

- 28 (i) knowingly produces, possesses, or possesses with intent to distribute child
- 29 pornography; or
- 30 (ii) intentionally distributes or views child pornography; or
- 31 (b) if the person is a minor's parent or legal guardian and knowingly consents to or
- 32 permits the minor to be sexually exploited as described in Subsection (1)(a).
- 33 (2) Sexual exploitation of a minor is a second degree felony.
- 34 (3) It is a separate offense under this section:
- 35 (a) for each minor depicted in the child pornography; and
- 36 (b) for each time the same minor is depicted in different child pornography.
- 37 (4) It is an affirmative defense to a charge of violating this section that no person under
- 38 18 years of age was actually depicted in the visual depiction or used in producing or advertising
- 39 the visual depiction.
- 40 (5) In proving a violation of this section in relation to an identifiable minor, proof of
- 41 the actual identity of the identifiable minor is not required.
- 42 (6) This section may not be construed to impose criminal or civil liability on:
- 43 (a) any entity or an employee, director, officer, or agent of an entity when acting within
- 44 the scope of employment, for the good faith performance of:
- 45 (i) reporting or data preservation duties required under any federal or state law; or
- 46 (ii) implementing a policy of attempting to prevent the presence of child pornography
- 47 on any tangible or intangible property, or of detecting and reporting the presence of child
- 48 pornography on the property; ~~or~~
- 49 (b) any law enforcement officer acting within the scope of a criminal investigation~~[-];~~
- 50 (c) any employee of a court ~~H→~~ ~~[or an agency]~~ ~~←H~~ who may be required to view child
- 51 pornography during the course of and within the scope of the employee's employment;
- 52 (d) any juror who may be required to view child pornography during the course of the
- 53 person's service as a juror; or
- 54 (e) any attorney or employee of an attorney who is required to view child pornography
- 55 during the course of a judicial process and while acting within the scope of employment.

Legislative Review Note
Office of Legislative Research and General Counsel