

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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BILL DRAFT 2007-LHz-23B [v.2] (12/18)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)  
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Short Title: Duty To Report Child Porn.

(Public)

Sponsors: Representative.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A RETAIL OR WHOLESALE FILM PROCESSOR, PHOTO FINISHER, OR COMPUTER TECHNICIAN WHO, IN THE COURSE OF WORK, ENCOUNTERS AN IMAGE OF A MINOR ENGAGING IN SEXUAL ACTIVITY MUST REPORT THE NAME OF THE CUSTOMER REQUESTING THE DEVELOPMENT OF THE FILM OR IN POSSESSION OF THE COMPUTER TO THE NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN AND TO THE APPROPRIATE LOCAL LAW ENFORCEMENT OFFICER.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 14-190.13 reads as rewritten:

**"§ 14-190.13. Definitions for certain offenses concerning minors.**

The following definitions apply to G.S. 14-190.14, displaying material harmful to minors; G.S. 14-190.15, disseminating or exhibiting to minors harmful material or performances; G.S. 14-190.16, first degree sexual exploitation of a minor; G.S. 14-190.17, second degree sexual exploitation of a minor; G.S. 14-190.17A, third degree sexual exploitation of a minor; G.S. 14-190.18, promoting prostitution of a minor; ~~and~~ G.S. 14-190.19, participating in prostitution of a ~~minor-minor~~, and G.S. 14-190.25, film processor or computer technician to report film or computer images containing pictures of a minor engaging in sexual activity.

(1) Harmful to Minors. – That quality of any material or performance that depicts sexually explicit nudity or sexual activity and that, taken as a whole, has the following characteristics:

- a. The average adult person applying contemporary community standards would find that the material or performance has a predominant tendency to appeal to a prurient interest of minors in sex; and

- 1                   b.     The average adult person applying contemporary community  
2                   standards would find that the depiction of sexually explicit  
3                   nudity or sexual activity in the material or performance is  
4                   patently offensive to prevailing standards in the adult  
5                   community concerning what is suitable for minors; and  
6                   c.     The material or performance lacks serious literary, artistic,  
7                   political, or scientific value for minors.
- 8           (2)   Material. – Pictures, drawings, video recordings, films or other visual  
9           depictions or representations but not material consisting entirely of  
10           written words.
- 11           (3)   Minor. – An individual who is less than 18 years old and is not  
12           married or judicially emancipated.
- 13           (4)   Prostitution. – Engaging or offering to engage in sexual activity with  
14           or for another in exchange for anything of value.
- 15           (5)   Sexual Activity. – Any of the following acts:  
16           a.     Masturbation, whether done alone or with another human or an  
17           animal.  
18           b.     Vaginal, anal, or oral intercourse, whether done with another  
19           human or with an animal.  
20           c.     Touching, in an act of apparent sexual stimulation or sexual  
21           abuse, of the clothed or unclothed genitals, pubic area, or  
22           buttocks of another person or the clothed or unclothed breasts  
23           of a human female.  
24           d.     An act or condition that depicts torture, physical restraint by  
25           being fettered or bound, or flagellation of or by a person clad in  
26           undergarments or in revealing or bizarre costume.  
27           e.     Excretory functions; provided, however, that this  
28           sub-subdivision shall not apply to G.S. 14-190.17A.  
29           f.     The insertion of any part of a person's body, other than the male  
30           sexual organ, or of any object into another person's anus or  
31           vagina, except when done as part of a recognized medical  
32           procedure.
- 33           (6)   Sexually Explicit Nudity. – The showing of:  
34           a.     Uncovered, or less than opaquely covered, human genitals,  
35           pubic area, or buttocks, or the nipple or any portion of the  
36           areola of the human female breast, except as provided in  
37           G.S. 14-190.9(b); or  
38           b.     Covered human male genitals in a discernibly turgid state."

39           **SECTION 2.** Article 26 of Chapter 14 of the General Statutes is amended by  
40           adding a new section to read:

41           "§ 14-190.25. Film processor or computer technician to report film or computer  
42           images containing pictures of a minor engaging in sexual activity.

43           Any retail or wholesale film processor or photo finisher who is requested to develop  
44           film and any computer technician working with a computer who views an image of a

1 minor or a person who appears to be a minor who is engaging in sexual activity shall  
2 report the name and address of the individual requesting the development of the film, or  
3 the owner or person in possession of the computer to the Cyber Tip Line at the National  
4 Center for Missing and Exploited Children and to the appropriate law enforcement  
5 official in the county or municipality in which the image or film was submitted. Any  
6 person complying with this section in good faith shall be immune from any civil or  
7 criminal liability that might otherwise be incurred as a result of the report."

8           **SECTION 3.** This act becomes effective December 1, 2007.