

Pornography and Child Exploitation Prevention

This Act addresses computer pornography involving children and creates the crime of obscene Internet contact with a child.

Submitted as:

Georgia

[HB 462 \(As Passed House and Senate\)](#)

Status: Enacted into law in 2003.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act may be cited as "An Act to Create the Crime of
2 Obscene Internet Contact with a Child."

3
4 Section 2. [*Computer Pornography and Children.*]

5 (a) As used in this Act:

6 (1) "Child" means any person under the age of 16 years.

7 (2) "Identifiable child" means a person:

8 (A) Who was a child at the time the visual depiction was created, adapted,
9 or modified or whose image as a child was used in creating, adapting, or modifying the visual
10 depiction; and

11 (B) Who is recognizable as an actual person by the person's face, likeness,
12 or other distinguishing characteristic, such as a unique birthmark or other recognizable feature or
13 by electronic or scientific means as may be available. The term shall not be construed to require
14 proof of the actual identity of the child.

15 (3) "Sadomasochistic abuse" has the same meaning as provided in [insert
16 citation].

17 (4) "Sexual conduct" has the same meaning as provided in [insert citation].

18 (5) "Sexual excitement" has the same meaning as provided in [insert citation].

19 (6) "Sexually explicit nudity" has the same meaning as provided in [insert
20 citation].

21 (7) "Visual depiction" means any image and includes undeveloped film and video
22 tape and data stored on computer disk or by electronic means which is capable of conversion into
23 a visual image or which has been created, adapted, or modified to show an identifiable child
24 engaged in sexually explicit conduct.

25 (b) (1) A person commits the offense of computer pornography if such person
26 intentionally or willfully:

27 (A) Compiles, enters into, or transmits by means of computer;

28 (B) Makes, prints, publishes, or reproduces by other computerized means;

29 (C) Causes or allows to be entered into or transmitted by means of
30 computer; or

31 (D) Buys, sells, receives, exchanges, or disseminates any notice,
32 statement, or advertisement, or any child's name, telephone number, place of residence, physical
33 characteristics, or other descriptive or identifying information for the purpose of offering or
34 soliciting sexual conduct of or with an identifiable child or the visual depiction of such conduct.

(2) Any person convicted of violating paragraph (1) of this subsection shall be punished by a fine of not more than [\$10,000] and by imprisonment for not less than [one] nor more than [20 years], or both.

(c) (1) It shall be unlawful for any person intentionally or willfully to utilize a computer on-line service, or Internet service, including but not limited to a local bulletin board service, Internet chat room, e-mail, or on-line messaging service to seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice a child or another person believed by such person to be a child, to commit any illegal act described in [insert citation], relating to the offense of sodomy or aggravated sodomy; relating to the offense of child molestation or aggravated child molestation; relating to the offense of enticing a child for indecent purposes; or [insert citation] relating to the offense of public indecency; or to engage in any conduct that by its nature is an unlawful sexual offense against a child.

(2) Any person who violates paragraph (1) of this subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than [one] nor more than [20 years] and by a fine of not more than [\$25,000]; provided, however, that, if at the time of the offense the victim was [14 or 15 years] old and the defendant was no more than [three years] older than the victim, then the defendant shall be guilty of a misdemeanor of a high and aggravated nature.

(d) (1) A person commits the offense of obscene Internet contact with a child if he or she has contact with someone he or she knows to be a child or with someone he or she believes to be a child via a computer on-line service or Internet service, including but not limited to a local bulletin board service, Internet chat room, e-mail, or on-line messaging service, and the contact involves any matter containing explicit verbal descriptions or narrative accounts of sexually explicit nudity, sexual conduct, sexual excitement, or sadomasochistic abuse that is intended to arouse or satisfy the sexual desire of either the child or the person, provided that no conviction shall be had for a violation of this subsection on the unsupported testimony of a child.

(2) Any person who violates paragraph (1) of this subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than [one] nor more than [ten years] or by a fine of not more than [\$10,000] provided, however, that, if at the time of the offense the victim was [14 or 15 years] old and the defendant was no more than [three years] older than the victim, then the defendant shall be guilty of a misdemeanor of a high and aggravated nature.

(e) (1) It shall be unlawful for any owner or operator of a computer on-line service, Internet service, or local bulletin board service intentionally or willfully to permit a subscriber to utilize the service to commit a violation of this section, knowing that such person intended to utilize such service to violate this section. No owner or operator of a public computer on-line service, Internet service, or local bulletin board service shall be held liable on account of any action taken in good faith in providing the aforementioned services.

(2) Any person who violates paragraph (1) of this subsection shall be guilty of a misdemeanor of a high and aggravated nature.

(f) The sole fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense under this section shall not constitute a defense to prosecution under this section.

(g) A person is subject to prosecution in this state pursuant to [insert citation], relating to jurisdiction over crimes and persons charged with commission of crimes generally, for any conduct made unlawful by this section which the person engages in while either within or outside of this state if, by such conduct, the person commits a violation of this section which involves a child who resides in this state or another person believed by such person to be a child residing in this state.

84 (h) Any violation of this section shall constitute a separate offense.

85

86 Section 3. [*Severability*.] [Insert severability clause.]

87

88 Section 4. [*Repealer*.] [Insert repealer clause.]

89

90 Section 5. [*Effective Date*.] [Insert effective date.]