

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

A Bill

DRAFT SAG/KFW
SENATE BILL

5 By: Senator P. Malone
6

For An Act To Be Entitled

8 AN ACT TO ADDRESS THE PROBLEM OF JUVENILE POSSESSION
9 OF SEXUALLY EXPLICIT DIGITAL MATERIAL; AND FOR OTHER
10 PURPOSES.
11

Subtitle

14 TO ADDRESS JUVENILE POSSESSION OF
15 SEXUALLY EXPLICIT DIGITAL MATERIAL.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 SECTION 1. Arkansas Code Title 9, Chapter 25, Subchapter 1 is amended
21 to add additional sections to read as follows:

22 9-25-105. Possession of sexually explicit digital material.

23 (a) As used in this section:

24 (1) "Juvenile" means a person eighteen (18) years of age or
25 younger; and

26 (2) "Nudity" means a:

27 (A) Showing of the human male or female genitals, pubic
28 area, or buttocks with less than a fully opaque covering;

29 (B) Showing of the female breast with less than fully
30 opaque covering of any portion of the female breast below the top of the
31 nipple; or

32 (C) Depiction of covered male genitals in a discernibly
33 turgid state.

34 (3)(A) "Sexually explicit digital material" means any
35 photograph, digitized impact, or visual depiction of a juvenile in:

36 (i) In any condition of nudity; or

1 (ii) Involved in any prohibited sexual act.

2 (B) The distribution of sexually explicit digital material
3 by a juvenile may commonly be referred to as "sexting".

4 (b) A juvenile commits the offense of possession of sexually explicit
5 digital material if the juvenile intentionally creates, produces,
6 distributes, presents, transmits, posts, exchanges, disseminates, or
7 possesses through a computer, wireless communication device, or digital
8 media, any sexually explicit digital material.

9 (c) It is an affirmative defense to the offense of possession of
10 sexually explicit digital material that:

11 (1) A juvenile:

12 (A) Has not solicited the visual depiction;

13 (B) Does not subsequently distribute, present, transmit,
14 post, print, disseminate, or exchange the visual depiction; and

15 (C) Deletes or destroys the visual depiction upon receipt;

16 or

17 (2) A juvenile:

18 (A) Creates a visual depiction of himself or herself; and

19 (B) Does not subsequently distribute, present, transmit,
20 post, print, disseminate, or exchange the visual depiction.

21 (d) Possession of sexually explicit digital material is a Class A
22 misdemeanor.

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24 9-25-106. Education on the possession of sexually explicit digital
25 material.

26 (a) Each school district with the assistance of the Attorney General
27 shall produce and annually distribute to students in grades six through
28 twelve (6-12) and to their parents or guardians information on the dangers of
29 distributing explicit digital material through electronic means that
30 includes:

31 (1) A description of sexually explicit digital material;

32 (2) The legal ramifications of possession of sexually explicit
33 digital material; and

34 (3) The psychological and sociological implications of sexually
35 explicit digital material.

36 (b) Each school district may distribute the information required under

1 this section by any of the following methods, without limitation:

2 (1) Pamphlets;

3 (2) Posters;

4 (3) Instructional programs or assemblies; or

5 (4) Public meetings.

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