
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 124 Session of
2007

INTRODUCED BY COSTA, PUNT, FOLMER, BOSCOLA, STOUT, KITCHEN,
FONTANA, TARTAGLIONE, WONDERLING, ROBBINS, ERICKSON, GORDNER,
ARMSTRONG, KASUNIC, CORMAN, D. WHITE, GREENLEAF, TOMLINSON,
RAFFERTY, ORIE, PICCOLA, C. WILLIAMS, LAVALLE, EARLL, O'PAKE,
BRUBAKER, PIPPY, MUSTO, BROWNE, MELLOW, RHOADES, LOGAN AND
REGOLA, MARCH 5, 2007

REFERRED TO JUDICIARY, MARCH 5, 2007

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for obscene and
3 other sexual materials and performances and for sexual abuse
4 of children.

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

7 Section 1. The definition of "material" in section 5903(b)
8 of Title 18 of the Pennsylvania Consolidated Statutes is amended
9 to read:

10 § 5903. Obscene and other sexual materials and performances.

11 * * *

12 (b) Definitions.--As used in this section, the following
13 words and phrases shall have the meanings given to them in this
14 subsection:

15 * * *

16 "Material." Any literature, including any book, magazine,
17 pamphlet, newspaper, storypaper, bumper sticker, comic book or

1 writing; any figure, visual representation, or image, including
2 any drawing, photograph, picture, videotape [or], motion picture
3 or computer-generated image.

4 * * *

5 Section 2. Section 6312(a), (b), (c) and (d) of Title 18 are
6 amended and the section is amended by adding a subsection to
7 read:

8 § 6312. Sexual abuse of children.

9 [(a) Definition.--As used in this section, "prohibited
10 sexual act" means sexual intercourse as defined in section 3101
11 (relating to definitions), masturbation, sadism, masochism,
12 bestiality, fellatio, cunnilingus, lewd exhibition of the
13 genitals or nudity if such nudity is depicted for the purpose of
14 sexual stimulation or gratification of any person who might view
15 such depiction.]

16 (b) Photographing, videotaping, depicting on computer or
17 filming sexual acts.--Any person who causes or knowingly permits
18 a child under the age of 18 years to engage in a prohibited
19 sexual act or in the simulation of such act is guilty of a
20 felony of the second degree if such person knows, has reason to
21 know or intends that such act may be photographed, videotaped,
22 depicted on computer or filmed. Any person who knowingly
23 photographs, videotapes, depicts on computer or films a child or
24 creates any obscene computer-generated image depicting what
25 appears to be a child under the age of 18 years engaging in a
26 [prohibited] sexual act or in the simulation of such an act is
27 guilty of a felony of the second degree.

28 (c) Dissemination of photographs, videotapes, computer
29 depictions and films.--

30 (1) Any person who knowingly sells, distributes,

1 delivers, disseminates, transfers, displays or exhibits to
2 others, or who possesses for the purpose of sale,
3 distribution, delivery, dissemination, transfer, display or
4 exhibition to others, any book, magazine, pamphlet, slide,
5 photograph, film, videotape, computer depiction or other
6 material depicting a child or any obscene computer-generated
7 image depicting what appears to be a child under the age of
8 18 years engaging in a [prohibited] sexual act or in the
9 simulation of such act commits an offense.

10 (2) A first offense under this subsection is a felony of
11 the third degree, and a second or subsequent offense under
12 this subsection is a felony of the second degree.

13 (d) Possession of child pornography.--

14 (1) Any person who knowingly possesses or controls any
15 book, magazine, pamphlet, slide, photograph, film, videotape,
16 computer depiction or other material depicting a child or any
17 obscene computer-generated image depicting what appears to be
18 a child under the age of 18 years engaging in a [prohibited]
19 sexual act or in the simulation of such act commits an
20 offense.

21 (2) A first offense under this subsection is a felony of
22 the third degree, and a second or subsequent offense under
23 this subsection is a felony of the second degree.

24 * * *

25 (g) Definitions.--As used in this section, the following
26 words and phrases shall have the meanings given to them in this
27 subsection:

28 "Community." For the purpose of applying the "contemporary
29 community standards" in this section, the term means this
30 Commonwealth.

1 "Material." Any literature, including any book, magazine,
2 pamphlet, newspaper, storypaper, bumper sticker, comic book or
3 writing; any figure, visual representation, or image, including
4 any drawing, photograph, picture, videotape, motion picture or
5 computer-generated image.

6 "Obscene." Any material if:

7 (1) The average person applying contemporary community
8 standards would find that the subject matter taken as a whole
9 appeals to the prurient interest.

10 (2) The subject matter depicts or describes in a
11 patently offensive way, sexual conduct of a type described in
12 this section.

13 (3) The subject matter, taken as a whole, lacks serious
14 literary, artistic, political, educational or scientific
15 value.

16 "Sexual act." Any of the following activities: sexual
17 intercourse as defined in section 3101 (relating to
18 definitions), masturbation, sadism, masochism, bestiality,
19 fellatio, cunnilingus, sadomasochism, lewd exhibition of the
20 genitals or nudity if such nudity is depicted for the purpose of
21 sexual stimulation or gratification of any person who might view
22 such depiction.

23 Section 3. This act shall take effect in 60 days.