



General Assembly

February Session, 2020

Raised Bill No. 5525

LCO No. 3061



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

AN ACT PROTECTING CHILD PORNOGRAPHY VICTIMS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (c) of section 19a-343 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective October*
3 *1, 2020*):

4 (c) Three or more arrests, the issuance of three or more arrest
5 warrants indicating a pattern of criminal activity and not isolated
6 incidents or the issuance of three or more citations for a violation of a
7 municipal ordinance as described in subdivision (14) of this subsection,
8 for the following offenses shall constitute the basis for bringing an action
9 to abate a public nuisance:

10 (1) Prostitution under section 53a-82, 53a-83, 53a-86, 53a-87, 53a-88 or
11 53a-89.

12 (2) Promoting an obscene performance or obscene material under
13 section 53a-196 or 53a-196b, employing a minor in an obscene
14 performance under section 53a-196a, importing [child pornography]
15 child sexual exploitation material under section 53a-196c, as amended

16 by this act, possessing [child pornography] child sexual exploitation
17 material in the first degree under section 53a-196d, as amended by this
18 act, possessing [child pornography] child sexual exploitation material in
19 the second degree under section 53a-196e, as amended by this act, or
20 possessing [child pornography] child sexual exploitation material in the
21 third degree under section 53a-196f, as amended by this act.

22 (3) Transmission of gambling information under section 53-278b or
23 53-278d or maintaining of a gambling premises under section 53-278e.

24 (4) Offenses for the sale of controlled substances, possession of
25 controlled substances with intent to sell, or maintaining a drug factory
26 under section 21a-277, 21a-278 or 21a-278a or use of the property by
27 persons possessing controlled substances under section 21a-279.
28 Nothing in this section shall prevent the state from also proceeding
29 against property under section 21a-259 or 54-36h.

30 (5) Unauthorized sale of alcoholic liquor under section 30-74 or
31 disposing of liquor without a permit under section 30-77, or sale or
32 delivery of alcoholic liquor to any minor under subdivision (1) of
33 subsection (b) of section 30-86 or the sale, delivery or giving of alcoholic
34 liquor to a minor under subdivision (2) of subsection (b) of section 30-
35 86.

36 (6) Maintaining a motor vehicle chop shop under section 14-149a.

37 (7) Inciting injury to persons or property under section 53a-179a.

38 (8) Murder or manslaughter under section 53a-54a, 53a-54b, 53a-55,
39 53a-56 or 53a-56a.

40 (9) Assault under section 53a-59, 53a-59a, subdivision (1) of
41 subsection (a) of section 53a-60 or section 53a-60a or 53a-61.

42 (10) Sexual assault under section 53a-70 or 53a-70a.

43 (11) Fire safety violations under section 29-292, subsection (b) of
44 section 29-310, or section 29-315, 29-349 or 29-357.

45 (12) Firearm offenses under section 29-35, 53-202aa, 53-203, 53a-211,
46 53a-212, 53a-216, 53a-217 or 53a-217c.

47 (13) Illegal manufacture, sale, possession or dispensing of a drug
48 under subdivision (2) of section 21a-108.

49 (14) Violation of a municipal ordinance resulting in the issuance of a
50 citation for (A) excessive noise on nonresidential real property that
51 significantly impacts the surrounding area, provided the municipality's
52 excessive noise ordinance is based on an objective standard, (B) owning
53 or leasing a dwelling unit that provides residence to an excessive
54 number of unrelated persons resulting in dangerous or unsanitary
55 conditions that significantly impact the safety of the surrounding area,
56 or (C) impermissible operation of (i) a business that permits persons
57 who are not licensed pursuant to section 20-206b to engage in the
58 practice of massage therapy, or (ii) a massage parlor, as defined by the
59 applicable municipal ordinance, that significantly impacts the safety of
60 the surrounding area.

61 Sec. 2. Subdivision (13) of section 53a-193 of the general statutes is
62 repealed and the following is substituted in lieu thereof (*Effective October*
63 *1, 2020*):

64 (13) ["Child pornography"] "Child sexual exploitation material"
65 means any visual depiction including any photograph, film, videotape,
66 picture or computer-generated image or picture, whether made or
67 produced by electronic, digital, mechanical or other means, of sexually
68 explicit conduct, where the production of such visual depiction involves
69 the use of a person under sixteen years of age engaging in sexually
70 explicit conduct, provided whether the subject of a visual depiction was
71 a person under sixteen years of age at the time the visual depiction was
72 created is a question to be decided by the trier of fact.

