

- 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) (a) Except as provided in Subsection (2)(b), sexual exploitation of a minor is a  
 34 second degree felony.
- 35 (b) A violation of Subsection (1) for knowingly producing child pornography is a first  
 36 degree felony if the person produces original child pornography depicting a first degree felony  
 37 that involves:
- 38 (i) the person or another person engaging in conduct with the minor that is a violation  
 39 of:
- 40 (A) Section 76-5-402.1, rape of a child;
- 41 (B) Section 76-5-402.3, object rape of a child;
- 42 (C) Section 76-5-403.1, sodomy on a child; or
- 43 (D) Section 76-5-404.1, aggravated sexual abuse of a child; or
- 44 (ii) the minor being physically abused, as defined in Section 78A-6-105.
- 45 (3) It is a separate offense under this section:
- 46 (a) for each minor depicted in the child pornography; and
- 47 (b) for each time the same minor is depicted in different child pornography.
- 48 (4) (a) It is an affirmative defense to a charge of violating this section that no minor  
 49 was actually depicted in the visual depiction or used in producing or advertising the visual  
 50 depiction.
- 51 (b) For a charge of violating this section for knowingly possessing or intentionally  
 52 viewing child pornography, it is an affirmative defense that:
- 53 (i) the defendant:
- 54 (A) did not solicit the child pornography from the minor ~~§~~ **depicted in the child**  
 54a **pornography** ~~←§~~ ; ~~§~~ **[and]** ~~←§~~
- 55 (B) is not more than two years older than the minor ~~§~~ **depicted in the child pornography**  
 55a **←§** ; and
- 55b ~~§~~ **(C) upon request of a law enforcement agent or the minor depicted in the child**  
 55c **pornography, removes from an electronic device or destroys the child pornography and all**  
 55d **copies of the child pornography in the defendant's possession; and** ~~←§~~
- 56 (ii) the child pornography does not depict an offense under Title 76, Chapter 5, Part 4,  
 57 Sexual Offenses.
- 58 (5) In proving a violation of this section in relation to an identifiable minor, proof of