

SENATE
STATE OF MINNESOTA
NINETY-SECOND SESSION

S.F. No. 3894

(SENATE AUTHORS: INGEBRIGTSEN and Gazelka)

DATE
03/10/2022

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OFFICIAL STATUS
Introduction and first reading
Referred to Judiciary and Public Safety 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, section 617.247, subdivision 2, by adding a subdivision; Minnesota
 1.5 Statutes 2021 Supplement, sections 617.246, subdivisions 2, 4; 617.247,
 1.6 subdivisions 3, 4.

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

1.8 Section 1. Minnesota Statutes 2021 Supplement, section 617.246, subdivision 2, is amended
 1.9 to read:

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

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

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

2.1 (1) the person has a prior conviction or delinquency adjudication for a sex offense, as
 2.2 defined in section 609.3455, subdivision 1, paragraph (h), or violating this section or section
 2.3 617.247; or

2.4 (2) the violation occurs when the person is a registered predatory offender under section
 2.5 243.166; ~~or.~~

2.6 ~~(3) the violation involved a minor under the age of 14 years.~~

2.7 Sec. 2. Minnesota Statutes 2021 Supplement, section 617.246, subdivision 4, is amended
 2.8 to read:

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

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

2.19 (1) the person has a prior conviction or delinquency adjudication for a sex offense, as
 2.20 defined in section 609.3455, subdivision 1, paragraph (h), or violating this section or section
 2.21 617.247; or

2.22 (2) the violation occurs when the person is a registered predatory offender under section
 2.23 243.166; ~~or.~~

2.24 ~~(3) the violation involved a minor under the age of 14 years.~~

2.25 Sec. 3. Minnesota Statutes 2020, section 617.247, subdivision 2, is amended to read:

2.26 Subd. 2. **Definitions.** For purposes of this section, the following terms have the meanings
 2.27 given them:

2.28 (a) "Pornographic work" has the meaning given to it in section 617.246.

2.29 (b) "Receive" means to voluntarily and knowingly take into one's possession.

2.30 ~~(b)~~ (c) "Sexual conduct" has the meaning given to it in section 617.246.

3.1 Sec. 4. Minnesota Statutes 2021 Supplement, section 617.247, subdivision 3, is amended
3.2 to read:

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

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

3.13 (1) the person has a prior conviction or delinquency adjudication for a sex offense, as
3.14 defined in section 609.3455, subdivision 1, paragraph (h), or violating this section or section
3.15 617.246; or

3.16 (2) the violation occurs when the person is a registered predatory offender under section
3.17 243.166; ~~or.~~

3.18 ~~(3) the violation involved a minor under the age of 14 years.~~

3.19 Sec. 5. Minnesota Statutes 2021 Supplement, section 617.247, subdivision 4, is amended
3.20 to read:

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

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

3.31 (1) the person has a prior conviction or delinquency adjudication for a sex offense, as
3.32 defined in section 609.3455, subdivision 1, paragraph (h), or violating this section or section
3.33 617.246; or

4.1 (2) the violation occurs when the person is a registered predatory offender under section
4.2 243.166; ~~or.~~

4.3 ~~(3) the violation involved a minor under the age of 14 years.~~

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

4.7 Sec. 6. Minnesota Statutes 2020, section 617.247, is amended by adding a subdivision to
4.8 read:

4.9 Subd. 10. **Mandatory terms of probation.** If a person is convicted under subdivision
4.10 4, paragraph (a), and the court does not commit the offender to the custody of the
4.11 commissioner of corrections, the court must include the following as minimum conditions
4.12 of probation:

4.13 (1) incarceration in a local jail or workhouse for at least eight months;

4.14 (2) a requirement that the offender complete an appropriate sex offender treatment
4.15 program at the offender's own expense; and

4.16 (3) a requirement that the offender have no unsupervised contact with minors for not
4.17 less than five years.