



General Assembly

Substitute Bill No. 5533

February Session, 2010

* _____HB05533JUD__032910_____*

AN ACT CONCERNING SEXTING.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2010*) (a) No person who is
2 thirteen years of age or older but under eighteen years of age may (1)
3 knowingly possess any visual depiction of child pornography that the
4 subject of such visual depiction knowingly and voluntarily transmitted
5 by means of an electronic communication device to such person and in
6 which the subject of such visual depiction is a person thirteen years of
7 age or older but under eighteen years of age, or (2) knowingly and
8 voluntarily transmit by means of an electronic communication device a
9 visual depiction of child pornography in which such person is the
10 subject of such visual depiction to another person who is thirteen years
11 of age or older but under eighteen years of age.

12 (b) As used in this section, "child pornography" and "visual
13 depiction" have the same meanings as provided in section 53a-193 of
14 the general statutes, and "electronic communication device" means any
15 electronic device that is capable of transmitting a visual depiction,
16 including a computer, computer network and computer system, as
17 those terms are defined in section 53a-250 of the general statutes, and a
18 cellular or wireless telephone.

19 (c) Any person who violates the provisions of this section shall be
20 guilty of a class A misdemeanor.

21 Sec. 2. Section 53a-196d of the general statutes is repealed and the
22 following is substituted in lieu thereof (*Effective October 1, 2010*):

23 (a) A person is guilty of possessing child pornography in the first
24 degree when such person knowingly possesses fifty or more visual
25 depictions of child pornography.

26 (b) In any prosecution for an offense under this section, it shall be an
27 affirmative defense that the acts of the defendant, if proven, would
28 constitute a violation of section 1 of this act.

29 [(b)] (c) Possessing child pornography in the first degree is a class B
30 felony and any person found guilty under this section shall be
31 sentenced to a term of imprisonment of which five years of the
32 sentence imposed may not be suspended or reduced by the court.

33 Sec. 3. Section 53a-196e of the general statutes is repealed and the
34 following is substituted in lieu thereof (*Effective October 1, 2010*):

35 (a) A person is guilty of possessing child pornography in the second
36 degree when such person knowingly possesses twenty or more but
37 fewer than fifty visual depictions of child pornography.

38 (b) In any prosecution for an offense under this section, it shall be an
39 affirmative defense that the acts of the defendant, if proven, would
40 constitute a violation of section 1 of this act.

41 [(b)] (c) Possessing child pornography in the second degree is a class
42 C felony and any person found guilty under this section shall be
43 sentenced to a term of imprisonment of which two years of the
44 sentence imposed may not be suspended or reduced by the court.

45 Sec. 4. Section 53a-196f of the general statutes is repealed and the
46 following is substituted in lieu thereof (*Effective October 1, 2010*):

47 (a) A person is guilty of possessing child pornography in the third
48 degree when such person knowingly possesses fewer than twenty
49 visual depictions of child pornography.

50 (b) In any prosecution for an offense under this section, it shall be an
 51 affirmative defense that the acts of the defendant, if proven, would
 52 constitute a violation of section 1 of this act.

53 [(b)] (c) Possessing child pornography in the third degree is a class
 54 D felony and any person found guilty under this section shall be
 55 sentenced to a term of imprisonment of which one year of the sentence
 56 imposed may not be suspended or reduced by the court.

57 Sec. 5. Section 53a-196g of the general statutes is repealed and the
 58 following is substituted in lieu thereof (*Effective October 1, 2010*):

59 In any prosecution for a violation of section 53a-196d, 53a-196e or
 60 53a-196f, as amended by this act, or section 1 of this act, it shall be an
 61 affirmative defense that (1) the defendant (A) possessed fewer than
 62 three visual depictions of child pornography, (B) did not knowingly
 63 purchase, procure, solicit or request such visual depictions or
 64 knowingly take any other action to cause such visual depictions to
 65 come into the defendant's possession, and (C) promptly and in good
 66 faith, and without retaining or allowing any person, other than a law
 67 enforcement agency, to access any visual depiction or copy thereof,
 68 took reasonable steps to destroy each such visual depiction or reported
 69 the matter to a law enforcement agency and afforded that agency
 70 access to each such visual depiction, or (2) the defendant possessed a
 71 visual depiction of a nude person under sixteen years of age for a bona
 72 fide artistic, medical, scientific, educational, religious, governmental or
 73 judicial purpose.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010</i>	New section
Sec. 2	<i>October 1, 2010</i>	53a-196d
Sec. 3	<i>October 1, 2010</i>	53a-196e
Sec. 4	<i>October 1, 2010</i>	53a-196f
Sec. 5	<i>October 1, 2010</i>	53a-196g

JUD *Joint Favorable Subst.*