



# House of Representatives

General Assembly

**File No. 42**

February Session, 2024

Substitute House Bill No. 5161

*House of Representatives, March 18, 2024*

The Committee on Children reported through REP. LINEHAN of the 103rd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT CONCERNING CHILD SEXUAL ABUSE MATERIAL.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (13) of section 53a-193 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective October*  
3 *1, 2024*):

4 (13) ["Child pornography"] "Child sexual abuse material" means any  
5 visual depiction including any photograph, film, videotape, picture or  
6 computer-generated image or picture, whether made or produced by  
7 electronic, digital, mechanical or other means, of sexually explicit  
8 conduct, where the production of such visual depiction involves the use  
9 of a person under sixteen years of age engaging in sexually explicit  
10 conduct, provided whether the subject of a visual depiction was a  
11 person under sixteen years of age at the time the visual depiction was  
12 created is a question to be decided by the trier of fact.

13 Sec. 2. Section 53a-196c of the general statutes is repealed and the  
14 following is substituted in lieu thereof (*Effective October 1, 2024*):

15 (a) A person is guilty of importing child [pornography] sexual abuse  
16 material when, with intent to promote child [pornography] sexual abuse  
17 material, such person knowingly imports or causes to be imported into  
18 the state three or more visual depictions of child [pornography] sexual  
19 abuse material of known content and character.

20 (b) Importing child [pornography] sexual abuse material is a class B  
21 felony and any person found guilty under this section shall be sentenced  
22 to a term of imprisonment of which five years of the sentence imposed  
23 may not be suspended or reduced by the court.

24 Sec. 3. Section 53a-196d of the general statutes is repealed and the  
25 following is substituted in lieu thereof (*Effective October 1, 2024*):

26 (a) A person is guilty of possessing child [pornography] sexual abuse  
27 material in the first degree when such person knowingly possesses (1)  
28 fifty or more visual depictions of child [pornography] sexual abuse  
29 material, or (2) one or more visual depictions of child [pornography]  
30 sexual abuse material that depict the infliction or threatened infliction  
31 of serious physical injury, or (3) (A) a series of images in electronic,  
32 digital or other format, which is intended to be displayed continuously,  
33 consisting of two or more frames, or a film or videotape, consisting of  
34 two or more frames, that depicts (i) more than one child engaging in  
35 sexually explicit conduct, or (ii) more than one act of sexually explicit  
36 conduct by one or more children, or (B) any combination of a (i) series  
37 of images in electronic, digital or other format, which is intended to be  
38 displayed continuously, (ii) film, or (iii) videotape, which series, film or  
39 videotape each consists of two or more frames and depicts a single act  
40 of sexually explicit conduct by one child.

41 (b) In any prosecution for an offense under this section, it shall be an  
42 affirmative defense that the acts of the defendant, if proven, would  
43 constitute a violation of section 53a-196h, as amended by this act.

44 (c) Possessing child [pornography] sexual abuse material in the first  
45 degree is a class B felony and any person found guilty under this section  
46 shall be sentenced to a term of imprisonment of which five years of the

47 sentence imposed may not be suspended or reduced by the court.

48 Sec. 4. Section 53a-196e of the general statutes is repealed and the  
49 following is substituted in lieu thereof (*Effective October 1, 2024*):

50 (a) A person is guilty of possessing child [pornography] sexual abuse  
51 material in the second degree when such person knowingly possesses  
52 (1) twenty or more but fewer than fifty visual depictions of child  
53 [pornography] sexual abuse material, or (2) a series of images in  
54 electronic, digital or other format, which is intended to be displayed  
55 continuously, consisting of twenty or more frames, or a film or  
56 videotape, consisting of twenty or more frames, that depicts a single act  
57 of sexually explicit conduct by one child.

58 (b) In any prosecution for an offense under this section, it shall be an  
59 affirmative defense that the acts of the defendant, if proven, would  
60 constitute a violation of section 53a-196h, as amended by this act.

61 (c) Possessing child [pornography] sexual abuse material in the  
62 second degree is a class C felony and any person found guilty under this  
63 section shall be sentenced to a term of imprisonment of which two years  
64 of the sentence imposed may not be suspended or reduced by the court.

65 Sec. 5. Section 53a-196f of the general statutes is repealed and the  
66 following is substituted in lieu thereof (*Effective October 1, 2024*):

67 (a) A person is guilty of possessing child [pornography] sexual abuse  
68 material in the third degree when such person knowingly possesses (1)  
69 fewer than twenty visual depictions of child [pornography] sexual  
70 abuse material, or (2) a series of images in electronic, digital or other  
71 format, which is intended to be displayed continuously, consisting of  
72 fewer than twenty frames, or a film or videotape, consisting of fewer  
73 than twenty frames, that depicts a single act of sexually explicit conduct  
74 by one child.

75 (b) In any prosecution for an offense under this section, it shall be an  
76 affirmative defense that the acts of the defendant, if proven, would  
77 constitute a violation of section 53a-196h, as amended by this act.

