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KLL

State of Minnesota HOUSE OF REPRESENTATIVES First Division Engrossment H. F. No. 341

NINETY-FIRST SESSION

01/24/2019	Authored by Mariani and Becker-Finn The bill was read for the first time and referred to the Committee on Ways and Means		
	Division Action		
03/13/2019	Referred by Chair to the Public Safety and Criminal Justice Reform Finance and Policy Division Division action, to adopt as amended and return to the Committee on Ways and Means		

1.1	A bill for an act
1.2 1.3	relating to public safety; increasing penalties for child pornography offenses; reviewing sentencing guidelines; amending Minnesota Statutes 2018, sections
1.4	617.246, subdivisions 2, 3, 4, 7; 617.247, subdivisions 3, 4, 9.
1.5	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
1.6	Section 1. Minnesota Statutes 2018, section 617.246, subdivision 2, is amended to read:
1.7	Subd. 2. Use of minor. (a) It is unlawful for a person to promote, employ, use or permit
1.8	a minor to engage in or assist others to engage minors in posing or modeling alone or with
1.9	others in any sexual performance or pornographic work if the person knows or has reason
1.10	to know that the conduct intended is a sexual performance or a pornographic work.
1.11	Any person who violates this subdivision paragraph is guilty of a felony and may be
1.12	sentenced to imprisonment for not more than ten years or to payment of a fine of not more
1.13	than \$20,000 for the first offense and \$40,000 for a second or subsequent offense, or both.
1.14	(b) A person who violates paragraph (a) is guilty of a felony and may be sentenced to
1.15	imprisonment for not more than 15 years or to payment of a fine of not more than \$40,000,
1.16	or both, if:
1.17	(1) the person has a prior conviction or delinquency adjudication for violating this section
1.18	or section 617.247;
1.19	(2) the violation occurs when the person is a registered predatory offender under section
1.20	<u>243.166; or</u>
1.21	(3) the violation involved a minor under the age of 13 years.

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2.1	EFFECTIVE DATE. This	s section is effective Augus	t 1, 2019, and a	applies to crimes
2.2	committed on or after that date	2.		
2.3	Sec. 2. Minnesota Statutes 20	018, section 617.246, subd	ivision 3, is am	ended to read:
2.4	Subd. 3. Operation or own	nership of business. <u>(a)</u> A	person who ow	ns or operates a
2.5	business in which a pornograp	hic work, as defined in this	s section, is diss	seminated to an
2.6	adult or a minor or is reproduc	ed, and who knows the cor	ntent and charac	eter of the
2.7	pornographic work disseminat	ed or reproduced, is guilty	of a felony and	may be sentenced
2.8	to imprisonment for not more	than ten years, or to payme	nt of a fine of r	ot more than
2.9	\$20,000 for the first offense ar	nd \$40,000 for a second or	subsequent offe	mse , or both.
2.10	(b) A person who violates	paragraph (a) is guilty of a	felony and may	be sentenced to
2.11	imprisonment for not more that	n 15 years or to payment of	f a fine of not m	ore than \$40,000,
2.12	or both, if:			
2.13	(1) the person has a prior co	nviction or delinquency adj	udication for vie	plating this section
2.14	or section 617.247;			
2.15	(2) the violation occurs who	en the person is a registered	predatory offer	nder under section
2.16	243.166; or			
2.17	(3) the violation involved a	a minor under the age of 13	years.	
2.18	EFFECTIVE DATE. This	s section is effective Augus	t 1, 2019, and a	applies to crimes
2.19	committed on or after that date	2.		
2.20	Sec. 3. Minnesota Statutes 20	018, section 617.246, subd	ivision 4, is am	ended to read:
2.21	Subd. 4. Dissemination. (a	n) A person who, knowing o	or with reason to	o know its content
2.22	and character, disseminates for	profit to an adult or a mino	r a pornographi	c work, as defined
2.23	in this section, is guilty of a fe	lony and may be sentenced	to imprisonme	nt for not more
2.24	than ten years, or to payment of	of a fine of not more than \$	20,000 for the	first offense and
2.25	\$40,000 for a second or subsec	quent offense, or both.		
2.26	(b) A person who violates	paragraph (a) is guilty of a	felony and may	be sentenced to
2.27	imprisonment for not more that	in 15 years or to payment of	f a fine of not m	ore than \$40,000,
2.28	or both, if:			
2.29	(1) the person has a prior co	nviction or delinquency adj	udication for vie	plating this section
2.30	or section 617.247;			

