

1 AN ACT relating to the sexual exploitation of minors.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 531.335 is amended to read as follows:

4 (1) A person is guilty of possession or viewing of matter portraying a sexual  
5 performance by a minor when, having knowledge of its content, character, and that  
6 the sexual performance is by a minor, he or she:

7 (a) Knowingly has in his or her possession or control any matter which visually  
8 depicts an actual sexual performance by a minor person; or

9 (b) Intentionally views any matter which visually depicts an actual sexual  
10 performance by a minor person.

11 (2) The provisions of subsection (1)(b) of this section:

12 (a) Shall only apply to the deliberate, purposeful, and voluntary viewing of matter  
13 depicting sexual conduct by a minor person and not to the accidental or  
14 inadvertent viewing of such matter;

15 (b) Shall not apply to persons viewing the matter in the course of a law  
16 enforcement investigation or criminal or civil litigation involving the matter;  
17 and

18 (c) Shall not apply to viewing the matter by a minor or the minor's parents or  
19 guardians, or to school administrators investigating violations of subsection  
20 (1)(b) of this section.

21 (3) Possession or viewing of matter portraying a sexual performance by a minor is:

22 (a) A Class D felony *if the minor portrayed is less than eighteen (18) years old*  
23 *at the time of the sexual performance; and*

24 (b) A Class C felony *if the minor portrayed is less than twelve (12) years old at*  
25 *the time of the sexual performance.*

26 ➔Section 2. KRS 531.340 is amended to read as follows:

27 (1) A person is guilty of distribution of matter portraying a sexual performance by a

- 1 minor when, having knowledge of its content and character, he or she:
- 2 (a) Sends or causes to be sent into this state for sale or distribution; or
- 3 (b) Brings or causes to be brought into this state for sale or distribution; or
- 4 (c) In this state, he or she:
  - 5 1. Exhibits for profit or gain; or
  - 6 2. Distributes; or
  - 7 3. Offers to distribute; or
  - 8 4. Has in his or her possession with intent to distribute, exhibit for profit or
  - 9 gain or offer to distribute, any matter portraying a sexual performance by
  - 10 a minor.
- 11 (2) Any person who has in his or her possession more than one (1) unit of material
- 12 coming within the provision of KRS 531.300(2) shall be rebuttably presumed to
- 13 have such material in his or her possession with the intent to distribute it.
- 14 (3) Distribution of matter portraying a sexual performance by a minor is:
  - 15 (a) A Class D felony for the first offense, and a Class C felony for each
  - 16 subsequent offense, if the minor portrayed is less than eighteen (18) years
  - 17 old at the time of the sexual performance; and
  - 18 (b) A Class C felony for the first offense, and a Class B felony for each
  - 19 subsequent offense, if the minor portrayed is less than twelve (12) years old
  - 20 at the time of the sexual performance.