

SENATE BILL No. 549

By Committee on Federal and State Affairs

2-17

9 AN ACT creating a private cause of action for victims of child
10 pornography.

11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. (a) Any person who, while under the age of 18, was a
14 victim of an offense described in article 35 of chapter 21 of the Kansas
15 Statutes Annotated, and amendments thereto, incest as defined in K.S.A.
16 21-3602, and amendments thereto, or aggravated incest as defined in
17 subsection (a)(2) of K.S.A. 21-3603, and amendments thereto, where any
18 portion of such offense was used in the production of child pornography,
19 and who suffers personal or psychological injury as a result of the pro-
20 duction, promotion, or possession of such child pornography, may bring
21 an action in an appropriate state court against the producer, promoter or
22 possessor of such child pornography, regardless of whether the victim is
23 now an adult.

24 (b) In any action brought under this section, a prevailing plaintiff shall
25 recover the actual damages such person sustained and the cost of the suit,
26 including reasonable attorney's fees. Any victim who is awarded damages
27 under this section shall be deemed to have sustained damages of at least
28 \$150,000.

29 (c) Notwithstanding any other provision of law, any action com-
30 menced under this section shall be filed within three years after the later
31 of:

32 (1) The conclusion of a related criminal case;

33 (2) the notification to the victim by a member of a law enforcement
34 agency of the creation, possession, or promotion of the child pornography;
35 or

36 (3) in the case of a victim younger than 18, within three years after
37 the person reaches the age of 18.

38 (d) It is not a defense to a civil cause of action under this section that
39 the respondent did not know the victim or commit the abuse depicted in
40 the child pornography.

41 (e) To prevent the further exploitation of victims for monetary gain
42 by any other person, at the victim's request, the attorney general may
43 pursue cases on behalf of any Kansas victim under this section. All dam-

1 ages obtained shall go to the victim, and the attorney general may seek
2 reasonable attorney's fees and costs.

3 (f) Any action brought under this section shall be subject to the pro-
4 visions of K.S.A. 74-7312, and amendments thereto.

5 (g) As used in this section, "child pornography" includes, but is not
6 limited to, any visual depiction, as described in subsection (a) of K.S.A.
7 21-3516, and amendments thereto, and any performance, as defined in
8 subsection (b) of K.S.A. 21-3516, and amendments thereto.

9 Sec. 2. This act shall take effect and be in force from and after its
10 publication in the statute book.