

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2189 Session of 2010

INTRODUCED BY GROVE, QUINN, BAKER, BEAR, BOYD, CARROLL, CLYMER, D. COSTA, CUTLER, GEIST, GINGRICH, GOODMAN, KAUFFMAN, MAHONEY, MOUL, MURT, READSHAW, SIPTROTH, TRUE, WATERS, YOUNGBLOOD, MAJOR AND SAYLOR, JANUARY 5, 2010

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 28, 2010

AN ACT

~~Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for the offense of sexual abuse of children; and defining the offense of dissemination of prohibited materials by minors via electronic communications.~~



AMENDING TITLE 18 (CRIMES AND OFFENSES) OF THE PENNSYLVANIA CONSOLIDATED STATUTES, FURTHER PROVIDING FOR THE OFFENSE OF SEXUAL ABUSE OF CHILDREN; AND DEFINING THE OFFENSE OF SEXTING BY MINORS.



The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

~~Section 1. Section 6312(f) of Title 18 of the Pennsylvania Consolidated Statutes is amended to read:~~



~~§ 6312. Sexual abuse of children.~~

~~* * *~~

~~(f) Exceptions. This section does not apply to any material that is viewed, possessed, controlled, brought or caused to be brought into this Commonwealth, or presented for a bona fide educational, scientific, governmental or judicial purpose. In addition, this section shall not apply to the dissemination of~~

1 ~~prohibited materials by minors via electronic communications as~~
2 ~~set forth in section 6321 (relating to dissemination of~~
3 ~~prohibited materials by minors via electronic communications).~~

4 * * *

5 Section 2. Title 18 is amended by adding a section to read:

6 ~~§ 6321. Dissemination of prohibited materials by minors via~~
7 ~~electronic communications.~~

8 ~~(a) Offense defined. Any minor who knowingly transmits in~~
9 ~~an electronic communication or disseminates a depiction of~~
10 ~~himself or herself or of another minor or possesses a depiction~~
11 ~~of another minor engaging in sexually explicit conduct commits a~~
12 ~~misdemeanor of the second degree.~~

13 ~~(b) Applicability. This section shall not apply to~~
14 ~~electronic communications that depict either sexual intercourse~~
15 ~~or deviate sexual intercourse or the penetration, however~~
16 ~~slight, of the genitals or anus of a minor with any part of a~~
17 ~~person's body, masturbation, sadism or masochism. The~~
18 ~~transmission of an electronic communication depicting any of~~
19 ~~these acts shall be subject to prosecution under section 6312~~
20 ~~(relating to sexual abuse of children).~~

21 ~~(c) Adjudication alternatives. As appropriate to the~~
22 ~~circumstances, if a minor is accused of violating this section,~~
23 ~~consideration shall be given to:~~

24 ~~(1) diversionary alternatives available prior to a law~~
25 ~~enforcement officer's submission of a written allegation of~~
26 ~~delinquency to the juvenile probation office; or~~

27 ~~(2) adjudicatory alternatives available subsequent to~~
28 ~~the submission of a written allegation of delinquency,~~
29 ~~including the opportunity for disposition through informal~~
30 ~~adjustment as set forth in 42 Pa.C.S. § 6323 (relating to~~

~~informal adjustment) or entry of a consent decree pursuant to 42 Pa.C.S. § 6340 (relating to consent decree).~~

~~(d) Expungement. For juveniles who fulfill the conditions of a diversionary alternative pursuant to subsection (c)(1) or an informal adjustment pursuant to 42 Pa.C.S. § 6323, the record, including any fingerprints or photographs taken under 42 Pa.C.S. § 6308(c) (relating to law enforcement records), shall be expunged pursuant to section 9123(a)(1) (relating to juvenile records). For juveniles who have successfully fulfilled the conditions of a consent decree pursuant to 42 Pa.C.S. § 6340 the record, including any fingerprints or photographs taken pursuant to 42 Pa.C.S. § 6308(c), shall be expunged pursuant to section 9123(a)(2).~~

~~(e) No secure detention or placement authorized. A minor alleged to be delinquent solely on the basis of the offense cannot be detained in a secure facility under 42 Pa.C.S. § 6327 (relating to place of detention). A minor adjudicated delinquent where this offense is the only offense substantiated under 42 Pa.C.S. § 6341 (relating to adjudication) shall not be subject to commitment to a secure facility pursuant to a disposition ordered by the court under 42 Pa.C.S. § 6352 (relating to disposition of delinquent child).~~

