S T A T E O F N E W Y O R K

S. 7742 A. 10713

S E N A T E - A S S E M B L Y

June 16, 2012

IN SENATE -- Introduced by Sen. GOLDEN -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

IN ASSEMBLY -- Introduced by COMMITTEE ON RULES -- (at request of M. of A. Lentol, Simanowitz, Colton, Weisenberg, Skartados, Cymbrowitz, Schimminger, Roberts, P. Rivera, Brindisi, Barrett, Bronson, Gabryszak, Russell, Zebrowski) -- (at request of the Governor) -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to amending the crime of possessing an obscene sexual performance by a child to include knowingly accessing such material with intent to view

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 263.11 of the penal law, as added by chapter 11 of the laws of 1996, is amended to read as follows:

S 263.11 Possessing an obscene sexual performance by a child.

A person is guilty of possessing an obscene sexual performance by a child when, knowing the character and content thereof, he knowingly has in his possession or control, OR KNOWINGLY ACCESSES WITH INTENT TO VIEW, any obscene performance which includes sexual conduct by a child less than sixteen years of age.

Possessing an obscene sexual performance by a child is a class E felony.

S 2. Section 263.16 of the penal law, as added by chapter 11 of the laws of 1996, is amended to read as follows:

S 263.16 Possessing a sexual performance by a child.

A person is guilty of possessing a sexual performance by a child when, knowing the character and content thereof, he knowingly has in his possession or control, OR KNOWINGLY ACCESSES WITH INTENT TO VIEW, any performance which includes sexual conduct by a child less than sixteen years of age.

Possessing a sexual performance by a child is a class E felony.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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S 3. Section 263.00 of the penal law is amended by adding a new subdivision 9 to read as follows:

9. FOR PURPOSES OF SECTIONS 263.10, 263.11, 263.15 AND 263.16 OF THIS ARTICLE, THE TERMS "POSSESSION," "CONTROL" AND "PROMOTION" SHALL NOT INCLUDE CONDUCT BY AN ATTORNEY WHEN THE PERFORMANCE WAS PROVIDED TO SUCH ATTORNEY IN RELATION TO THE REPRESENTATION OF A PERSON UNDER INVESTIGATION OR CHARGED UNDER THIS CHAPTER OR AS A RESPONDENT PURSUANT TO THE FAMILY COURT ACT, AND IS LIMITED IN USE FOR THE PURPOSE OF REPRESENTATION FOR THE PERIOD OF SUCH REPRESENTATION.

S 4. This act shall take effect immediately.