

**2021 -- S 0502 SUBSTITUTE A**

LC002098/SUB A

**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, F 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) Definitions as used in this section:

5 (1) "Minor" means any person not having reached eighteen (18) years of age.

6 (2) "Produces" means produces, directs, manufactures, issues, publishes or advertises.

7 (3) "Visual portrayal" means any visual depiction as defined in § 11-9-1.3, including, but  
8 not limited to, any photograph, film, video, picture, or computer generated image or picture whether  
9 made or produced by electronic, mechanical, or other means.

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

16 (c) Affirmative defenses.

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

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

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

3           (A) Took reasonable steps to destroy each such visual portrayal; or

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

6           (iii) That the possessor, displayer or distributor of child erotica is the parent or legal  
7 guardian of the child depicted in the visual portrayals and there is no competent evidence to prove  
8 an intent to use the visual portrayals for sexual gratification or sexual arousal from viewing the  
9 visual portrayals.

10           (d) Severability. If any provision or provisions of this section, or the application of this  
11 section to any person or circumstance is held invalid by a court of competent authority, that  
12 invalidity does not affect the other provisions or applications of this section which can be given  
13 effect without that invalid provision or provisions or application of the provision or provisions, and  
14 to this end the provisions of this section are declared to be separable and severable.

15           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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