~~(f) Definitions. As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:~~

~~"Electronic communication." As defined in section 5702 (relating to definitions).~~

~~"Minor." Any person 13 years of age or older and under 18 years of age.~~

~~"Nudity." As defined in section 5903(e) (relating to obscene~~

1 ~~and other sexual materials and performances).~~

2 ~~"Sexually explicit conduct." A lewd or lascivious exhibition~~
3 ~~of the minor's genitals, pubic area, breasts or buttocks or~~
4 ~~nudity if such nudity is depicted for the purpose of sexual~~
5 ~~stimulation or gratification of any person who might view such~~
6 ~~depiction.~~

7 ~~"Sexual intercourse." As defined in section 3101 (relating~~
8 ~~to definitions).~~

9 ~~Section 3. This act shall take effect in 60 days.~~

10 SECTION 1. SECTION 6312(F) OF TITLE 18 OF THE PENNSYLVANIA
11 CONSOLIDATED STATUTES IS AMENDED TO READ: ←

12 § 6312. SEXUAL ABUSE OF CHILDREN.

13 * * *

14 (F) EXCEPTIONS.--THIS SECTION DOES NOT APPLY TO ANY OF THE
15 FOLLOWING:

16 (1) ANY MATERIAL THAT IS VIEWED, POSSESSED, CONTROLLED,
17 BROUGHT OR CAUSED TO BE BROUGHT INTO THIS COMMONWEALTH, OR
18 PRESENTED, FOR A BONA FIDE EDUCATIONAL, SCIENTIFIC,
19 GOVERNMENTAL OR JUDICIAL PURPOSE.

20 (2) CONDUCT PROHIBITED UNDER SECTION 6321 (RELATING TO
21 SEXTING BY MINORS).

22 (3) AN INDIVIDUAL UNDER THE AGE OF 18 YEARS WHO
23 KNOWINGLY PHOTOGRAPHS, VIDEOTAPES, DEPICTS ON A COMPUTER OR
24 FILMS, OR POSSESS OR INTENTIONALLY VIEWS A VISUAL DEPICTION
25 AS DEFINED IN SECTION 6321 OF, HIMSELF OR HERSELF ALONE IN A
26 STATE OF SIMPLE NUDITY AS DEFINED IN SECTION 6321.

27 * * *

28 SECTION 2. TITLE 18 IS AMENDED BY ADDING A SECTION TO READ:
29 § 6321. SEXTING BY MINORS.

30 (A) MISDEMEANOR OFFENSE DEFINED.--EXCEPT AS PROVIDED UNDER

1 SUBSECTION (B), AN INDIVIDUAL COMMITS A MISDEMEANOR OF THE
2 SECOND DEGREE IF:

3 (1) THE INDIVIDUAL IS A MINOR AND KNOWINGLY TRANSMITS OR
4 DISSEMINATES A VISUAL DEPICTION OF HIMSELF OR HERSELF
5 ENGAGING IN SEXUALLY EXPLICIT CONDUCT.

6 (2) THE INDIVIDUAL IS A MINOR AND DOES ANY OF THE
7 FOLLOWING INVOLVING ANOTHER MINOR ACTUALLY KNOWN TO THE
8 INDIVIDUAL:

9 (I) KNOWINGLY PHOTOGRAPHS, VIDEOTAPES, DEPICTS ON A
10 COMPUTER OR FILMS THE MINOR ENGAGING IN SEXUALLY EXPLICIT
11 CONDUCT; OR

12 (II) INTENTIONALLY VIEWS OR KNOWINGLY POSSESSES A
13 VISUAL DEPICTION WHICH DEPICTS THE MINOR ENGAGING IN
14 SEXUALLY EXPLICIT CONDUCT.

