

HOUSE BILL REPORT

HB 1512

As Passed Legislature

Title: An act relating to sexual exploitation of minors.

Brief Description: Including computer images in the definition of "visual or printed matter."

Sponsors: By Representatives Sommers, Ballasiotes, O'Brien, Kagi, Lambert, Dickerson, Lisk, Lovick, Hurst, Delvin, Hankins, Keiser and Dunn.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 1/16/02 [DP].

Floor Activity:

Passed House: 2/11/02, 97-0.

Passed Senate: 3/5/02, 44-0.

Passed Legislature.

Brief Summary of Bill

- Expands the definition of "photograph" in the child pornography statutes to include "digital images" and "tangible or intangible" items.
- Grants civil immunity to persons who report in good faith to law enforcement any visual or printed matter depicting child pornography when processing or developing visual or printed matter or repairing or maintaining computers.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass. Signed by 7 members: Representatives O'Brien, Chair; Lovick, Vice Chair; Ahern, Ballasiotes; Kagi, Kirby and Morell.

Staff: Yvonne Walker (786-7841).

Background:

It is illegal to: (a) sexually exploit a minor for child pornography; (b) disseminate or otherwise deal in depictions of minors engaged in sexually explicit conduct; or (c) possess visual or printed matter depicting a minor engaged in sexually explicit conduct.

The term "visual or printed matter" is defined in statute as any photograph or other material that contains a reproduction of a photograph. "Photograph" is defined as "any tangible item produced by photographing."

In a 1999 case the Washington Court of Appeals, Division I, held that the crime of possessing child pornography includes possessing digital computer images of child pornography. The defendant in that case argued that the statute only applies to tangible items and does not apply to digitized information stored on a computer hard drive. The court rejected that argument, reasoning that the computerized images originated as photographs and, therefore, fall within the meaning of the statute, *State v. Rosul*, 95 Wn. App. 175 (1999). The defendant appealed, but the state supreme court has denied review of the case.

A person who, in the course of processing or developing visual or printed matter either privately or commercially, has reasonable cause to believe that the visual or printed matter depicts a minor engaged in sexually explicit conduct, must immediately report the incident, or cause a report to be made, to law enforcement. Failing to do so is a gross misdemeanor.

Summary of Bill:

The term "photograph" in the child pornography statutes is expanded to include digital images and both tangible and intangible items.

If in the course of repairing, modifying, or maintaining a computer that has been submitted either privately or commercially for repair, modification, or maintenance, a person has reasonable cause to believe that the computer stores visual or printed matter that depicts a minor engaged in sexually explicit conduct, the person may report the incident, or cause a report to be made, to law enforcement.

A person making a report in good faith, either during the repair or maintenance of a computer or during the processing or developing of visual or printed matter, is immune from civil liability resulting from the report.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: None.

Testimony Against: None.

Testified: None.