

Senate File 2136 - Introduced

SENATE FILE 2136

BY ALONS

A BILL FOR

1 An Act relating to sexual exploitation of a minor by the
2 creation, adaptation, or modification of a visual depiction
3 to give the appearance that an identifiable minor is engaged
4 in a prohibited sexual act or the simulation of a prohibited
5 sexual act, and making penalties applicable.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 728.12, subsection 3, Code 2024, is
2 amended to read as follows:

3 3. a. It shall be unlawful to knowingly purchase or possess
4 a visual depiction of a minor engaging in a prohibited sexual
5 act or the simulation of a prohibited sexual act.

6 b. A visual depiction containing pictorial representations
7 of different minors shall be prosecuted and punished as
8 separate offenses for each pictorial representation of a
9 different minor in the visual depiction. However, violations
10 of this subsection involving multiple visual depictions of the
11 same minor shall be prosecuted and punished as one offense.

12 c. A person who commits a violation of this subsection
13 commits a class "D" felony for a first offense and a class "C"
14 felony for a second or subsequent offense.

15 d. For purposes of this subsection, an offense is considered
16 a second or subsequent offense if, prior to the person's having
17 been convicted under this subsection, the person has a prior
18 conviction or deferred judgment under this subsection or has a
19 prior conviction or deferred judgment in another jurisdiction
20 for a substantially similar offense. The court shall
21 judicially notice the statutes of other states that define
22 offenses substantially similar to the offenses defined in this
23 subsection and that therefore can be considered corresponding
24 statutes.

25 e. Nothing in this subsection shall be construed to require
26 proof of the actual identity of the identifiable minor.

27 f. For purposes of this subsection, "visual depiction
28 of a minor" includes any visual depiction that has been
29 created, adapted, or modified to give the appearance that an
30 identifiable minor is engaged in a prohibited sexual act or the
31 simulation of a prohibited sexual act. An "identifiable minor"
32 is a person who was a minor at the time the visual depiction was
33 created, adapted, or modified, or whose image as a minor was
34 used in creating, adapting, or modifying the visual depiction
35 and is recognizable as an actual person by the person's face,

1 likeness, or other distinguishing features.

2 EXPLANATION

3 The inclusion of this explanation does not constitute agreement with
4 the explanation's substance by the members of the general assembly.

5 This bill relates to sexual exploitation of a minor by the
6 knowing use of a visual depiction of a minor to create, adapt,
7 or modify a photograph or film with the intent to falsely
8 depict the minor engaging in a prohibited sexual act or the
9 simulation of a prohibited sexual act.

10 Current law provides that it is unlawful to knowingly
11 purchase or possess a visual depiction of a minor engaging in a
12 prohibited sexual act or the simulation of a prohibited sexual
13 act.

14 The bill does not require proof of the actual identity of the
15 identifiable minor.

16 The bill provides that "visual depiction of a minor"
17 includes any visual depiction that has been created, adapted,
18 or modified to give the appearance that an identifiable minor
19 is engaged in a prohibited sexual act or the simulation of a
20 prohibited sexual act. An "identifiable minor" is a person
21 who was a minor at the time the visual depiction was created,
22 adapted, or modified, or whose image as a minor was used in
23 creating, adapting, or modifying the visual depiction and
24 is recognizable as an actual person by the person's face,
25 likeness, or other distinguishing features. "Visual depiction"
26 is defined in Code chapter 728 (obscenity) to include any
27 picture, slide, photograph, digital or electronic image,
28 negative image, undeveloped film, motion picture, videotape,
29 digital or electronic recording, live transmission, or other
30 pictorial or three-dimensional representation.

31 A violation of Code section 728.12(3) is a class "D" felony
32 for a first offense and a class "C" felony for a second or
33 subsequent offense. A class "D" felony is punishable by
34 confinement for no more than five years and a fine of at least
35 \$1,025 but not more than \$10,245. A class "C" felony is

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1 punishable by confinement for no more than 10 years and a fine
2 of at least \$1,370 but not more than \$13,660.