

This Document can be made available in alternative formats upon request

State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 432

01/17/2023 Authored by Grossell, Novotny, Hudson, Knudsen, Wiens and others
The bill was read for the first time and referred to the Committee on Public Safety Finance and Policy

1.1 A bill for an act
1.2 relating to public safety; increasing penalties for creating, distributing, and
1.3 possessing sexually explicit materials involving children; amending Minnesota
1.4 Statutes 2022, sections 617.246, subdivisions 2, 4; 617.247, subdivisions 2, 3, 4,
1.5 by adding a subdivision.

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

1.7 Section 1. Minnesota Statutes 2022, section 617.246, subdivision 2, is amended to read:

1.8 Subd. 2. Use of minor. (a) It is unlawful for a person to promote, employ, use or permit
1.9 a minor to engage in or assist others to engage minors in posing or modeling alone or with
1.10 others in any sexual performance or pornographic work if the person knows or has reason
1.11 to know that the conduct intended is a sexual performance or a pornographic work.

1.12 Any person who violates this paragraph is guilty of a felony and ~~may be sentenced to~~
1.13 ~~imprisonment for not more than ten years or~~ shall be committed to the commissioner of
1.14 corrections for not less than ten years, nor more than 25 years, and sentenced to payment
1.15 of a fine of not more than \$20,000, or both.

1.16 (b) A person who violates paragraph (a) is guilty of a felony and ~~may be sentenced to~~
1.17 ~~imprisonment for not more than 15 years or~~ shall be committed to the commissioner of
1.18 corrections for not less than 15 years, nor more than 30 years, and sentenced to payment of
1.19 a fine of not more than \$40,000, or both, if:

1.20 (1) the person has a prior conviction or delinquency adjudication for a sex offense, as
1.21 defined in section 609.3455, subdivision 1, paragraph (h), or violating this section or section
1.22 617.247; or

2.1 (2) the violation occurs when the person is a registered predatory offender under section
2.2 243.166; ~~or~~.

2.3 ~~(3) the violation involved a minor under the age of 14 years.~~

2.4 Sec. 2. Minnesota Statutes 2022, section 617.246, subdivision 4, is amended to read:

2.5 Subd. 4. **Dissemination for profit.** (a) A person who, knowing or with reason to know
2.6 its content and character, disseminates for profit to an adult or a minor a pornographic work,
2.7 as defined in this section, is guilty of a felony and ~~may be sentenced to imprisonment for~~
2.8 ~~not more than ten years, or~~ shall be committed to the commissioner of corrections for not
2.9 less than five years, nor more than 20 years, and sentenced to payment of a fine of not more
2.10 than \$20,000, or both.

2.11 (b) A person who violates paragraph (a) is guilty of a felony and ~~may be sentenced to~~
2.12 ~~imprisonment for not more than 15 years or~~ shall be committed to the commissioner of
2.13 corrections for not less than ten years, nor more than 25 years, and sentenced to payment
2.14 of a fine of not more than \$40,000, or both, if:

2.15 (1) the person has a prior conviction or delinquency adjudication for a sex offense, as
2.16 defined in section 609.3455, subdivision 1, paragraph (h), or violating this section or section
2.17 617.247; or

2.18 (2) the violation occurs when the person is a registered predatory offender under section
2.19 243.166; ~~or~~.

2.20 ~~(3) the violation involved a minor under the age of 14 years.~~

2.21 Sec. 3. Minnesota Statutes 2022, section 617.247, subdivision 2, is amended to read:

2.22 Subd. 2. **Definitions.** For purposes of this section, the following terms have the meanings
2.23 given them:

2.24 (a) "Pornographic work" has the meaning given to it in section 617.246.

2.25 (b) "Receive" means to voluntarily and knowingly take into one's possession.

2.26 ~~(b)~~ (c) "Sexual conduct" has the meaning given to it in section 617.246.

2.27 Sec. 4. Minnesota Statutes 2022, section 617.247, subdivision 3, is amended to read:

2.28 Subd. 3. **Dissemination or receipt prohibited.** (a) A person who disseminates
2.29 pornographic work to an adult or a minor or receives a pornographic work, knowing or with
2.30 reason to know its content and character, is guilty of a felony and ~~may be sentenced to~~

3.1 ~~imprisonment for not more than seven years or~~ shall be committed to the commissioner of
 3.2 corrections for not less than three years, nor more than 20 years, and sentenced to payment
 3.3 of a fine of not more than \$10,000, or both.

3.4 (b) A person who violates paragraph (a) is guilty of a felony and ~~may be sentenced to~~
 3.5 ~~imprisonment for not more than 15 years or~~ shall be committed to the commissioner of
 3.6 corrections for not less than ten years, nor more than 25 years, and sentenced to payment
 3.7 of a fine of not more than \$20,000, or both, if:

3.8 (1) the person has a prior conviction or delinquency adjudication for a sex offense, as
 3.9 defined in section 609.3455, subdivision 1, paragraph (h), or violating this section or section
 3.10 617.246; or

3.11 (2) the violation occurs when the person is a registered predatory offender under section
 3.12 243.166; ~~or.~~

3.13 ~~(3) the violation involved a minor under the age of 14 years.~~

3.14 Sec. 5. Minnesota Statutes 2022, section 617.247, subdivision 4, is amended to read:

3.15 Subd. 4. **Possession prohibited.** (a) A person who possesses a pornographic work or a
 3.16 computer disk or computer or other electronic, magnetic, or optical storage system or a
 3.17 storage system of any other type, containing a pornographic work, knowing or with reason
 3.18 to know its content and character, or attempts to access the same with the intent to view
 3.19 pornographic work, is guilty of a felony and may be sentenced to imprisonment for not
 3.20 more than ~~five~~ ten years ~~or~~ and sentenced to payment of a fine of not more than \$5,000, or
 3.21 both.

3.22 (b) A person who violates paragraph (a) is guilty of a felony and may be sentenced to
 3.23 imprisonment for not more than ~~ten~~ 15 years ~~or~~ and sentenced to payment of a fine of not
 3.24 more than \$10,000, or both, if:

3.25 (1) the person has a prior conviction or delinquency adjudication for a sex offense, as
 3.26 defined in section 609.3455, subdivision 1, paragraph (h), or violating this section or section
 3.27 617.246; or

3.28 (2) the violation occurs when the person is a registered predatory offender under section
 3.29 243.166; ~~or.~~

3.30 ~~(3) the violation involved a minor under the age of 14 years.~~

4.1 (c) A person who violates paragraph (a) is guilty of a felony and may be sentenced to
4.2 imprisonment for not more than 20 years and sentenced to payment of a fine of not more
4.3 than \$20,000 if the violation involved a minor under the age of 13 years.

4.4 Sec. 6. Minnesota Statutes 2022, section 617.247, is amended by adding a subdivision to
4.5 read:

4.6 Subd. 10. **Mandatory terms of probation.** If a person is convicted under subdivision
4.7 4, paragraph (a), and the court does not commit the offender to the custody of the
4.8 commissioner of corrections, the court shall consider the following for inclusion as terms
4.9 or conditions of probation:

4.10 (1) incarceration in a local jail;

4.11 (2) completion of an appropriate sex offender or psycho-sexual offender evaluation,
4.12 with the requirement that all recommendations be successfully completed and complied
4.13 with; and

4.14 (3) at least one of the following:

4.15 (i) no contact with minors;

4.16 (ii) no unsupervised contact with minors with consideration of who supervises the minors
4.17 and how the minors are supervised; or

4.18 (iii) any contact with minors must be preapproved by the probation officer.