15 (B) SUMMARY OFFENSE DEFINED.--AN INDIVIDUAL COMMITS A
16 SUMMARY OFFENSE IF:

17 (1) THE INDIVIDUAL IS A MINOR AND KNOWINGLY TRANSMITS A
18 VISUAL DEPICTION OF HIMSELF OR HERSELF ENGAGING IN SEXUALLY
19 EXPLICIT CONDUCT WHEN ALL OF THE FOLLOWING APPLY:

20 (I) THE PERSON INTENDED TO RECEIVE THE VISUAL
21 DEPICTION IS 13 YEARS OF AGE OR OLDER AND NOT MORE THAN
22 FOUR YEARS YOUNGER NOR FOUR YEARS OLDER THAN THE
23 INDIVIDUAL;

24 (II) THE PERSON INTENDED TO RECEIVE THE VISUAL
25 DEPICTION IS ACTUALLY KNOWN TO THE INDIVIDUAL; AND

26 (III) THE INDIVIDUAL HAD A REASONABLE BELIEF AT THE
27 TIME OF THE TRANSMISSION THAT THE INTENDED RECIPIENT OF
28 THE VISUAL DEPICTION WAS A WILLING RECIPIENT OF THE
29 VISUAL DEPICTION.

30 (2) THE INDIVIDUAL IS 19 YEARS OF AGE OR YOUNGER BUT AT

1 LEAST 13 YEARS OF AGE AND DOES ANY OF THE FOLLOWING INVOLVING
2 A MINOR WHO IS ACTUALLY KNOWN TO THE INDIVIDUAL AND NOT MORE
3 THAN FOUR YEARS YOUNGER OR FOUR YEARS OLDER THAN THE
4 INDIVIDUAL:

5 (I) AT THE REQUEST OF THE MINOR, KNOWINGLY
6 PHOTOGRAPHS, VIDEOTAPES, DEPICTS ON A COMPUTER OR FILMS
7 THE MINOR ENGAGING IN SEXUALLY EXPLICIT CONDUCT.

8 (II) KNOWINGLY TRANSMITS TO THE MINOR, A VISUAL
9 DEPICTION WHICH DEPICTS THE MINOR ENGAGING IN SEXUALLY
10 EXPLICIT CONDUCT.

11 (III) INTENTIONALLY VIEWS OR KNOWINGLY POSSESSES A
12 VISUAL DEPICTION WHICH DEPICTS THE MINOR ENGAGING IN
13 SEXUALLY EXPLICIT CONDUCT AND WHICH WAS:

14 (A) TRANSMITTED OR DISSEMINATED TO THE
15 INDIVIDUAL BY THE MINOR; OR

16 (B) TAKEN, TAPED, DEPICTED ON COMPUTER OR FILMED
17 BY THE INDIVIDUAL AT THE REQUEST OF THE MINOR.

18 (C) APPLICABILITY.--THIS SECTION SHALL NOT APPLY TO THE
19 FOLLOWING:

20 (1) A VISUAL DEPICTION OF A MINOR WHICH DEPICTS THE
21 MINOR ENGAGED IN SEXUAL INTERCOURSE, DEVIATE SEXUAL
22 INTERCOURSE, MASTURBATION, SADISM OR MASOCHISM OR WHICH
23 DEPICTS THE PENETRATION, HOWEVER SLIGHT, OF THE MINOR'S
24 GENITALS OR ANUS WITH ANY PART OF ANOTHER INDIVIDUAL'S BODY.
25 THE PHOTOGRAPHING, VIDEOTAPING, FILMING OR DEPICTING ON A
26 COMPUTER OF A VISUAL DEPICTION WHICH DEPICTS ANY OF THESE
27 ACTS INVOLVING A MINOR OR THE TRANSMISSION OR DISSEMINATION
28 OF A VISUAL DEPICTION WHICH DEPICTS ANY OF THESE ACTS
29 INVOLVING A MINOR SHALL BE SUBJECT TO PROSECUTION UNDER OTHER
30 PROVISIONS OF THIS TITLE, INCLUDING SECTION 6312.

1 (2) A VISUAL DEPICTION OF A MINOR WHICH DEPICTS THE
2 MINOR ENGAGING IN SEXUALLY EXPLICIT CONDUCT IF THE
3 PHOTOGRAPH, VIDEOTAPE, FILM OR DEPICTION WAS TAKEN, MADE,
4 PRODUCED, USED OR INTENDED TO BE USED FOR OR IN FURTHERANCE
5 OF A COMMERCIAL PURPOSE. THE PHOTOGRAPHING, VIDEOTAPING,
6 FILMING OR DEPICTING ON A COMPUTER OF A VISUAL DEPICTION
7 WHICH DEPICTS A MINOR ENGAGING IN SEXUALLY EXPLICIT CONDUCT
8 FOR OR IN FURTHERANCE OF A COMMERCIAL PURPOSE OR THE
9 TRANSMISSION OR DISSEMINATION OF A VISUAL DEPICTION WHICH
10 DEPICTS A MINOR ENGAGING IN SEXUALLY EXPLICIT CONDUCT FOR OR
11 IN FURTHERANCE OF A COMMERCIAL PURPOSE SHALL BE SUBJECT TO
12 PROSECUTION UNDER OTHER PROVISIONS OF THIS TITLE, INCLUDING
13 SECTION 6312.

