



General Assembly

Amendment

February Session, 2002

LCO No. 4160

HB0568004160HR0

Offered by:

REP. DANDROW, 30th Dist.

To: Subst. House Bill No. 5680

File No. 455

Cal. No. 301

"AN ACT CONCERNING SEXUAL ASSAULT OF A MINOR."

1 After line 413, add the following:

2 "Sec. 25. Section 53a-193 of the general statutes is repealed and the
3 following is substituted in lieu thereof (*Effective October 1, 2002*):

4 The following definitions are applicable to this section and sections
5 53a-194 to 53a-210, inclusive, as amended by this act:

6 [(1) Any material or performance is "obscene" if, (A) taken as a
7 whole, it predominantly appeals to the prurient interest, (B) it depicts
8 or describes in a patently offensive way a prohibited sexual act, and
9 (C) taken as a whole, it lacks serious literary, artistic, educational,
10 political or scientific value. Predominant appeal shall be judged with
11 reference to ordinary adults unless it appears from the character of the
12 material or performance or the circumstances of its dissemination to be
13 designed for some other specially susceptible audience. Whether a
14 material or performance is obscene shall be judged by ordinary adults
15 applying contemporary community standards. In applying

16 contemporary community standards, the state of Connecticut is
17 deemed to be the community.

18 (2) Material or a performance is "obscene as to minors" if it depicts a
19 prohibited sexual act and, taken as a whole, it is harmful to minors. For
20 purposes of this subsection: (A) "Minor" means any person less than
21 seventeen years old as used in section 53a-196 and less than sixteen
22 years old as used in sections 53a-196a, 53a-196b and 53a-196c and (B)
23 "harmful to minors" means that quality of any description or
24 representation, in whatever form, of a prohibited sexual act, when (i) it
25 predominantly appeals to the prurient, shameful or morbid interest of
26 minors, (ii) it is patently offensive to prevailing standards in the adult
27 community as a whole with respect to what is suitable material for
28 minors, and (iii) taken as a whole, it lacks serious literary, artistic,
29 educational, political or scientific value for minors.

30 (3) "Prohibited sexual act" means erotic fondling, nude performance,
31 sexual excitement, sado-masochistic abuse, masturbation or sexual
32 intercourse.

33 (4) "Nude performance" means the showing of the human male or
34 female genitals, pubic area or buttocks with less than a fully opaque
35 covering, or the showing of the female breast with less than a fully
36 opaque covering of any portion thereof below the top of the nipple, or
37 the depiction of covered male genitals in a discernibly turgid state in
38 any play, motion picture, dance or other exhibition performed before
39 an audience.

40 (5) "Erotic fondling" means touching a person's clothed or unclothed
41 genitals, pubic area, buttocks, or if such person is a female, breast.

42 (6) "Sexual excitement" means the condition of human male or
43 female genitals when in a state of sexual stimulation or arousal.

44 (7) "Sado-masochistic abuse" means flagellation or torture by or
45 upon a person clad in undergarments, a mask or bizarre costume, or
46 the condition of being fettered, bound or otherwise physically

47 restrained on the part of one so clothed.

48 (8) "Masturbation" means the real or simulated touching, rubbing or
49 otherwise stimulating a person's own clothed or unclothed genitals,
50 pubic area, buttocks, or, if the person is female, breast, either by
51 manual manipulation or with an artificial instrument.

52 (9) "Sexual intercourse" means intercourse, real or simulated,
53 whether genital-genital, oral-genital, anal-genital or oral-anal, whether
54 between persons of the same or opposite sex or between a human and
55 an animal, or with an artificial genital.

56 (10) "Material" means anything tangible which is capable of being
57 used or adapted to arouse prurient, shameful or morbid interest,
58 whether through the medium of reading, observation, sound or in any
59 other manner. Undeveloped photographs, molds, printing plates, and
60 the like, may be deemed obscene notwithstanding that processing or
61 other acts may be required to make the obscenity patent or to
62 disseminate it.

63 (11) "Performance" means any play, motion picture, dance or other
64 exhibition performed before an audience.

65 (12) "Promote" means to manufacture, issue, sell, give, provide,
66 lend, mail, deliver, transfer, transmit, publish, distribute, circulate,
67 disseminate, present, exhibit, advertise, produce, direct or participate
68 in.

69 (13) "Child pornography" means any material involving a live
70 performance or photographic or other visual reproduction of a live
71 performance which depicts a minor in a prohibited sexual act.]

