



# House of Representatives

General Assembly

**File No. 511**

February Session, 2012

Substitute House Bill No. 5504

*House of Representatives, April 18, 2012*

The Committee on Judiciary reported through REP. FOX, G. of the 146th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING COMMERCIAL SEXUAL EXPLOITATION OF A MINOR.**

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

1 Section 1. (NEW) (*Effective October 1, 2012*) (a) For the purposes of  
2 this section:

3 (1) "Advertisement for a commercial sex act" or "advertisement"  
4 means any advertisement or offer in electronic or print media which  
5 includes an explicit or implicit offer for a commercial sex act to occur  
6 in this state;

7 (2) "Commercial sex act" means any act of sexual contact, as defined  
8 in section 53a-65 of the general statutes, or sexual intercourse, as  
9 defined in section 53a-65 of the general statutes, for which something  
10 of value is given to or received by any person;

11 (3) "Depiction" means any photograph, film, videotape, visual  
12 material or printed material; and

13 (4) "Person" has the meaning provided in section 53a-3 of the  
14 general statutes, but does not include a government or a governmental  
15 instrumentality.

16 (b) A person is guilty of commercial sexual exploitation of a minor  
17 when such person knowingly purchases advertising space for an  
18 advertisement for a commercial sex act that includes a depiction of a  
19 minor.

20 (c) (1) In any prosecution for an offense under this section, it shall  
21 not be a defense that the defendant (A) did not know the age of the  
22 person depicted in the advertisement, (B) relied on an oral or written  
23 representation of the age of the person depicted in the advertisement,  
24 or (C) relied on the apparent age of the person depicted in the  
25 advertisement.

26 (2) In any prosecution for an offense under this section, it shall be an  
27 affirmative defense that the defendant, prior to purchasing advertising  
28 space for the advertisement, made a reasonable bona fide attempt to  
29 ascertain the true age of the person depicted in the advertisement by  
30 requiring the person depicted in the advertisement to produce a  
31 driver's license, marriage license, birth certificate or other government-  
32 issued or school-issued identity card that identifies the age of the  
33 person, provided the defendant retains and produces a copy or other  
34 record of the license, certificate or identity card used to ascertain the  
35 age of the person depicted in the advertisement.

36 (d) Commercial sexual exploitation of a minor is a class C felony.

|   |                 |             |
|---|-----------------|-------------|
| This act shall take effect as follows and shall amend the following sections: |                 |             |
| Section 1   | October 1, 2012 | New section |

**JUD** Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

| Agency Affected                               | Fund-Effect                 | FY 13 \$      | FY 14 \$      |
|---|-----------------------------|---------------|---------------|
| Judicial Dept.                                | GF - Potential Revenue Gain | Indeterminate | Indeterminate |
| Judicial Dept (Probation)/Dept. of Correction | GF - Potential Cost         | Indeterminate | Indeterminate |

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill, which creates a new crime of commercial sexual exploitation of a minor, results in a potential revenue gain in future fines. The extent of the impact is uncertain as this is a new offense and actual prosecution is unknown.

To the extent that these changes increase the likelihood that offenders would be prosecuted or receive harsher penalties than currently provided for, potential cost for incarceration and/or probation supervision in the community would result. On average, it costs the state \$3,736 to supervise an offender on probation in the community as compared to \$44,165 to incarcerate the offender.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of offenders who violated this statute.

**OLR Bill Analysis****sHB 5504*****AN ACT CONCERNING COMMERCIAL SEXUAL EXPLOITATION OF A MINOR.*****SUMMARY:**

This bill creates the class C felony of commercial sexual exploitation of a minor. A human being, and where appropriate, a public or private corporation; limited liability company; or partnership commits the crime by knowingly purchasing advertising space to advertise for a commercial sex act that includes a depiction of a minor (the bill does not define "minor" but presumably it means a person under age 18). The bill specifies that neither (1) lack of knowledge of the depicted person's age nor (2) reliance on a non-governmental representation are defenses.

It permits the accused to avoid conviction by proving he or she made a reasonable, bona fide attempt to ascertain the depicted person's age by requiring him or her to produce a government-issued identity card and keeping and producing a copy.

Class C felonies are punishable by imprisonment for up to 10 years, a fine of up to \$10,000, or both.

EFFECTIVE DATE: October 1, 2012

**DEFINITIONS**

Under the bill:

1. "advertisement for a commercial sex act" or "advertisement" means an advertisement or offer in electronic or print media that includes an explicit or implicit offer for a commercial sex act to occur in this state;

2. "commercial sex act" means an act of sexual contact or intercourse for which something of value is given to, or received by, any person; and
3. "depiction" means any photograph, film, videotape, visual material or printed material.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 42 Nay 0 (04/02/2012)