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3.1	(2) the violation occurs when	the person is a registered	predatory offe	nder under section
3.2	<u>243.166; or</u>			
3.3	(3) the violation involved a r	ninor under the age of 13	years.	
3.4	EFFECTIVE DATE. This s	section is effective Augus	st 1, 2019, and	applies to crimes
3.5	committed on or after that date.			
3.6	Sec. 4. Minnesota Statutes 201	18, section 617.246, subd	ivision 7, is am	ended to read:
3.7	Subd. 7. Conditional releas	e term. Notwithstanding	the statutory m	naximum sentence
3.8	otherwise applicable to the offer	nse or any provision of th	e sentencing g	uidelines, when a
3.9	court commits a person to the cu	stody of the commission	er of correction	s for violating this
3.10	section, the court shall provide t	hat after the person has b	een released fr	om prison, the
3.11	commissioner shall place the pe	rson on conditional releas	se for five years	s. If the person has
3.12	previously been convicted of a v	iolation of this section, se	ection 609.342,	609.343, 609.344,
3.13	609.345, 609.3451, 609.3453, o	r 617.247, or any similar	statute of the U	Jnited States, this
3.14	state, or any state, the commissi	oner shall place the perso	on on condition	al release for ten
3.15	15 years. The terms of condition	nal release are governed b	y section 609.3	3455, subdivision
3.16	8.			
3.17	EFFECTIVE DATE. This s	section is effective Augus	st 1, 2019, and	applies to crimes
3.18	committed on or after that date.			
3.19	Sec. 5. Minnesota Statutes 201	18, section 617.247, subd	ivision 3, is am	nended to read:
3.20	Subd. 3. Dissemination pro	hibited. (a) A person who) disseminates p	oornographic work
3.21	to an adult or a minor, knowing	or with reason to know it	is content and c	haracter, is guilty
3.22	of a felony and may be sentence	d to imprisonment for no	t more than sev	ven years and or to
3.23	payment of a fine of not more the	nan \$10,000 for a first off	ènse and for ne	t more than 15
3.24	years and a fine of not more that	n \$20,000 for a second or	: subsequent of	fense, or both.
3.25	(b) A person who violates pa	aragraph (a) is guilty of a	felony and may	y be sentenced to
3.26	imprisonment for not more than	15 years or to payment of	f a fine of not n	nore than \$20,000,
3.27	or both, if:			
3.28	(1) the person has a prior conv	viction or delinquency adj	udication for vi	olating this section
3.29	or section 617.246;			
3.30	(2) the violation occurs when	the person is a registered	l predatory offe	nder under section
3.31	243.166 <u>; or</u>			

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4.1	(3) the violation involved a minor under the age of 13 years.			
4.2	EFFECTIVE DATE. This set	ection is effective Augus	st 1, 2019, and a	pplies to crimes
4.3	committed on or after that date.			
4.4	Sec. 6. Minnesota Statutes 2018	8, section 617.247, subd	livision 4, is ame	ended to read:
4.5	Subd. 4. Possession prohibit	ed. (a) A person who po	ssesses a pornog	graphic work or a
4.6	computer disk or computer or oth	ner electronic, magnetic,	, or optical stora	ge system or a
4.7	storage system of any other type,	containing a pornograp	hic work, knowi	ng or with reason
4.8	to know its content and character, is guilty of a felony and may be sentenced to imprisonment			
4.9	for not more than five years and	or to payment of a fine of	of not more than	\$5,000 for a first
4.10	offense and for not more than ter	years and a fine of not	more than \$10,0	000 for a second
4.11	or subsequent offense, or both.			
4.12	(b) A person who violates par	cagraph (a) is guilty of a	felony and may	be sentenced to
4.13	imprisonment for not more than t	en years <u>or to payment c</u>	of a fine of not m	ore than \$10,000,
4.14	<u>or both, if:</u>			
4.15	(1) the person has a prior conv	iction or delinquency adj	udication for vio	lating this section
4.16	or section 617.246;			
4.17	(2) the violation occurs when	the person is a registered	l predatory offen	der under section
4.18	243.166 <u>; or</u>			
4.19	(3) the violation involved a m	ninor under the age of 13	3 years.	
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4.20	EFFECTIVE DATE. This se	ection is effective Augus	$\frac{51}{1}$, 2019, and a	pplies to crimes
4.21	committed on or after that date.			
4.22	Sec. 7. Minnesota Statutes 2013	8, section 617.247, subd	livision 9, is ame	ended to read:
4.23	Subd. 9. Conditional release	term. Notwithstanding	the statutory ma	aximum sentence
4.24	otherwise applicable to the offen	se or any provision of th	e sentencing gu	idelines, when a
4.25	court commits a person to the cus	stody of the commission	er of corrections	for violating this
4.26	section, the court shall provide th	hat after the person has b	been released fro	om prison, the
4.27	commissioner shall place the per-	son on conditional releas	se for five years.	. If the person has
4.28	previously been convicted of a vi	olation of this section, se	ection 609.342, 6	509.343, 609.344,

4.29 609.345, 609.3451, 609.3453, or 617.246, or any similar statute of the United States, this

- 4.30 state, or any state, the commissioner shall place the person on conditional release for ten
- 4.31 <u>15 years</u>. The terms of conditional release are governed by section 609.3455, subdivision
- 4.32 8.

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5.1	EFFECTIVE DATE. This	section is effective Augus	it 1, 2019, and a	pplies to crimes
5.2	committed on or after that date.			
5.3	Sec. 8. SENTENCING GUI	DELINES MODIFICAT	ION.	

- 5.4 The Sentencing Guidelines Commission shall comprehensively review and consider
- 5.5 modifying how the Sentencing Guidelines and the sex offender grid address the crimes
- 5.6 <u>described in Minnesota Statutes, sections 617.246 and 617.247, as compared to similar</u>

5.7 crimes, including other sex offenses and other offenses with similar maximum penalties.