

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 84th General Assembly  
3 Regular Session, 2003  
4

*As Engrossed: S3/10/03*

# A Bill

SENATE BILL 416

5 By: Senators Gullett, Salmon, Whitaker, Luker, *Capps, Glover, Holt, G. Jeffress, Trusty*  
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## For An Act To Be Entitled

9 AN ACT CONCERNING COMPUTER CRIMES; AND FOR OTHER  
10 PURPOSES.

### Subtitle

11 AN ACT CONCERNING COMPUTER CRIMES.  
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16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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18 SECTION 1. Arkansas Code § 5-27-303 is amended to read as follows:

19 5-27-303. Engaging children in sexually explicit conduct for use in  
20 visual or print medium.

21 (a) Any person who employs, uses, persuades, induces, entices, or  
22 coerces any child to engage in, or who has a child assist any other person to  
23 engage in, any sexually explicit conduct for the purpose of producing any  
24 visual or print medium depicting such conduct shall be guilty of a Class ~~C~~ B  
25 felony for the first offense and a Class ~~B~~ A felony for subsequent offenses.

26 (b) Any parent, legal guardian, or person having custody or control of  
27 a child who knowingly permits such child to engage in, or to assist any other  
28 person to engage in sexually explicit conduct for the purpose of producing  
29 any visual or print medium depicting such conduct shall be guilty of a Class  
30 ~~C~~ B felony for the first offense and a Class ~~B~~ A felony for subsequent  
31 offenses.  
32

33 SECTION 2. Arkansas Code § 5-27-602(a), concerning distributing,  
34 possessing, or viewing matter depicting sexually explicit conduct involving a  
35 child, is amended to read as follows:

36 (a) A person commits distributing, possessing, or viewing of matter



1 depicting sexually explicit conduct involving a child if the person:

2 (1) Knowingly receives for the purpose of selling or knowingly  
3 sells, procures, manufactures, gives, provides, lends, trades, mails,  
4 delivers, transfers, publishes, distributes, circulates, disseminates,  
5 presents, exhibits, advertises, offers, or agrees to offer, through any  
6 means, including the Internet, any photograph, film, videotape, computer  
7 program or file, computer-generated image, video game, or any other  
8 reproduction or reconstruction which depicts a child or incorporates the  
9 image of a child engaging in sexually explicit conduct; or

10 (2) Knowingly possesses or views through any means, including on  
11 the Internet, any photograph, film, videotape, computer program or file,  
12 computer-generated image, video game, or any other reproduction, which  
13 depicts a child or incorporates the image of a child engaging in sexually  
14 explicit conduct.

15  
16 SECTION 3. Arkansas Code § 5-27-605 is amended to read as follows:

17 5-27-605. Computer exploitation of a child.

18 (a)(1) A person commits computer exploitation of a child in the first  
19 degree if the person causes or permits a child to engage in sexually explicit  
20 conduct if the person knows, has reason to know, or intends that the  
21 prohibited conduct may be photographed, filmed, reproduced, or reconstructed  
22 in any manner, including on the Internet, or may be part of an exhibition or  
23 performance.

24 (2)(A) Computer exploitation of a child in the first degree is a  
25 Class ~~C~~ B felony for the first offense.

26 (B) Computer exploitation of a child in the first degree  
27 is a Class ~~B~~ A felony for the second and subsequent offenses.

28 ~~(3) Computer exploitation of a child in the first degree shall~~  
29 ~~be a Class B felony if the person is the parent, guardian, or other person~~  
30 ~~legally charged with the care or custody of the child.~~

31 (b)(1) A person commits computer exploitation of a child in the second  
32 degree, if the person photographs or films a child engaged in sexually  
33 explicit conduct or uses any device, including a computer, to reproduce or  
34 reconstruct the image of a child engaged in sexually explicit conduct.

35 (2) Computer exploitation of a child in the second degree is a  
36 Class ~~D~~ C felony.

1  
2 SECTION 4. Arkansas Code Title 5, Chapter 41, Subchapter 1 is amended  
3 by adding an additional section to read as follows:

4 5-41-109. Disclosure of personal information.

5 An Internet service provider shall disclose personally identifiable  
6 information concerning a consumer pursuant to a subpoena, warrant, or court  
7 order issued under authority of a law of this state, another state, or the  
8 United States government.

9  
10 SECTION 5. Arkansas Code § 5-60-120, concerning interception and  
11 recording, is amended to add additional subsections to read as follows:

12 (f) Consistent with the provisions of 18 U.S.C. § 2703, as it existed  
13 on January 1, 2003, the issuance of a court order for disclosure of customer  
14 communications or records to a governmental entity requiring the information  
15 as part of an ongoing criminal investigation is not prohibited by the laws of  
16 this state.

17 (g) Consistent with the provisions of 18 U.S.C. §§ 3122-3127, as it  
18 existed on January 1, 2003, the issuance of a court order authorizing or  
19 approving the installation and use of a pen register or a trap-and-trace  
20 device as part of an ongoing criminal investigation is not prohibited by the  
21 laws of this state.

22  
23 SECTION 6. Arkansas Code § 5-1-109(h), concerning statutes of  
24 limitations, is amended to add additional subdivisions as follows:

25 (15) Computer child pornography, § 5-27-603; and

26 (16) Computer exploitation of a child in the first degree, § 5-  
27 27-605.

28  
29 SECTION 7. Arkansas Code § 6-17-410(c), concerning teacher licensure,  
30 is amended to add additional subdivisions to read as follows:

31 (30) Computer child pornography, § 5-27-603; and

32 (31) Computer exploitation of a child in the first degree, § 5-  
33 27-605.

