

8262

2015-2016 Regular Sessions

I N   A S S E M B L Y

June 16, 2015

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Introduced by M. of A. PAULIN -- read once and referred to the Committee  
on Codes

AN ACT to amend the penal law, in relation to aggravated promotion or  
possession of an obscene sexual performance by a child

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

1     Section 1. The penal law is amended by adding a new section 263.12 to  
2 read as follows:

3     S 263.12 AGGRAVATED PROMOTION OF AN OBSCENE SEXUAL PERFORMANCE BY A  
4         CHILD.

5     1. A PERSON IS GUILTY OF AGGRAVATED PROMOTION OF AN OBSCENE SEXUAL  
6 PERFORMANCE BY A CHILD WHEN, KNOWING THE CHARACTER AND CONTENT THEREOF,  
7 HE PRODUCES, DIRECTS OR PROMOTES ANY OBSCENE PERFORMANCE WHICH INCLUDES  
8 SEXUAL CONDUCT BY A CHILD AND INVOLVES EITHER:

9         (A) A CHILD WHO HAD NOT ATTAINED THE AGE OF THIRTEEN;  
10        (B) MATERIAL THAT PORTRAYS SADISTIC OR MASOCHISTIC CONDUCT;  
11        (C) STILL OR MOTION PICTURE IMAGES IN AN AMOUNT GREATER THAN OR EQUAL  
12 TO SIX HUNDRED IMAGES; OR  
13        (D) INTENT TO DERIVE PECUNIARY GAIN THEREFROM.

14     2. FOR THE PURPOSES OF PARAGRAPH (C) OF SUBDIVISION ONE OF THIS  
15 SECTION, A MOTION PICTURE LESS THAN OR EQUAL TO THIRTY MINUTES IN DURA-  
16 TION SHALL BE DEEMED TO CONTAIN SEVENTY-FIVE IMAGES AND, FOR EACH ADDI-  
17 TIONAL TEN MINUTES IN DURATION, AN ADDITIONAL SEVENTY-FIVE IMAGES.

18     AGGRAVATED PROMOTION OF AN OBSCENE SEXUAL PERFORMANCE BY A CHILD IS A  
19 CLASS C FELONY.

20     S 2. The penal law is amended by adding a new section 263.13 to read  
21 as follows:

22     S 263.13 AGGRAVATED POSSESSION OF AN OBSCENE SEXUAL PERFORMANCE BY A  
23         CHILD.

24     1. A PERSON IS GUILTY OF AGGRAVATED POSSESSION OF AN OBSCENE SEXUAL  
25 PERFORMANCE BY A CHILD WHEN, KNOWING THE CHARACTER AND CONTENT THEREOF,

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

LBD10029-01-5

1 HE KNOWINGLY HAS IN HIS POSSESSION OR CONTROL, OR KNOWINGLY ACCESSES  
2 WITH INTENT TO VIEW, ANY OBSCENE PERFORMANCE WHICH INCLUDES SEXUAL  
3 CONDUCT BY A CHILD AND INVOLVES EITHER:

4 (A) A CHILD WHO HAD NOT ATTAINED THE AGE OF THIRTEEN;

5 (B) MATERIAL THAT PORTRAYS SADISTIC OR MASOCHISTIC CONDUCT;

6 (C) STILL OR MOTION PICTURE IMAGES IN AN AMOUNT GREATER THAN OR EQUAL  
7 TO SIX HUNDRED IMAGES; OR

8 (D) INTENT TO DERIVE PECUNIARY GAIN THEREFROM.

9 2. FOR THE PURPOSES OF PARAGRAPH (C) OF SUBDIVISION ONE OF THIS  
10 SECTION, A MOTION PICTURE LESS THAN OR EQUAL TO THIRTY MINUTES IN DURA-  
11 TION SHALL BE DEEMED TO CONTAIN SEVENTY-FIVE IMAGES AND, FOR EACH ADDI-  
12 TIONAL TEN MINUTES IN DURATION, AN ADDITIONAL SEVENTY-FIVE IMAGES.

13 AGGRAVATED POSSESSION OF AN OBSCENE SEXUAL PERFORMANCE BY A CHILD IS A  
14 CLASS D FELONY.

15 S 3. This act shall take effect on the first of November next succeed-  
16 ing the date on which it shall have become a law.