access to and control over the electronic device and its contents upon which the visual or printed matter was found, or any other relevant evidence. The prosecuting authority must prove beyond a reasonable doubt that the viewing was initiated by the defendant.

(4) For the purposes of this section, each visual depiction viewed constitutes a separate offense.

**3.20.042 Reserved.**

**3.20.044 Reserved.**

**3.20.046 Failure to register as a sex offender (added crime).**

(1) A person commits the offense of failure to register as a sex offender if he or she fails to comply with the registration requirements of Chapter 3.22 TTC, Sex Offender Registration.

(2) Failure to register as a sex offender is a Class D offense.

**3.20.048 Reserved.**

**3.20.049 Safety zone trespass.**

(1) A person commits the offense of trespass in a safety zone when they fail to adhere to the requirements of Chapter 3.22 TTC, Sex Offender Registration.

(2) The first three violations of this section are a Class C offense. The fourth and all subsequent violations are a Class D offense.

**3.20.050 Incest.**

(1) A person commits the offense of incest if he or she has sexual contact or sexual intercourse with:

(a) A lineal or collateral ancestor or descendant of the fourth degree of the whole or half blood;

(b) A brother or sister of the whole or half blood;

(c) Any stepson or stepdaughter; or

(d) Adopted son or daughter.

(2) For the purpose of determining the degree of a relationship, it shall be determined by counting “upward” from one of the persons in the sexual relationship, and then “downward” to the other participant, counting one degree for each generation in the ascending as well as descending line.

(3) Consent is a defense under this section to incest with or upon a stepchild, adopted child, or a child that has legal guardian, but consent is ineffective if the victim is less than 18 years old.

(4) Incest is a Class F offense.

### **3.20.060 Provisions generally applicable to sexual crimes.**

(1) When criminality depends on the victim being less than 16 years old, it is a defense for the offender to prove that he or she reasonably believed the child to be above that age. Such belief shall not be deemed reasonable if the child is less than 14 years old.

(2) No evidence concerning the sexual conduct of the victim is admissible in prosecutions under this section except evidence of the victim’s past sexual conduct with the offender or evidence of specific instances of the victim’s sexual activity to show the origin of semen, pregnancy, or disease which is at issue in the prosecution.

(3) If the defendant proposes for any purpose to offer evidence described in subsection (2) of this section, the trial Judge shall order a hearing out of the presence of the jury to determine whether the proposed evidence is admissible under subsection (2) of this section.

(4) Evidence of failure to make a timely complaint or immediate outcry does not raise any presumption as to the credibility of the victim.

(5) Resistance by the victim is not required to show lack of consent. Force, fear, or threat is sufficient alone to show lack of consent.

(6) “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.

(7) In a prosecution under TTC 3.20.036, 3.20.038, and 3.20.040, it is not a defense that the defendant did not know the age of the child depicted in the visual or printed matter. It is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense the defendant was not in possession of any facts on the basis of which he or she should reasonably have known that the person depicted was a minor.



(8) In a prosecution under TTC 3.20.036, 3.20.038, and 3.20.040, the prosecuting authority is not required to establish the identity of the alleged victim.

(9) "Sexually explicit conduct" means actual or simulated:

(a) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals;

(b) Penetration of the vagina or rectum by any object;

(c) Masturbation;

(d) Sadomasochistic abuse;

(e) Defecation or urination for the purpose of sexual stimulation of the viewer;

(f) Depiction of the genitals or unclothed pubic or rectal areas of any minor, or the unclothed breast of a female minor, for the purpose of sexual stimulation of the viewer. For the purposes of this subsection, it is not necessary that the minor know that he or she is participating in the described conduct, or any aspect of it; and

(g) Touching of a person's clothed or unclothed genitals, pubic area, buttocks, or breast area for the purpose of sexual stimulation of the viewer.

Resolution 2024-\_\_\_\_\_ ordinance attachment

**3.20.010 Aggravated sexual abuse.**

(1) By Force or Threat. Whoever knowingly causes another person to engage in a sexual act:

(a) By using force against that other person; or

(b) By threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping, or attempts to do so, shall be guilty of a Class F offense.

