

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 2017

H. P. 1937

Office of the Clerk of the House

The Committee on Judiciary suggested. Approved for introduction by the Legislative Council pursuant to Joint Rule 24 and 2,500 ordered printed.

EDWIN H. PERT, Clerk.

Presented by: Mr. Wyman of Pittsfield.

Cosponsors: Mr. Howe of So. Portland, Mrs. Trafton of Auburn and Mr. McMahon of Kennebunk.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-EIGHT

AN ACT to Prohibit Child Pornography.

Be it enacted by the People of the State of Maine, as follows:

17-A MRSA c. 12 is enacted to read:

**CHAPTER 12
SEXUAL EXPLOITATION OF CHILDREN**

§ 271. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms shall have the following meanings.

1. Disseminate or disseminates. "Disseminate" or "disseminates" means to manufacture, issue, sell, mail, publish, circulate, exhibit, print or advertise for consideration or pecuniary profit or to offer or agree to do any of these acts for consideration or pecuniary profit.

2. For commercial use or commercial use. "For commercial use" or "commercial use" means sale, barter, trade, exchange or otherwise for consideration or pecuniary profit.

3. Minor. "Minor" means an individual under 18 years of age.

4. Sexual conduct. "Sexual conduct" means sexual intercourse, anal intercourse,

masturbation, bestiality, sadism, masochism, fellatio, cunnilingus or any other sexual activity or nudity, if that activity or nudity is to be depicted for the purpose of sexual stimulation or gratification of any individual who may view that depiction.

5. **Simulated.** "Simulated" means the explicit depiction of any sexual conduct which creates the appearance of that conduct and which exhibits any uncovered portion of the genitals, pubic area, buttocks or female breasts.

§ 272. Sexual exploitation of a minor

1. A person shall be guilty of sexual exploitation of a minor if he intentionally or knowingly does any of the following acts:

A. Employs, uses, solicits, coerces or compels a minor to engage in sexual conduct or simulated sexual conduct when that person knows, has reason to know or intends that the sexual conduct or simulated sexual conduct will be photographed, filmed, videotaped or otherwise mechanically reproduced for commercial use;

B. Photographs, films, videotapes or otherwise makes any mechanical reproduction of a minor engaging in sexual conduct or simulated sexual conduct when that person knows, has reason to know or intends that the photograph, film, videotape or mechanical reproduction will have a commercial use;

C. Being the parent, legal guardian or other person having care or custody of a minor, permits or gives approval for that minor to engage in any sexual conduct or simulated sexual conduct when that person knows, has reason to know or intends that the sexual conduct or simulated sexual conduct will be photographed, filmed, videotaped or otherwise mechanically reproduced for commercial use; or

D. Produces, directs or otherwise assists in making any photograph, film, videotape or other mechanical reproduction of a minor engaging in sexual conduct or simulated sexual conduct when that person knows, has reason to know or intends that the photograph, film, videotape or mechanical reproduction will have a commercial use.

2. Sexual exploitation of a minor is:

A. A Class A crime if the actor has been previously convicted of a violation of this section, except that any person convicted of violating this section who has previously been convicted of a violation of this section shall be sentenced to a term of imprisonment that is not less than 15 years; or

B. Otherwise, a Class B crime, except that any person convicted of violating this section shall be sentenced to a term of imprisonment that is not less than 5 years.

§ 273. Dissemination of sexually exploitive materials

1. A person is guilty of dissemination of sexually exploitive materials if he intentionally or knowingly disseminates or possesses with intent to disseminate any photograph, film, videotape or other mechanical reproduction of a minor engaging in sexual conduct or simulated sexual conduct.

2. Dissemination of sexually exploitive materials is:

A. A Class A crime if the actor has been previously convicted of a violation of this section, except that any person convicted of violating this section who has previously

been convicted of a violation of this section shall be sentenced to a term of imprisonment that is not less than 15 years; or

B. Otherwise, a Class B crime, except that any person convicted of violating this section shall be sentenced to a term of imprisonment that is not less than 5 years.

3. For the purposes of this section, possession of 3 or more of the same photograph, film, videotape or other mechanical reproduction shall give rise to a presumption that the defendant possesses those items with intent to disseminate.

STATEMENT OF FACT

The purpose of this bill is to deal with the growing problem of child pornography by making crimes of activities which exploit minors for the purpose of producing and distributing child pornography. The bill will prevent the abuse of children for pornographic purposes by parents, guardians, producers, financiers, distributors and sellers of sexually exploitive films, pictures or magazines.