34  
35 SECTION 8. Arkansas Code § 6-17-414(b)(1), concerning criminal records  
36 checks as a condition for initial employment of noncertified personnel, is

1 amended to add additional subdivisions as follows:

2 (DD) Computer child pornography, § 5-27-603; and  
3 (EE) Computer exploitation of a child in the first degree,  
4 § 5-27-605.

5

6 SECTION 9. Arkansas Code § 9-28-409(e)(1), concerning criminal record  
7 and child maltreatment checks, is amended to add additional subdivisions as  
8 follows:

9 (BB) Computer child pornography as prohibited in § 5-27-  
10 603; and

11 (CC) Computer exploitation of a child in the first degree  
12 as prohibited in § 5-27-605.

13

14 SECTION 10. Arkansas Code § 12-12-1103(10), concerning  
15 deoxyribonucleic acid (DNA) detection of sexual and violent offenders, is  
16 amended to add additional subdivisions as follows:

17 (xviii) Computer child pornography – § 5-27-603; and  
18 (xix) Computer exploitation of a child in the first  
19 degree – § 5-27-605.

20

21 SECTION 11. Arkansas Code § 16-90-1101(6), concerning the rights of  
22 crime victims, is amended to add additional subdivisions as follows:

23 (U) Computer child pornography, § 5-27-603; and  
24 (V) Computer exploitation of a child in the first degree,  
25 § 5-27-605.

26

27 SECTION 12. Arkansas Code § 17-27-313(f), concerning criminal  
28 background checks for counselors, is amended to add additional subdivisions  
29 as follows:

30 (33) Computer child pornography, as prohibited in § 5-27-603;  
31 and

32 (34) Computer exploitation of a child in the first degree, as  
33 prohibited in § 5-27-605.

34

35 SECTION 13. Arkansas Code § 17-87-312(f), concerning criminal  
36 background checks for nursing licenses, is amended to add additional

1 subdivisions as follows:

2 (33) Computer child pornography, as prohibited in § 5-27-603;

3 and

4 (34) Computer exploitation of a child in the first degree, as  
5 prohibited in § 5-27-605.

6

7 SECTION 14. Arkansas Code § 17-97-312(f), concerning criminal  
8 background checks for licensed psychologists, is amended to add additional  
9 subdivisions as follows:

10 (33) Computer child pornography, as prohibited in § 5-27-603;

11 and

12 (34) Computer exploitation of a child in the first degree, as  
13 prohibited in § 5-27-605.

14

15 SECTION 15. Arkansas Code § 17-103-307(f), concerning criminal  
16 background checks for licensed social workers, is amended to add additional  
17 subdivisions as follows:

18 (33) Computer child pornography, as prohibited in § 5-27-603; and

19 (34) Computer exploitation of a child in the first degree, as  
20 prohibited in § 5-27-605.

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22

23 SECTION 16. Arkansas Code § 20-13-1106(b), concerning criminal records  
24 checks for emergency medical technicians, is amended to add additional  
25 subdivisions as follows:

26 (36) Computer child pornography as prohibited in § 5-27-603; and

27 (37) Computer exploitation of a child in the first degree as  
28 prohibited in § 5-27-605.

29

30 SECTION 17. Arkansas Code § 20-33-205(b), concerning criminal records  
31 checks for persons providing care for the elderly, is amended to add  
32 additional subdivisions as follows:

33 (36) Computer child pornography, as prohibited in § 5-27-603;

34 and

35 (37) Computer exploitation of a child in the first degree, as  
36 prohibited in § 5-27-605.

1  
2 SECTION 18. Arkansas Code § 20-48-804(b), concerning criminal records  
3 checks for employees of providers of care to disabled adults, is amended to  
4 add additional subdivisions as follows:

- 5 (36) Computer child pornography, as prohibited in § 5-27-603;  
6 and  
7 (37) Computer exploitation of a child in the first degree, as  
8 prohibited in § 5-27-605.

9  
10 SECTION 19. Arkansas Code § 20-78-604(a), concerning qualifications  
11 for child care ownership, operation, or employment, is amended to add  
12 additional subdivisions as follows:

- 13 (31) Computer child pornography as prohibited in § 5-27-603; and  
14 (32) Computer exploitation of a child in the first degree as  
15 prohibited in § 5-27-605.

16  
17 SECTION 20. Arkansas Code § 21-15-102(f), concerning positions  
18 involving direct contact with children and with mentally ill and  
19 developmentally disabled persons, is amended to add additional subdivisions  
20 as follows:

- 21 (33) Computer child pornography, as prohibited in § 5-27-603;  
22 and  
23 (34) Computer exploitation of a child in the first degree, as  
24 prohibited in § 5-27-605.

25  
26 SECTION 21. Arkansas Code § 21-15-103(g), concerning the discharge of  
27 certain state employees, is amended to add additional subdivisions as  
28 follows:

- 29 (33) Computer child pornography, as prohibited in § 5-27-603;  
30 and  
31 (34) Computer exploitation of a child in the first degree, as  
32 prohibited in § 5-27-605.

33  
34 SECTION 22. Arkansas Code § 21-15-104(c), concerning certain  
35 background check offenses which may not be waived, is amended to add  
36 additional subdivisions as follows:

1                   (12) Computer child pornography, as prohibited in § 5-27-603;  
2 and  
3                   (13) Computer exploitation of a child in the first degree, as  
4 prohibited in § 5-27-605.

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*/s/ Gullett*