(2) By Other Means. Whoever knowingly:

(a) Renders another person unconscious and thereby engages in a sexual act with that other person; or

(b) Administers to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby:

(i) Substantially impairs the ability of that other person to appraise or control conduct; and

(ii) Engages in a sexual act with that other person, or attempts to do so, shall be guilty of a Class F offense.

(3) With Children. Whoever knowingly engages in a sexual act with another person who has not attained the age of 12 years, or knowingly engages in a sexual act under the circumstances described in subsections (1) and (2) of this section with another person who has attained the age of 12 years but has not attained the age of 16 years (and is at least four years younger than the person so engaging), or attempts to do so, shall be guilty of a Class F offense.

(4) State of Mind Proof Requirement. In a prosecution under subsection (3) of this section, the Tribes need not prove that the defendant knew:

(a) The age of the other person engaging in the sexual act; or

(b) If applicable, that the requisite age difference existed between the persons so engaging.

**3.20.012 Sexual abuse.**

Whoever knowingly:

(1) Causes another person to engage in a sexual act by threatening or placing that other person in fear; or

(2) Engages in a sexual act with another person if that other person is:

(a) Incapable of appraising the nature of the conduct; or

(b) Physically incapable of declining participation in, or communicating unwillingness to engage in, that sexual act, or attempts to do so, shall be guilty of a Class F offense.

**3.20.014 Sexual abuse of a minor or ward.**

(1) Of a Minor. Whoever knowingly engages or attempts to engage in a sexual act with another person who:

(a) Has not attained the age of 18 years; and

(b) Is at least four years younger than the person so engaging shall be guilty of a Class F offense.

(2) Of a Ward. Whoever knowingly engages or attempts to engage in a sexual act with another person who is:

(a) In official detention; and

(b) Under the custodial, supervisory, or disciplinary authority of the person so engaging shall be guilty of a Class F offense.

(3) Of a student. A school employee who knowingly engages or attempts to engage in a sexual act with a student who has not attained the age of 21 years and who is at least sixty months older than the student shall be guilty of a Class F offense.

(a) "School employee" means an employee of a public or private school carrying on a program from kindergarten through twelfth grade or any part thereof, who is not enrolled as a student of that school.

(b) "Student" means any student enrolled at or attending a program hosted or sponsored by the school at which the school employee works.

(4) State of Mind Proof Requirement. In a prosecution under subsection (1) of this section, the Tribes need not prove that the defendant knew:

(a) The age of the other person engaging in the sexual act; or

(b) That the requisite age difference existed between the persons so engaging.

#### **3.20.016 Reserved.**

#### **3.20.018 Rape.**

(1) A person who knowingly has sexual intercourse without consent with another person commits the offense of rape.

(2) Rape is a Class F offense.

#### **3.20.020 Sexual assault.**

(1) A person commits the offense of sexual assault when he or she knowingly causes another person to have sexual contact with him or her or another without consent or by force, or who commits an assault as defined by Chapter 3.15 TTC, when such assault involves sexual contact.

(2) Sexual assault is a Class E offense.

#### **3.20.022 Communication with a minor for immoral purposes.**

(1) A person communicates with a minor for immoral purposes when he or she communicates about sexually explicit conduct with a minor or with someone he or she believes to be a minor, not to include

communication for educational purposes by either a parent, guardian, or educator, or other person authorized by the parent.

(2) A person who communicates with a minor for immoral purposes, or a person who communicates with someone the person believes to be a minor for immoral purposes, is guilty of a Class D offense.

**3.20.024 Luring with a sexual motivation.**

(1) A person commits the crime of luring with a sexual motivation if he or she:

(a) Orders, lures, or attempts to lure a minor, a person with a developmental disability, or a person who has been adjudicated a vulnerable adult under Chapter 4.30 TTC into any area or structure that is obscured from or inaccessible to the public or into a motor vehicle;

(b) With a sexual motivation; and

(c) Is unknown to the child or developmentally disabled person or vulnerable adult.