72 (1) "Child pornography" means any visual depiction, including any
73 photograph, film, video, picture or computer, as defined in subdivision
74 (2) of section 53a-250, or computer-generated image or picture,
75 whether made or produced by electronic, mechanical or other means,
76 of sexually explicit conduct, where (A) the production of such visual

77 depiction involves the use of a minor engaging in sexually explicit
78 conduct; (B) such visual depiction is, or appears to be, of a minor
79 engaging in sexually explicit conduct; (C) such visual depiction has
80 been created, adapted or modified to appear that an identifiable minor
81 is engaging in sexually explicit conduct; or (D) such visual depiction is
82 advertised, promoted, presented, described or distributed in such a
83 manner that conveys the impression that the material is or contains a
84 visual depiction of a minor engaging in sexually explicit conduct.

85 (2) "Harmful to minors" means that quality of any description or
86 representation, in whatever form, of sexually explicit conduct, when
87 (A) it predominantly appeals to the prurient, shameful or morbid
88 interest of minors, (B) it is patently offensive to prevailing standards in
89 the adult community as a whole with respect to what is suitable
90 material for minors, and (C) taken as a whole, it lacks serious literary,
91 artistic, educational, political or scientific value for minors.

92 (3) "Identifiable minor" means a person (A) (i) who was a minor at
93 the time the visual depiction was created, adapted or modified, or (ii)
94 whose image as a minor was used in creating, adapting or modifying
95 the visual depiction; and (B) who is recognizable as an actual person
96 by the person's face, likeness or other distinguishing characteristic,
97 such as a unique birthmark or other recognizable feature. This
98 subdivision shall not be construed to require proof of the actual
99 identity of the identifiable minor.

100 (4) "Material" means anything tangible which is capable of being
101 used or adapted to arouse prurient, shameful or morbid interest,
102 whether through the medium of reading, observation, sound or in any
103 other manner. "Material" includes visual depictions, undeveloped
104 photographs, molds, printing plates, and the like, which may be
105 deemed obscene or to be child pornography notwithstanding that
106 processing or other acts may be required to make the obscenity or
107 child pornography patent or to disseminate it.

108 (5) "Minor" means any person under the age of eighteen years.

109 (6) A material or performance is "obscene" if (A) taken as a whole, it
110 predominantly appeals to the prurient interest, (B) it depicts or
111 describes in a patently offensive way sexually explicit conduct, and (C)
112 taken as a whole, it lacks serious literary, artistic, educational, political
113 or scientific value. Predominant appeal shall be judged with reference
114 to ordinary adults unless it appears from the character of the material
115 or performance or the circumstances of its dissemination to be
116 designed for some other specially susceptible audience. Whether a
117 material or performance is obscene shall be judged by ordinary adults
118 applying contemporary community standards. In applying
119 contemporary community standards, the state of Connecticut is
120 deemed to be the community.

121 (7) A material or performance is "obscene as to minors" if it depicts
122 sexually explicit conduct and, taken as a whole, it is harmful to minors.

123 (8) "Performance" means any play, motion picture, dance, visual
124 depiction or other exhibition performed before an audience or
125 transmitted via any medium.

126 (9) "Produce" means to produce, direct, manufacture, issue, publish
127 or advertise.

128 (10) "Promote" means to manufacture, issue, sell, give, provide,
129 lend, mail, deliver, transfer, transmit, publish, distribute, circulate,
130 disseminate, present, exhibit, advertise, produce, direct or participate
131 in and includes to transmit by computer network, as defined in section
132 53a-250.

133 (11) "Sexually explicit conduct" means actual or simulated (A)
134 sexual intercourse, including genital-genital, oral-genital, anal-genital
135 or oral-anal, whether between persons of the same or opposite sex, or
136 with an artificial genital, (B) bestiality, (C) masturbation, (D) sadistic or
137 masochistic abuse, or (E) lascivious exhibition of the genitals or pubic
138 area of any person.

139 (12) "Visual depiction" includes undeveloped film and videotape

140 and data, as defined in subdivision (8) of section 53a-250, that is
141 capable of conversion into a visual image and includes encrypted data.

142 Sec. 26. Section 53a-196c of the general statutes is repealed and the
143 following is substituted in lieu thereof (*Effective October 1, 2002*):

144 (a) A person is guilty of importing child pornography when, with
145 intent to promote child pornography, [he] such person knowingly
146 imports or causes to be imported into the state any child pornography
147 of known content and character.

148 (b) Importation of two or more copies of any publication or visual
149 depiction containing child pornography shall be prima facie evidence
150 that such publications or visual depictions were imported with intent
151 to promote child pornography.

152 (c) Importing child pornography is a class C felony."