
OLR Bill Analysis

sHB 5525

AN ACT CONCERNING CHILD PORNOGRAPHY.

SUMMARY:

Under current law, “visual depictions” of children (under age 16) engaged in sexually explicit conduct are subject to the state’s child pornography laws, whether they are generated by electronic, mechanical, or other means. By law, a “visual depiction” is a photograph, film, videotape, picture, or computer-generated image or picture. This bill specifically includes visual depictions generated by digital means.

The bill expands the range of visual depictions that constitute the crimes of first- and second-degree possession of child pornography. It does so by adding certain visual depictions based on the number of victims, illicit acts, or frames they contain. Under current law, a defendant is charged based on the number of visual depictions he or she possesses and whether they show the infliction or threatened infliction of serious physical injury.

Lastly, the bill excludes certain visual depictions of child pornography from the “affirmative defense” available under current child pornography laws. (An “affirmative defense” is a defense a defendant can raise and prove to avoid conviction for the crime.) Under current law, the possession of less than three visual depictions of child pornography is an affirmative defense to a charge of first-, second-, or third-degree possession of child pornography or a charge of possession or transmission of child pornography by a minor. The bill excludes from such a defense a visual depiction that is a (1) series of images intended for continuous display, (2) film, or (3) videotape.

EFFECTIVE DATE: October 1, 2014

FIRST-DEGREE POSSESSION OF CHILD PORNOGRAPHY

The bill expands the range of visual depictions the possession of which constitutes first-degree possession of child pornography.

Under current law, a person is guilty of this crime if he or she knowingly possesses (1) 50 or more visual depictions of child pornography or (2) one or more visual depictions of child pornography that depict the infliction or threatened infliction of serious physical injury.

Under the bill, a person is also guilty of first-degree possession of child pornography if he or she knowingly possesses:

1. a series of images (in electronic, digital, or other format) intended for continuous display, film, or videotape that depicts
 - (a) more than one child engaging in sexually explicit conduct or
 - (b) more than one act of sexually explicit conduct by one or more children, or
2. any combination of such a series of images, films, or videotapes that each depicts a single act of sexually explicit conduct by one child.

By law, first-degree possession of child pornography is a class B felony, punishable by imprisonment up to 20 years, with a mandatory minimum sentence of five years, and a fine of up to \$15,000.

SECOND-DEGREE POSSESSION OF CHILD PORNOGRAPHY

The bill also expands the range of visual depictions the possession of which constitutes second-degree possession of child pornography.

Under current law, a person is guilty of this crime if he or she knowingly possesses at least 20 but fewer than 50 visual depictions of child pornography.

Under the bill, a person is also guilty of second-degree possession of child pornography, if he or she knowingly possesses a series of images (in electronic, digital, or other format) intended for continuous display,

film, or videotape; and the series of images, film, or videotape (1) consists of at least 20 but fewer than 50 frames and (2) depicts a single act of sexually explicit conduct by one child.

By law, second-degree possession of child pornography is a class C felony, punishable by imprisonment up to 10 years, with a mandatory minimum sentence of two years, and a fine up to \$10,000.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 38 Nay 1 (03/28/2014)