(2) Luring with a sexual motivation is a Class E offense.

**3.20.030 Indecent exposure.**

(1) A person commits the crime of indecent exposure if, while in, or in view of, a public place the person performs:

(a) An act of sexual intercourse;

(b) A sexual act; or

(c) An act of exposing the genitals of the person with the intent of arousing the sexual desire of the person or another person.

(2) Indecent exposure is a Class E offense.

**3.20.032 Voyeurism.**

(1) A person commits the offense of voyeurism if, for the purpose of arousing or gratifying the sexual desire of any person, he or she knowingly views, photographs, or films:

(a) Another person without that person's knowledge and consent while the person being viewed, photographed, or filmed is in a place where he or she would have a reasonable expectation of privacy; or

(b) The intimate areas of another person without that person's knowledge and consent and under circumstances where the person has a reasonable expectation of privacy, whether in a public or private place.

(2) Voyeurism is a Class E offense.

(3) If a person is convicted of a violation of this section, the Court may order the destruction of any photograph, motion picture film, digital image, videotape, or any other recording of an image that was made by the person in violation of this section.

(4) As used in this section:

(a) "Intimate areas" means any portion of a person's body or undergarments that is typically covered by clothing and intended to be protected from public view;

(b) "Photographs" or "films" means the making of a photograph, motion picture film, videotape, digital image, or any other recording or transmission of the image of a person;

(c) "Place where he or she would have a reasonable expectation of privacy" means:

(i) A place where a reasonable person would believe that he or she could disrobe in privacy, without being concerned that his or her undressing was being photographed or filmed by another; or

(ii) A place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance;

(d) "Surveillance" means secret observation of the activities of another person for the purpose of spying upon and invading the privacy of the person;

(e) "Views" means the intentional looking upon of another person for more than a brief period of time, in other than a casual or cursory manner, with the unaided eye or with a device designed or intended to improve visual acuity.

#### **3.20.034 Sexual exploitation of a minor, developmentally delayed adult or vulnerable adult.**

(1) A person is guilty of sexual exploitation of a minor, developmentally delayed adult, or vulnerable adult if the person:

(a) Compels a person covered by this section by threat or force to engage in sexually explicit conduct, knowing that such conduct will be photographed or part of a live performance;

(b) Aids, invites, employs, authorizes, or causes a person covered by this section to engage in sexually explicit conduct, knowing that such conduct will be photographed or part of a live performance; or

(c) Being a parent, legal guardian, or person having custody or control of a person covered by this section, permits the person to engage in sexually explicit conduct, knowing that the conduct will be photographed or part of a live performance.

(2) Persons covered by this section include:

(a) Persons under the age of 18;

(b) Developmentally delayed adults; or

(c) A person who has been adjudicated a vulnerable adult under Chapter 4.30 TTC.

(3) Violation of this section is a Class E offense.

#### **3.20.036 Possessing depictions of a minor engaged in sexually explicit conduct.**

(1) A person commits the crime of possessing depictions of a minor engaged in sexually explicit conduct when he or she knowingly possesses, creates, develops, duplicates, publishes, prints, disseminates, exchanges, finances, or sells child pornography ~~a visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct.~~

(2) Possessing depictions of a minor engaged in sexually explicit conduct is a Class F offense.

(3) Each depiction ~~visual or printed matter~~ that violates this section constitutes a separate offense.

**3.20.038 Sending or bringing depictions of minor engaged in sexually explicit conduct.**

(1) A person commits the crime of sending or bringing into Tulalip depictions of a minor engaged in sexually explicit conduct when he or she knowingly sends or causes to be sent, or brings or causes to be brought, child pornography onto the Tulalip Reservation ~~for sale or distribution, a visual or printed matter that depicts a minor engaged in sexually explicit conduct.~~

(2) Sending or bringing depictions of a minor engaged in sexually explicit conduct is a Class F offense.

(3) Each depiction ~~visual or printed matter~~ that violates this section constitutes a separate offense.

