

## 9.29B

### Definitions Of Disseminate, Produce, Reproduce, And Lewd Under The Offense Of Child Pornography

[For purposes of the offense of child pornography,] [(the) (The)] word “disseminate” means to

[1] sell, distribute, exchange, or transfer possession, whether with or without consideration.

[or]

[2] make a depiction by computer available for distribution or downloading through facilities of any telecommunications network or through any other means of transferring computer programs or data to a computer.

[For purposes of the offense of child pornography,] [(the) (The)] word “produce” means to direct, promote, advertise, publish, manufacture, issue, present, or show.

[For purposes of the offense of child pornography,] [(the) (The)] word “reproduce” means to make a duplication or copy.

[For purposes of the offense of child pornography,] [(the) (The)] phrase “depict by computer” means to generate, create, or cause to be created or generated a computer program or data that after being processed by a computer, either alone or in conjunction with one or more computer programs, results in a visual depiction on a computer monitor, screen, or display.

[For purposes of the offense of child pornography,] [(the) (The)] phrase “depiction by computer” means a computer program or data that after being processed by a computer, either alone or in conjunction with one or more computer programs, results in a visual depiction on a computer monitor, screen, or display.

In determining if an act, production, reproduction, or depiction is lewd you should consider all the facts and circumstances in evidence, including, but not limited to whether:

[1] The focal point of the visual depiction is on the child’s genitals.

[2] The setting of the visual depiction is sexually suggestive, i.e., in a place or pose generally associated with sexual activity.

[3] The child is depicted in an unnatural pose, or in inappropriate attire, considering the age of the child.

[4] The child is fully or partially clothed, or nude.

[5] The visual depiction suggests sexual coyness or a willingness to engage in sexual activity.

[6] The visual depiction is intended or designed to elicit a sexual response in the viewer.

### **Committee Note**

720 ILCS 5/11-20.1(f) (West 2024).

These definitions apply only to the offense of child pornography. The definition of “lewd” contains a non-exhaustive list of valid definitions of the term. *People v. Lamborn*, 185 Ill. 2d 585, 592 (1999). The list is intended to focus the jury on valid definitions of “lewd” without limiting its deliberations to the confines of the list. Only the bracketed factors supported by evidence should be given to the jury and the numbers should be excluded.