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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 229

01/21/2021 Authored by Grossell and Novotny The bill was read for the first time and referred to the Committee on Public Safety and Criminal Justice Reform Finance and Policy

1.1 A bill for an act
1.2 relating to public safety; increasing penalties for creating, distributing, and
1.3 possessing sexually explicit materials involving children; amending Minnesota
1.4 Statutes 2020, sections 617.246, subdivisions 2, 4; 617.247, subdivisions 3, 4.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2020, section 617.246, subdivision 2, is amended to read:

1.7 Subd. 2. Use of minor. (a) It is unlawful for a person to promote, employ, use or permit
1.8 a minor to engage in or assist others to engage minors in posing or modeling alone or with
1.9 others in any sexual performance or pornographic work if the person knows or has reason
1.10 to know that the conduct intended is a sexual performance or a pornographic work.

1.11 Any person who violates this paragraph is guilty of a felony and ~~may be sentenced to~~
1.12 ~~imprisonment for not more than ten years or~~ shall be committed to the commissioner of
1.13 corrections for not less than 15 years, nor more than 25 years, and sentenced to payment of
1.14 a fine of not more than \$20,000, or both.

1.15 (b) A person who violates paragraph (a) is guilty of a felony and ~~may be sentenced to~~
1.16 ~~imprisonment for not more than 15 years or~~ shall be committed to the commissioner of
1.17 corrections for not less than 25 years, nor more than 30 years, and sentenced to payment of
1.18 a fine of not more than \$40,000, or both, if:

1.19 (1) the person has a prior conviction or delinquency adjudication for a sex offense, as
1.20 defined in section 609.3455, subdivision 1, paragraph (h), or violating this section or section
1.21 617.247; or

2.1 (2) the violation occurs when the person is a registered predatory offender under section  
2.2 243.166; ~~or.~~

2.3 ~~(3) the violation involved a minor under the age of 13 years.~~

2.4 Sec. 2. Minnesota Statutes 2020, section 617.246, subdivision 4, is amended to read:

2.5 Subd. 4. **Dissemination for profit.** (a) A person who, knowing or with reason to know  
2.6 its content and character, disseminates for profit to an adult or a minor a pornographic work,  
2.7 as defined in this section, is guilty of a felony and ~~may be sentenced to imprisonment for~~  
2.8 ~~not more than ten years, or~~ shall be committed to the commissioner of corrections for not  
2.9 less than ten years, nor more than 20 years, and sentenced to payment of a fine of not more  
2.10 than \$20,000, or both.

2.11 (b) A person who violates paragraph (a) is guilty of a felony and ~~may be sentenced to~~  
2.12 ~~imprisonment for not more than 15 years or~~ shall be committed to the commissioner of  
2.13 corrections for not less than 15 years, nor more than 25 years, and sentenced to payment of  
2.14 a fine of not more than \$40,000, or both, if:

2.15 (1) the person has a prior conviction or delinquency adjudication for a sex offense, as  
2.16 defined in section 609.3455, subdivision 1, paragraph (h), or violating this section or section  
2.17 617.247; or

2.18 (2) the violation occurs when the person is a registered predatory offender under section  
2.19 243.166; ~~or.~~

2.20 ~~(3) the violation involved a minor under the age of 13 years.~~

2.21 Sec. 3. Minnesota Statutes 2020, section 617.247, subdivision 3, is amended to read:

2.22 Subd. 3. **Dissemination or receipt prohibited.** (a) A person who disseminates  
2.23 pornographic work to an adult or a minor or receives a pornographic work, knowing or with  
2.24 reason to know its content and character, is guilty of a felony and ~~may be sentenced to~~  
2.25 ~~imprisonment for not more than seven years or~~ shall be committed to the commissioner of  
2.26 corrections for not less than five years, nor more than 20 years, and sentenced to payment  
2.27 of a fine of not more than \$10,000, or both.

2.28 (b) A person who violates paragraph (a) is guilty of a felony and ~~may be sentenced to~~  
2.29 ~~imprisonment for not more than 15 years or~~ shall be committed to the commissioner of  
2.30 corrections for not less than 15 years, nor more than 25 years, and sentenced to payment of  
2.31 a fine of not more than \$20,000, or both, if:

3.1 (1) the person has a prior conviction or delinquency adjudication for a sex offense, as  
 3.2 defined in section 609.3455, subdivision 1, paragraph (h), or violating this section or section  
 3.3 617.246; or

3.4 (2) the violation occurs when the person is a registered predatory offender under section  
 3.5 243.166; ~~or.~~

3.6 ~~(3) the violation involved a minor under the age of 13 years.~~

3.7 Sec. 4. Minnesota Statutes 2020, section 617.247, subdivision 4, is amended to read:

3.8 Subd. 4. **Possession prohibited.** (a) A person who possesses a pornographic work or a  
 3.9 computer disk or computer or other electronic, magnetic, or optical storage system or a  
 3.10 storage system of any other type, containing a pornographic work, knowing or with reason  
 3.11 to know its content and character, or attempts to access the same with the intent to view  
 3.12 pornographic work, is guilty of a felony and may be sentenced to imprisonment for not  
 3.13 more than ~~five~~ ten years ~~or~~ and sentenced to payment of a fine of not more than \$5,000, ~~or~~  
 3.14 ~~both.~~

3.15 (b) A person who violates paragraph (a) is guilty of a felony and may be sentenced to  
 3.16 imprisonment for not more than ~~ten~~ 15 years ~~or~~ and sentenced to payment of a fine of not  
 3.17 more than \$10,000, ~~or both~~, if:

3.18 (1) the person has a prior conviction or delinquency adjudication for a sex offense, as  
 3.19 defined in section 609.3455, subdivision 1, paragraph (h), or violating this section or section  
 3.20 617.246; or

3.21 (2) the violation occurs when the person is a registered predatory offender under section  
 3.22 243.166; ~~or.~~

3.23 ~~(3) the violation involved a minor under the age of 13 years.~~

3.24 (c) A person who violates paragraph (a) is guilty of a felony and may be sentenced to  
 3.25 imprisonment for not more than 20 years and sentenced to payment of a fine of not more  
 3.26 than \$20,000 if the violation involved a minor under the age of 13 years.