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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 3978

04/28/2016 Authored by Hancock, Green, Pugh, Lohmer, Johnson, B., and others

The bill was read for the first time and referred to the Committee on Public Safety and Crime Prevention Policy and Finance

1.1 A bill for an act
1.2 relating to public safety; prohibiting minors from possessing or disseminating
1.3 indecent images; allowing retroactive applications for relief; creating penalties;
1.4 proposing coding for new law in Minnesota Statutes, chapter 617.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. **[617.248] INDECENT IMAGES INVOLVING MINORS.**

1.7 Subdivision 1. **Offenses.** (a) It is unlawful for a minor to knowingly and voluntarily
1.8 use a computer or electronic or wireless communication device to transmit or disseminate
1.9 an image of oneself that depicts sexual conduct.

1.10 (b) It is unlawful for a minor to knowingly possess an image transmitted or
1.11 disseminated to the person in violation of paragraph (a). It shall not be a violation of this
1.12 paragraph if the person took reasonable steps to destroy or eliminate the image, whether or
1.13 not successful, or report the image to a parent, guardian, school official, or peace officer.

1.14 Subd. 2. **Penalties.** (a) A person who violates subdivision 1, paragraph (a), is
1.15 guilty of a misdemeanor. A second or subsequent violation under this paragraph is a
1.16 gross misdemeanor.

1.17 (b) A person who violates subdivision 1, paragraph (b), is guilty of a petty
1.18 misdemeanor. A second or subsequent violation under this paragraph is a misdemeanor.

1.19 Subd. 3. **Diversions; charges.** (a) A prosecutor shall offer pretrial diversion under
1.20 section 388.24 to a minor who has not previously been adjudicated delinquent for violating
1.21 this section and has not previously participated in a diversion program for any offense.

1.22 (b) A minor who violates this section and has not previously been adjudicated
1.23 delinquent for a violation of this section shall not be charged with or petitioned for an
1.24 offense arising out of the same circumstances under any other section of law.

2.1 Subd. 4. **Application for retroactive relief.** (a) Any person who, before reaching
2.2 the age of 18, was charged with or petitioned for a violation of section 617.247 and
2.3 convicted of or adjudicated delinquent of that offense or another offense arising out of the
2.4 same circumstances, may institute a proceeding applying for retroactive application of this
2.5 section. The court may grant a petition for retroactivity subject to the same procedures,
2.6 standards, and conditions for postconviction relief under section 590.01, subdivision 3.

2.7 (b) If a person is resentenced under this section, the person is not obligated to comply
2.8 with the collateral sanctions of the original conviction, including registration under section
2.9 243.166, unless the collateral sanction also applies to a conviction under this section.

2.10 Subd. 5. **Definitions.** For purposes of this section, the following terms have the
2.11 meanings given:

2.12 (1) "minor" means any person under the age of 18; and

2.13 (2) "sexual conduct" has the meaning provided in section 617.245, subdivision 1.

2.14 **EFFECTIVE DATE.** This section is effective the day following final enactment
2.15 and applies to offenses committed on or after that date, and to offenses committed before
2.16 that date if subdivision 4 applies.