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AN ACT CREATING THE OFFENSE OF USING AN INTERACTIVE COMPUTER SERVICE TO DISPLAY PORNOGRAPHY TO A MINOR.				

General Assembly

February Session, 2008

Raised Bill No. 363

LCO No. 2000

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Referred to Committee on Public Safety and Security

Introduced by:

(PS)

AN ACT CREATING THE OFFENSE OF USING AN INTERACTIVE COMPUTER SERVICE TO DISPLAY PORNOGRAPHY TO A MINOR.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. [Section 53a-193](#) is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

The following definitions are applicable to this section, [and] [sections 53a-194](#) to [53a-210](#), inclusive, and section 2 of this act:

(1) Any material or performance is "obscene" if, (A) taken as a whole, it predominantly appeals to the prurient interest, (B) it depicts or describes in a patently offensive way a prohibited sexual act, and (C) taken as a whole, it lacks serious literary, artistic, educational, political or scientific value. Predominant appeal shall be judged with reference to ordinary adults unless it appears from the character of the material or performance or the circumstances of its dissemination to be designed for some other specially susceptible audience. Whether a material or performance is obscene shall be judged by ordinary adults applying contemporary community standards. In applying contemporary community standards, the state of Connecticut is deemed to be the community.

(2) Material or a performance is "obscene as to minors" if it depicts a prohibited sexual act and, taken as a whole, it is harmful to minors. For purposes of this subdivision: (A) "Minor" means any person less than seventeen years old as used in [section 53a-196](#) and section 2 of this act and less than sixteen years old as used in sections 53a-196a of the 2008 supplement to the general statutes and 53a-196b, and (B) "harmful to minors" means that quality of any description or representation, in whatever form, of a prohibited sexual act, when (i) it predominantly appeals to the prurient, shameful or morbid interest of minors, (ii) it is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors, and (iii) taken as a whole, it lacks serious literary, artistic, educational, political or scientific value for minors.

(3) "Prohibited sexual act" means erotic fondling, nude performance, sexual excitement, sado-masochistic abuse, masturbation or sexual intercourse.

(4) "Nude performance" means the showing of the human male or female genitals, pubic area or

buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state in any play, motion picture, dance or other exhibition performed before an audience.

(5) "Erotic fondling" means touching a person's clothed or unclothed genitals, pubic area, buttocks, or if such person is a female, breast.

(6) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

(7) "Sado-masochistic abuse" means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

(8) "Masturbation" means the real or simulated touching, rubbing or otherwise stimulating a person's own clothed or unclothed genitals, pubic area, buttocks, or, if the person is female, breast, either by manual manipulation or with an artificial instrument.

(9) "Sexual intercourse" means intercourse, real or simulated, whether genital-genital, oral-genital, anal-genital or oral-anal, whether between persons of the same or opposite sex or between a human and an animal, or with an artificial genital.

(10) "Material" means anything tangible which is capable of being used or adapted to arouse prurient, shameful or morbid interest, whether through the medium of reading, observation, sound or in any other manner. Undeveloped photographs, molds, printing plates, and the like, may be deemed obscene notwithstanding that processing or other acts may be required to make the obscenity patent or to disseminate it.

(11) "Performance" means any play, motion picture, dance or other exhibition performed before an audience.

(12) "Promote" means to manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, advertise, produce, direct or participate in.

(13) "Child pornography" means any visual depiction including any photograph, film, videotape, picture or computer-generated image or picture, whether made or produced by electronic, mechanical or other means, of sexually explicit conduct, where the production of such visual depiction involves the use of a person under sixteen years of age engaging in sexually explicit conduct, provided whether the subject of a visual depiction was a person under sixteen years of age at the time the visual depiction was created is a question to be decided by the trier of fact.

(14) "Sexually explicit conduct" means actual or simulated (A) sexual intercourse, including genital-genital, oral-genital, anal-genital or oral-anal physical contact, whether between persons of the same or opposite sex, or with an artificial genital, (B) bestiality, (C) masturbation, (D) sadistic or masochistic abuse, or (E) lascivious exhibition of the genitals or pubic area of any person.

(15) "Visual depiction" includes undeveloped film and videotape and data, as defined in [subdivision \(8\) of section 53a-250](#), that is capable of conversion into a visual image and includes encrypted data.

Sec. 2. (NEW) (*Effective October 1, 2008*) (a) A person is guilty of using an interactive computer service to display obscenity to minors when such person uses an interactive computer service to knowingly promote to a minor any material or performance that is obscene as to minors.

(b) For purposes of this section, (1) "person" means an individual who is seventeen years of age or older, (2) "interactive computer service" means any information service, system or access software provider that provides or enables computer access by multiple users to a computer server, including a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions, and (3) "knowingly" means having general knowledge of or reason to know or a belief or ground for belief that warrants further inspection or inquiry as to (A) the character and content of any material or performance that is reasonably susceptible of examination by such person, and (B) the age of the minor.

(c) Using an interactive computer service to display obscenity to minors is a class A misdemeanor.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2008</i>	53a-193
Sec. 2	<i>October 1, 2008</i>	New section

Statement of Purpose:

To create the offense of using an interactive computer service to display obscenity to minors.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

This is an unofficial version of the legislative text. Some format and non-substantive changes have been made to the text to facilitate linking to statutes.