**3.20.040 Viewing depictions of a minor engaged in sexually explicit conduct.**

(1) A person who intentionally views child pornography over the Internet, cellphone network, or by other means ~~visual or printed matter depicting a minor engaged in sexually explicit conduct~~ is guilty of viewing depictions of a minor engaged in sexually explicit conduct.

(2) Viewing depictions of a minor engaged in sexually explicit conduct is a Class E offense.

(3) For the purposes of determining whether a person intentionally viewed child pornography ~~over the Internet a visual or printed matter depicting a minor engaged in sexually explicit conduct~~, the trier of fact shall consider the title, text, and content of the visual or printed matter, as well as the Internet history, search terms, thumbnail images, downloading activity, expert computer forensic testimony, number of visual depictions ~~or printed matter depicting minors engaged in sexually explicit conduct~~, defendant's access to and control over the electronic device and its contents upon which the visual or printed matter was found, or any other relevant evidence. The prosecuting authority must prove beyond a reasonable doubt that the viewing was initiated by the defendant ~~user of the computer where the viewing occurred.~~

(4) For the purposes of this section, each visual depiction viewed ~~separate Internet session of intentionally viewing over the Internet visual or printed matter depicting a minor engaged in sexually explicit conduct~~ constitutes a separate offense.

(5) An "Internet session" means a period of time during which an Internet user, using a specific Internet protocol address, visits or is logged into an Internet site for an uninterrupted period of time.

**3.20.042 Reserved.**

**3.20.044 Reserved.**

**3.20.046 Failure to register as a sex offender (added crime).**

(1) A person commits the offense of failure to register as a sex offender if he or she fails to comply with the registration requirements of Chapter 3.22 TTC, Sex Offender Registration.

(2) Failure to register as a sex offender is a Class D offense.

**3.20.048 Reserved.**

**3.20.049 Safety zone trespass.**

(1) A person commits the offense of trespass in a safety zone when they fail to adhere to the requirements of Chapter 3.22 TTC, Sex Offender Registration.

(2) The first three violations of this section are a Class C offense. The fourth and all subsequent violations are a Class D offense.

**3.20.050 Incest.**

(1) A person commits the offense of incest if he or she has sexual contact or sexual intercourse with:

(a) A lineal or collateral ancestor or descendant of the fourth degree of the whole or half blood;

(b) A brother or sister of the whole or half blood;

(c) Any stepson or stepdaughter; or

(d) Adopted son or daughter.

(2) For the purpose of determining the degree of a relationship, it shall be determined by counting "upward" from one of the persons in the sexual relationship, and then "downward" to the other participant, counting one degree for each generation in the ascending as well as descending line.

(3) Consent is a defense under this section to incest with or upon a stepchild, adopted child, or a child that has legal guardian, but consent is ineffective if the victim is less than 18 years old.

(4) Incest is a Class F offense.

**3.20.060 Provisions generally applicable to sexual crimes.**

(1) When criminality depends on the victim being less than 16 years old, it is a defense for the offender to prove that he or she reasonably believed the child to be above that age. Such belief shall not be deemed reasonable if the child is less than 14 years old.

(2) No evidence concerning the sexual conduct of the victim is admissible in prosecutions under this section except evidence of the victim's past sexual conduct with the offender or evidence of specific instances of the victim's sexual activity to show the origin of semen, pregnancy, or disease which is at issue in the prosecution.

(3) If the defendant proposes for any purpose to offer evidence described in subsection (2) of this section, the trial Judge shall order a hearing out of the presence of the jury to determine whether the proposed evidence is admissible under subsection (2) of this section.

(4) Evidence of failure to make a timely complaint or immediate outcry does not raise any presumption as to the credibility of the victim.

(5) Resistance by the victim is not required to show lack of consent. Force, fear, or threat is sufficient alone to show lack of consent.

(6) "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. ~~“Visual or printed matter” means any video, digital image, negative, photograph, still image, or other material that contains within it a video, digital image, negative, photograph, or still image.~~

(7) In a prosecution under TTC 3.20.036, 3.20.038, and 3.20.040, it is not a defense that the defendant did not know the age of the child depicted in the visual or printed matter. It is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense the defendant was not in possession of any facts on the basis of which he or she should reasonably have known that the person depicted was a minor.