14 (3) AN INDIVIDUAL UNDER 18 YEARS OF AGE WHO VIEWS OR
15 POSSESSES A VISUAL DEPICTION OF HIMSELF OR HERSELF WHICH
16 DEPICTS THE INDIVIDUAL ENGAGING IN SEXUALLY EXPLICIT CONDUCT,
17 IF NO ONE ELSE IS DEPICTED IN THE PHOTOGRAPH, VIDEOTAPE,
18 DEPICTION OR FILM.

19 (4) A VISUAL DEPICTION OF A MINOR WHO IS MARRIED WHICH
20 DEPICTS ONLY THE MINOR, THE MINOR'S SPOUSE, OR BOTH, ENGAGING
21 IN SEXUALLY EXPLICIT CONDUCT OR SIMPLE NUDITY AND WHICH IS
22 POSSESSED OR VIEWED ONLY BY THE MINOR, THE MINOR'S SPOUSE, OR
23 BOTH, OR WHICH IS TRANSMITTED ONLY BETWEEN THE MINOR AND THE
24 MINOR'S SPOUSE.

25 (D) ADJUDICATION ALTERNATIVES.--AS APPROPRIATE TO THE
26 CIRCUMSTANCES, IF AN INDIVIDUAL IS ACCUSED OF COMMITTING AN
27 OFFENSE UNDER THIS SECTION, CONSIDERATION SHALL BE GIVEN TO:

28 (1) DIVERSIONARY ALTERNATIVES AVAILABLE PRIOR TO A LAW
29 ENFORCEMENT OFFICER'S SUBMISSION OF A WRITTEN ALLEGATION OF
30 DELINQUENCY TO THE JUVENILE PROBATION OFFICE OR THE ISSUANCE

1 OF A SUMMARY CITATION;

2 (2) ADJUDICATORY ALTERNATIVES AVAILABLE SUBSEQUENT TO
3 THE SUBMISSION OF A WRITTEN ALLEGATION OF DELINQUENCY,
4 INCLUDING THE OPPORTUNITY FOR DISPOSITION THROUGH INFORMAL
5 ADJUSTMENT AS SET FORTH IN 42 PA.C.S. § 6323 (RELATING TO
6 INFORMAL ADJUSTMENT) OR ENTRY OF A CONSENT DECREE PURSUANT TO
7 42 PA.C.S. § 6340 (RELATING TO CONSENT DECREE); OR

8 (3) ADJUDICATION ALTERNATIVE PROGRAMS AVAILABLE UNDER 42
9 PA.C.S. § 1520 (RELATING TO ADJUDICATION ALTERNATIVE PROGRAM)
10 SUBSEQUENT TO THE FILING OR ISSUANCE OF A SUMMARY CITATION.

11 (E) PROCEEDINGS.--ANY PROCEEDING INVOLVING A VIOLATION OF
12 THIS SECTION SHALL BE SUBJECT TO ALL OF THE FOLLOWING:

13 (1) 42 PA.C.S. § 6307 (RELATING TO INSPECTION OF COURT
14 FILES AND RECORDS).

15 (2) 42 PA.C.S. § 6336(D) (RELATING TO CONDUCT OF
16 HEARINGS) INsofar AS THE SUBSECTION RELATES TO THE EXCLUSION
17 OF THE GENERAL PUBLIC FROM THE PROCEEDING.

18 (3) IF THE PERSON CHARGED IS A MINOR, THE CHARGES AND
19 ALL OTHER DOCUMENTS WHICH ARE FILED SHALL BE CAPTIONED AND
20 DOCKETED USING ONLY THE MINOR'S INITIALS.