73 Sec. 3. Section 53a-196c of the general statutes is repealed and the
74 following is substituted in lieu thereof (*Effective October 1, 2020*):

75 (a) A person is guilty of importing [child pornography] child sexual

76 exploitation material when, with intent to promote [child pornography]
77 child sexual exploitation material, such person knowingly imports or
78 causes to be imported into the state three or more visual depictions of
79 [child pornography] child sexual exploitation material of known
80 content and character.

81 (b) Importing [child pornography] child sexual exploitation material
82 is a class B felony and any person found guilty under this section shall
83 be sentenced to a term of imprisonment of which five years of the
84 sentence imposed may not be suspended or reduced by the court.

85 Sec. 4. Section 53a-196d of the general statutes is repealed and the
86 following is substituted in lieu thereof (*Effective October 1, 2020*):

87 (a) A person is guilty of possessing [child pornography] child sexual
88 exploitation material in the first degree when such person knowingly
89 possesses (1) fifty or more visual depictions of [child pornography] child
90 sexual exploitation material, or (2) one or more visual depictions of
91 [child pornography] child sexual exploitation material that depict the
92 infliction or threatened infliction of serious physical injury, or (3) (A) a
93 series of images in electronic, digital or other format, which is intended
94 to be displayed continuously, consisting of two or more frames, or a film
95 or videotape, consisting of two or more frames, that depicts (i) more
96 than one child engaging in sexually explicit conduct, or (ii) more than
97 one act of sexually explicit conduct by one or more children, or (B) any
98 combination of a (i) series of images in electronic, digital or other format,
99 which is intended to be displayed continuously, (ii) film, or (iii)
100 videotape, which series, film or videotape each consists of two or more
101 frames and depicts a single act of sexually explicit conduct by one child.

102 (b) In any prosecution for an offense under this section, it shall be an
103 affirmative defense that the acts of the defendant, if proven, would
104 constitute a violation of section 53a-196h, as amended by this act.

105 (c) Possessing [child pornography] child sexual exploitation material
106 in the first degree is a class B felony and any person found guilty under
107 this section shall be sentenced to a term of imprisonment of which five

108 years of the sentence imposed may not be suspended or reduced by the
109 court.

110 Sec. 5. Section 53a-196e of the general statutes is repealed and the
111 following is substituted in lieu thereof (*Effective October 1, 2020*):

112 (a) A person is guilty of possessing [~~child pornography~~] child sexual
113 exploitation material in the second degree when such person knowingly
114 possesses (1) twenty or more but fewer than fifty visual depictions of
115 [~~child pornography~~] child sexual exploitation material, or (2) a series of
116 images in electronic, digital or other format, which is intended to be
117 displayed continuously, consisting of twenty or more frames, or a film
118 or videotape, consisting of twenty or more frames, that depicts a single
119 act of sexually explicit conduct by one child.

120 (b) In any prosecution for an offense under this section, it shall be an
121 affirmative defense that the acts of the defendant, if proven, would
122 constitute a violation of section 53a-196h, as amended by this act.

123 (c) Possessing [~~child pornography~~] child sexual exploitation material
124 in the second degree is a class C felony and any person found guilty
125 under this section shall be sentenced to a term of imprisonment of which
126 two years of the sentence imposed may not be suspended or reduced by
127 the court.

128 Sec. 6. Section 53a-196f of the general statutes is repealed and the
129 following is substituted in lieu thereof (*Effective October 1, 2020*):

130 (a) A person is guilty of possessing [~~child pornography~~] child sexual
131 exploitation material in the third degree when such person knowingly
132 possesses (1) fewer than twenty visual depictions of [~~child~~
133 ~~pornography~~] child sexual exploitation material, or (2) a series of images
134 in electronic, digital or other format, which is intended to be displayed
135 continuously, consisting of fewer than twenty frames, or a film or
136 videotape, consisting of fewer than twenty frames, that depicts a single
137 act of sexually explicit conduct by one child.

138 (b) In any prosecution for an offense under this section, it shall be an

139 affirmative defense that the acts of the defendant, if proven, would
140 constitute a violation of section 53a-196h, as amended by this act.