(8) In a prosecution under TTC 3.20.036, 3.20.038, and 3.20.040, the prosecuting authority is not required to establish the identity of the alleged victim.

(9) “Sexually explicit conduct” means actual or simulated:

(a) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals;

(b) Penetration of the vagina or rectum by any object;

(c) Masturbation;

(d) Sadomasochistic abuse;

(e) Defecation or urination for the purpose of sexual stimulation of the viewer;

(f) Depiction of the genitals or unclothed pubic or rectal areas of any minor, or the unclothed breast of a female minor, for the purpose of sexual stimulation of the viewer. For the purposes of this subsection, it is not necessary that the minor know that he or she is participating in the described conduct, or any aspect of it; and

(g) Touching of a person’s clothed or unclothed genitals, pubic area, buttocks, or breast area for the purpose of sexual stimulation of the viewer.





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**LEGAL REVIEW FORM**

Complete Submittal Received by ORA: \_\_\_\_\_ Is this a policy?  No  Yes

If yes, has this been created/uploaded to PolicyTech?  No  Yes

Title of Submittal: Amendment to TTC 3.20.014 Sexual abuse of a minor or ward

Document Type: Resolution

Contract Amount: \$ \_\_\_\_\_

Funding Source: **\*\*Choose Funding Source\*\***

Submitted By: Brian Kilgore  
(Name/Title/Department)

Return Submittal To: Jennifer Cristofani  
(Name/Title/Department)

Submittal is **APPROVED**  Submittal Requires **ADDITIONAL INFORMATION**

Submittal is **DISAPPROVED**  Submittal is Approved With the (Following/Attached) Revisions:

Notes/Comments:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Reviewed By: 2/16/24  
Date Signed

[Signature]  
Reservation Attorney Signature

**Notice/Disclaimer:**  
Program or enterprise is responsible for keeping records of their documents and this Legal Review – the Reservation Attorney Office only keeps copies of the Legal Review cover sheet for its own Records. **Please Read: This is review for the policy or contract's legal effect only, and the Office of Reservation Attorney does not evaluate the advisability of executing the policy or contract as a business or governmental decision.**

**Legal Review Returned By:**  Email  Interoffice Mail  In-Person

To: \_\_\_\_\_ on \_\_\_\_\_ by \_\_\_\_\_  
Name of Recipient Month/Date Initials



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**2023**

**LEGAL REVIEW FORM**

Complete Submittal Received by ORA: 1/19/24 10-Day Business Review End: \_\_\_\_\_, 2023

Title of Submittal: Amending TTC 3.20 (AI child pornography code update)

Document Type: **\*\*Choose Document Type\*\***

Contract Amount: \$ 0

Funding Source: **\*\*Choose Funding Source\*\***

Submitted By: Brian Kilgore/Lead Prosecutor/ORA  
(Name/Title/Department)

Return Submittal To: Brian Kilgore/Lead Prosecutor/ORA  
(Name/Title/Department)

- Submittal is **APPROVED**
- Submittal Requires **ADDITIONAL INFORMATION**
- Submittal is **DISAPPROVED**
- Submittal is Approved With the (Following/Attached) Revisions:

Notes/Comments:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Reviewed By: 1/19/24 \_\_\_\_\_  
Date Signed Reservation Attorney Signature

**Notice/Disclaimer:**  
Program or enterprise is responsible for keeping records of Contract and this Legal Review – the Reservation Attorney Office only keeps copies of the Legal Review Cover Sheet for its own records. **Please read: This review is of the contract as a legal binding document only and does not evaluate the advisability of entering into the contract as a business or governmental decision.**

(Please note that if this review sheet is faxed or emailed to you, the originals will be returned via interoffice mail)

**Legal Review Returned By:**  Email  Interoffice Mail  In-Person  Fax

To: \_\_\_\_\_ on \_\_\_\_\_, 2023 by \_\_\_\_\_  
Name of Recipient Month/Date Initials