21 (4) IF AN INDIVIDUAL IS CHARGED SOLELY WITH VIOLATIONS
22 OF SUBSECTION (B) AND THE INDIVIDUAL DOES NOT PARTICIPATE IN
23 AN ADJUDICATION ALTERNATIVE OFFERED UNDER SUBSECTION (D), THE
24 INDIVIDUAL MUST PERSONALLY APPEAR AT A PROCEEDING BEFORE A
25 MAGISTERIAL DISTRICT JUDGE.

26 (F) EXPUNGEMENT.--FOR AN INDIVIDUAL WHO FULFILLS THE
27 CONDITIONS OF A DIVERSIONARY ALTERNATIVE UNDER SUBSECTION
28 (D) (1), AN ADJUDICATION ALTERNATIVE PROGRAM UNDER SUBSECTION
29 (D) (3) OR AN INFORMAL ADJUSTMENT UNDER 42 PA.C.S. § 6323, THE
30 RECORD, INCLUDING FINGERPRINTS OR PHOTOGRAPHS TAKEN UNDER 42

1 PA.C.S. § 6308(C) (RELATING TO LAW ENFORCEMENT RECORDS), SHALL
2 BE EXPUNGED UNDER SECTION 9123(A)(1) (RELATING TO JUVENILE
3 RECORDS). FOR AN INDIVIDUAL WHO HAS SUCCESSFULLY FULFILLED THE
4 CONDITIONS OF A CONSENT DECREE UNDER 42 PA.C.S. § 6340, THE
5 RECORD, INCLUDING FINGERPRINTS OR PHOTOGRAPHS TAKEN UNDER 42
6 PA.C.S. § 6308(C), SHALL BE EXPUNGED UNDER SECTION 9123(A)(2).

7 (G) NO SECURE DETENTION OR PLACEMENT AUTHORIZED.--A MINOR
8 ALLEGED TO BE DELINQUENT SOLELY ON THE BASIS OF AN OFFENSE
9 COMMITTED UNDER SUBSECTION (A) MAY NOT BE DETAINED IN A SECURE
10 FACILITY UNDER 42 PA.C.S. § 6327 (RELATING TO PLACE OF
11 DETENTION). A MINOR ADJUDICATED DELINQUENT WHERE THE OFFENSE
12 UNDER SUBSECTION (A) IS THE ONLY OFFENSE SUBSTANTIATED UNDER 42
13 PA.C.S. § 6341 (RELATING TO ADJUDICATION) SHALL NOT BE SUBJECT
14 TO COMMITMENT TO A SECURE FACILITY PURSUANT TO A DISPOSITION
15 ORDERED BY THE COURT UNDER 42 PA.C.S. § 6352 (RELATING TO
16 DISPOSITION OF DELINQUENT CHILD).

17 (H) NATURE OF OFFENSE.--AN OFFENSE UNDER SUBSECTION (B)
18 SHALL:

19 (1) NOT BE A CRIMINAL OFFENSE OF RECORD;
20 (2) NOT BE REPORTABLE AS A CRIMINAL ACT; AND
21 (3) NOT BE PLACED ON THE CRIMINAL RECORD OF THE
22 OFFENDER.

23 (I) SEIZURE AND FORFEITURE OF ELECTRONIC DEVICE.--AN
24 ELECTRONIC DEVICE USED IN VIOLATION OF THIS SECTION MAY BE
25 SEIZED AND FORFEITED TO THE COMMONWEALTH.

26 (J) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
27 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
28 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

29 "ACTUALLY KNOWN." POSSESSING FIRSTHAND OR PERSONAL KNOWLEDGE
30 ABOUT AN INDIVIDUAL THAT IS ACQUIRED THROUGH A FRIENDLY

1 RELATIONSHIP WITH THE INDIVIDUAL.

2 "DISSEMINATE." TO CAUSE OR MAKE AN ELECTRONIC COMMUNICATION
3 FROM ONE PERSON, PLACE OR ELECTRONIC COMMUNICATION DEVICE TO TWO
4 OR MORE PERSONS, PLACES OR ELECTRONIC COMMUNICATION DEVICES. THE
5 TERM DOES NOT INCLUDE THE POSTING ON OR TRANSFER TO AN INTERNET
6 PAGE OR WEBSITE TO WHICH THE PUBLIC HAS OR MIGHT GAIN ACCESS.

7 "ELECTRONIC COMMUNICATION." AS DEFINED IN SECTION 5702
8 (RELATING TO DEFINITIONS).

