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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 780 Session of  
2015

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INTRODUCED BY PAYNE, BAKER, READSHAW, ACOSTA, D. COSTA, DeLUCA,  
DIAMOND, EVERETT, GILLEN, KORTZ, MALONEY, MOUL, MURT AND  
ROZZI, MARCH 13, 2015

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REFERRED TO COMMITTEE ON STATE GOVERNMENT, MARCH 13, 2015

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AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, in computer offenses, providing for  
3 misuse of a Commonwealth computer, computer network or  
4 cellular phone.

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

7 Section 1. Title 18 of the Pennsylvania Consolidated  
8 Statutes is amended by adding a section to read:

9 § 7642. Misuse of Commonwealth computer, computer network or  
10 cellular phone.

11 (a) Offense defined.--

12 (1) Except as authorized or required by his or her  
13 official duties, an employee of the Commonwealth commits a  
14 misdemeanor of the third degree if the employee knowingly  
15 utilizes a Commonwealth-owned computer, computer network or  
16 cellular phone to display, disseminate, view, access,  
17 transfer, transmit or retransmit a photograph, video or other  
18 visual depiction of explicit sexual materials.

1           (2) Nothing under this section may supersede a  
2           prosecution for conduct prohibited under section 6312  
3           (relating to sexual abuse of children) or 5903 (relating to  
4           obscene and other sexual materials and performances).

5           (b) Defense.--It shall be a defense under this section that  
6           the employee received the prohibited depiction and viewed the  
7           prohibited depiction without prior knowledge of the prohibited  
8           depiction's contents, did not retransmit the prohibited  
9           depiction and immediately reported the receipt of the prohibited  
10          depiction to the employee's immediate supervisor.

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

14          "Explicit sexual materials." Any image of a person or  
15          portion of the human body which depicts nudity or sexual  
16          conduct.

17          "Nudity." Showing of the human male or female genitals,  
18          pubic area or buttocks with less than a fully opaque covering  
19          or showing the female breast with less than a fully opaque  
20          covering of any portion of the female breast below the top of  
21          the nipple.

22          "Sexual conduct." Sexual intercourse, anal or oral sodomy,  
23          sexual bestiality, masturbation, excretory functions or  
24          sadomasochistic abuse.

25          Section 2. This act shall take effect in 60 days.