

4418

2015-2016 Regular Sessions

I N   S E N A T E

March 19, 2015

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Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed 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 ASSEMBLY, 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.

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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.