9 "ELECTRONIC COMMUNICATION DEVICE." ANY TYPE OF INSTRUMENT,
10 DEVICE, MACHINE OR EQUIPMENT WHICH IS CAPABLE OF TRANSMITTING,
11 ACQUIRING, DECRYPTING OR RECEIVING ANY TELEPHONIC, ELECTRONIC,
12 DATA, INTERNET ACCESS, AUDIO, VIDEO, MICROWAVE OR RADIO
13 TRANSMISSIONS, SIGNALS, COMMUNICATIONS OR SERVICES, INCLUDING
14 THE RECEIPT, ACQUISITION, TRANSMISSION OR DECRYPTION OF ALL SUCH
15 COMMUNICATIONS, TRANSMISSIONS, SIGNALS OR SERVICES OVER ANY
16 CABLE TELEVISION, TELEPHONE, SATELLITE, MICROWAVE, RADIO OR
17 WIRELESS DISTRIBUTION SYSTEM OR FACILITY, OR ANY PART, ACCESSORY
18 OR COMPONENTS THEREOF, INCLUDING ANY COMPUTER CIRCUIT, SECURITY
19 MODULE, SMART CARD, SOFTWARE, COMPUTER CHIP, ELECTRONIC
20 MECHANISM OR OTHER COMPONENT, ACCESSORY OR PART WHICH IS CAPABLE
21 OF FACILITATING THE TRANSMISSION, DECRYPTION, ACQUISITION OR
22 RECEPTION OF ALL SUCH COMMUNICATIONS, TRANSMISSIONS, SIGNALS OR
23 SERVICES.

24 "MINOR." AN INDIVIDUAL 13 YEARS OF AGE OR OLDER AND UNDER 18
25 YEARS OF AGE.

26 "NUDITY." AS DEFINED IN SECTION 5903(E) (RELATING TO OBSCENE
27 AND OTHER SEXUAL MATERIALS AND PERFORMANCES).

28 "SEXUAL INTERCOURSE." AS DEFINED IN SECTION 3101 (RELATING
29 TO DEFINITIONS).

30 "SEXUALLY EXPLICIT CONDUCT."

1 (1) ANY OF THE FOLLOWING:

2 (I) LEWD OR LASCIVIOUS EXHIBITION OF THE GENITALS,
3 PUBIC AREA, BREASTS OR BUTTOCKS.

4 (II) NUDITY, IF THE NUDITY IS VISUALLY DEPICTED FOR
5 THE PURPOSE OF THE SEXUAL STIMULATION OR SEXUAL
6 GRATIFICATION OF A PERSON WHO MIGHT VIEW THE DEPICTION.

7 (2) THE TERM SHALL NOT INCLUDE SIMPLE NUDITY.

8 "SIMPLE NUDITY." NUDITY WHICH IS VISUALLY DEPICTED FOR A
9 PURPOSE OTHER THAN THE SEXUAL STIMULATION OR THE SEXUAL
10 GRATIFICATION OF A PERSON WHO MIGHT VIEW THE VISUAL DEPICTION.

11 "TRANSMIT." TO CAUSE OR MAKE AN ELECTRONIC COMMUNICATION
12 FROM ONE PERSON, PLACE OR ELECTRONIC COMMUNICATION DEVICE TO
13 ONLY ONE OTHER PERSON, PLACE OR ELECTRONIC COMMUNICATION DEVICE.

14 THE TERM SHALL NOT INCLUDE THE POSTING ON OR TRANSFER TO AN
15 INTERNET PAGE OR WEBSITE TO WHICH THE PUBLIC HAS OR MIGHT GAIN
16 ACCESS.

17 "VISUAL DEPICTION." A PHOTOGRAPH, VIDEOTAPE, FILM OR
18 DEPICTION ON A COMPUTER. THE TERM SHALL NOT INCLUDE A
19 PHOTOGRAPH, VIDEOTAPE, FILM OR DEPICTION ON A COMPUTER, TAKEN,
20 TAPED, FILMED, MADE, PRODUCED, USED OR INTENDED TO BE USED, FOR
21 OR IN FURTHERANCE OF A COMMERCIAL PURPOSE OR TO THE TRANSMISSION
22 OR DISSEMINATION OF SUCH A VISUAL DEPICTION.

23 SECTION 3. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.