

2021 -- S 0502

LC002098

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO CRIMINAL OFFENSES -- CHILDREN

Introduced By: Senators Burke, Archambault, Lombardi, and Lombardo

Date Introduced: March 04, 2021

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 11-9 of the General Laws entitled "Children" is hereby amended by
2 adding thereto the following section:

3 **11-9-1.6. Child erotica prohibited.**

4 (a) Any person age eighteen (18) or over who knowingly and voluntarily, without threat or
5 coercion, produces, possesses, displays or distributes, in any form, any visual portrayals of minors
6 who are partially clothed, where the visual portrayals are used for the specific purpose of sexual
7 gratification or sexual arousal from viewing the visual portrayals, is guilty of a misdemeanor and,
8 upon conviction, shall be confined in jail for not more than one year, or fined not more than one
9 thousand dollars (\$1,000), or both.

10 (b) Affirmative defenses.

11 (1) It shall be an affirmative defense to a charge of violating this section that:

12 (i) The alleged child erotica was produced using an actual person or persons who was an
13 adult at the time the material was produced;

14 (ii) The defendant promptly and in good faith and without retaining or allowing any person,
15 other than a law enforcement agency, to access any image or copy of it:

16 (A) Took reasonable steps to destroy each such image; or

17 (B) Reported the matter to a law enforcement agency and afforded that agency access to
18 each such image.

19 (iii) That the possessor, displayer or distributor of child erotica is the parent or legal

1 guardian of the child depicted in the visual portrayals and there is no competent evidence to prove
2 an intent to use the visual portrayals for sexual gratification or sexual arousal from viewing the
3 visual portrayals.

4 (c) Severability. If any provision or provisions of this section, or the application of this
5 section to any person or circumstance is held invalid by a court of competent jurisdiction, that
6 invalidity does not affect the other provisions or applications of this section which can be given
7 effect without that invalid provision or provisions or application of the provision or provisions, and
8 to this end the provisions of this section are declared to be separable and severable.

9 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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1 This act would make it a misdemeanor to possess, transfer and/or produce child erotica for
2 the specific purpose of sexual gratification or sexual arousal, punishable by confinement in jail for
3 not more than one year, or fine of not more one thousand dollars (\$1,000), or both.

4 This act would take effect upon passage.

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