141 (c) Possessing [child pornography] child sexual exploitation material
142 in the third degree is a class D felony and any person found guilty under
143 this section shall be sentenced to a term of imprisonment of which one
144 year of the sentence imposed may not be suspended or reduced by the
145 court.

146 Sec. 7. Section 53a-196g of the general statutes is repealed and the
147 following is substituted in lieu thereof (*Effective October 1, 2020*):

148 In any prosecution for a violation of section 53a-196d, as amended by
149 this act, 53a-196e, as amended by this act, 53a-196f, as amended by this
150 act, or 53a-196h, as amended by this act, it shall be an affirmative defense
151 that (1) the defendant (A) possessed fewer than three visual depictions,
152 other than a series of images in electronic, digital or other format, which
153 is intended to be displayed continuously, or a film or videotape, of [child
154 pornography] child sexual exploitation material, (B) did not knowingly
155 purchase, procure, solicit or request such visual depictions or
156 knowingly take any other action to cause such visual depictions to come
157 into the defendant's possession, and (C) promptly and in good faith, and
158 without retaining or allowing any person, other than a law enforcement
159 agency, to access any visual depiction or copy thereof, took reasonable
160 steps to destroy each such visual depiction or reported the matter to a
161 law enforcement agency and afforded that agency access to each such
162 visual depiction, or (2) the defendant possessed a visual depiction of a
163 nude person under sixteen years of age for a bona fide artistic, medical,
164 scientific, educational, religious, governmental or judicial purpose.

165 Sec. 8. Section 53a-196h of the general statutes is repealed and the
166 following is substituted in lieu thereof (*Effective October 1, 2020*):

167 (a) (1) No person who is under eighteen years of age may knowingly
168 possess any visual depiction of [child pornography] child sexual
169 exploitation material that the subject of such visual depiction knowingly
170 and voluntarily transmitted by means of an electronic communication

171 device to such person and in which the subject of such visual depiction
172 is a person under sixteen years of age.

173 (2) No person who is under sixteen years of age may knowingly and
174 voluntarily transmit by means of an electronic communication device a
175 visual depiction of [child pornography] child sexual exploitation
176 material in which such person is the subject of such visual depiction to
177 another person who is under eighteen years of age.

178 (b) As used in this section, ["child pornography"] "child sexual
179 exploitation material" and "visual depiction" have the same meanings as
180 provided in section 53a-193, as amended by this act, and "electronic
181 communication device" means any electronic device that is capable of
182 transmitting a visual depiction, including a computer, computer
183 network and computer system, as those terms are defined in section 53a-
184 250, and a cellular or wireless telephone.

185 (c) Any person who violates the provisions of this section shall be
186 guilty of a class A misdemeanor.

187 Sec. 9. Section 54-86m of the general statutes is repealed and the
188 following is substituted in lieu thereof (*Effective October 1, 2020*):

189 Notwithstanding the provisions of section 54-86a, in any criminal
190 proceeding, any property or material that constitutes [child
191 pornography] child sexual exploitation material shall remain in the care,
192 custody and control of the state, and a court shall deny any request by
193 the defendant to copy, photograph, duplicate or otherwise reproduce
194 any property or material that constitutes [child pornography] child
195 sexual exploitation material provided the attorney for the state makes
196 the property or material reasonably available to the defendant. Such
197 property or material shall be deemed to be reasonably available to the
198 defendant if the attorney for the state provides the defendant, the
199 defendant's attorney or any individual the defendant may seek to
200 qualify to furnish expert testimony at trial, ample opportunity for
201 inspection, viewing and examination of the property or material at a
202 state facility or at another facility agreed upon by the attorney for the

203 state and the defendant. For the purposes of this section, ["child
204 pornography"] "child sexual exploitation material" has the same
205 meaning as in section 53a-193, as amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2020</i>	19a-343(c)
Sec. 2	<i>October 1, 2020</i>	53a-193(13)
Sec. 3	<i>October 1, 2020</i>	53a-196c
Sec. 4	<i>October 1, 2020</i>	53a-196d
Sec. 5	<i>October 1, 2020</i>	53a-196e
Sec. 6	<i>October 1, 2020</i>	53a-196f
Sec. 7	<i>October 1, 2020</i>	53a-196g
Sec. 8	<i>October 1, 2020</i>	53a-196h
Sec. 9	<i>October 1, 2020</i>	54-86m

Statement of Purpose:

To replace the term "child pornography" with "child sexual exploitation material" throughout the general statutes.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]