78 (c) Possessing child [pornography] sexual abuse material in the third  
79 degree is a class D felony and any person found guilty under this section  
80 shall be sentenced to a term of imprisonment of which one year of the  
81 sentence imposed may not be suspended or reduced by the court.

82 Sec. 6. Section 53a-196g of the general statutes is repealed and the  
83 following is substituted in lieu thereof (*Effective October 1, 2024*):

84 In any prosecution for a violation of section 53a-196d, as amended by  
85 this act, 53a-196e, as amended by this act, 53a-196f, as amended by this  
86 act, or 53a-196h, as amended by this act, it shall be an affirmative defense  
87 that (1) the defendant (A) possessed fewer than three visual depictions,  
88 other than a series of images in electronic, digital or other format, which  
89 is intended to be displayed continuously, or a film or videotape, of child  
90 [pornography] sexual abuse material, (B) did not knowingly purchase,  
91 procure, solicit or request such visual depictions or knowingly take any  
92 other action to cause such visual depictions to come into the defendant's  
93 possession, and (C) promptly and in good faith, and without retaining  
94 or allowing any person, other than a law enforcement agency, to access  
95 any visual depiction or copy thereof, took reasonable steps to destroy  
96 each such visual depiction or reported the matter to a law enforcement  
97 agency and afforded that agency access to each such visual depiction, or  
98 (2) the defendant possessed a visual depiction of a nude person under  
99 sixteen years of age for a bona fide artistic, medical, scientific,  
100 educational, religious, governmental or judicial purpose.

101 Sec. 7. Section 53a-196h of the general statutes is repealed and the  
102 following is substituted in lieu thereof (*Effective October 1, 2024*):

103 (a) (1) No person who is under eighteen years of age may knowingly  
104 possess any visual depiction of child [pornography] sexual abuse  
105 material that the subject of such visual depiction knowingly and  
106 voluntarily transmitted by means of an electronic communication  
107 device to such person and in which the subject of such visual depiction  
108 is a person under sixteen years of age.

109 (2) No person who is under sixteen years of age may knowingly and

110 voluntarily transmit by means of an electronic communication device a  
111 visual depiction of child [pornography] sexual abuse material in which  
112 such person is the subject of such visual depiction to another person  
113 who is under eighteen years of age.

114 (b) As used in this section, ["child pornography"] "child sexual abuse  
115 material" and "visual depiction" have the same meanings as provided in  
116 section 53a-193, as amended by this act, and "electronic communication  
117 device" means any electronic device that is capable of transmitting a  
118 visual depiction, including a computer, computer network and  
119 computer system, as those terms are defined in section 53a-250, and a  
120 cellular or wireless telephone.

121 (c) Any person who violates the provisions of this section shall be  
122 guilty of a class A misdemeanor.

123 Sec. 8. Section 54-86m of the general statutes is repealed and the  
124 following is substituted in lieu thereof (*Effective October 1, 2024*):

125 Notwithstanding the provisions of section 54-86a, in any criminal  
126 proceeding, any property or material that constitutes child  
127 [pornography] sexual abuse material shall remain in the care, custody  
128 and control of the state, and a court shall deny any request by the  
129 defendant to copy, photograph, duplicate or otherwise reproduce any  
130 property or material that constitutes child [pornography] sexual abuse  
131 material provided the attorney for the state makes the property or  
132 material reasonably available to the defendant. Such property or  
133 material shall be deemed to be reasonably available to the defendant if  
134 the attorney for the state provides the defendant, the defendant's  
135 attorney or any individual the defendant may seek to qualify to furnish  
136 expert testimony at trial, ample opportunity for inspection, viewing and  
137 examination of the property or material at a state facility or at another  
138 facility agreed upon by the attorney for the state and the defendant. For  
139 the purposes of this section, ["child pornography"] "child sexual abuse  
140 material" has the same meaning as in section 53a-193, as amended by  
141 this act.

142 Sec. 9. Subdivision (2) of subsection (c) of section 19a-343 of the  
143 general statutes is repealed and the following is substituted in lieu  
144 thereof (*Effective October 1, 2024*):

145 (2) Promoting an obscene performance or obscene material under  
146 section 53a-196 or 53a-196b, employing a minor in an obscene  
147 performance under section 53a-196a, importing child [pornography]  
148 sexual abuse material under section 53a-196c, as amended by this act,  
149 possessing child [pornography] sexual abuse material in the first degree  
150 under section 53a-196d, as amended by this act, possessing child  
151 [pornography] sexual abuse material in the second degree under section  
152 53a-196e, as amended by this act, or possessing child [pornography]  
153 sexual abuse material in the third degree under section 53a-196f, as  
154 amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2024</i>	53a-193(13)
Sec. 2	<i>October 1, 2024</i>	53a-196c
Sec. 3	<i>October 1, 2024</i>	53a-196d
Sec. 4	<i>October 1, 2024</i>	53a-196e
Sec. 5	<i>October 1, 2024</i>	53a-196f
Sec. 6	<i>October 1, 2024</i>	53a-196g
Sec. 7	<i>October 1, 2024</i>	53a-196h
Sec. 8	<i>October 1, 2024</i>	54-86m
Sec. 9	<i>October 1, 2024</i>	19a-343(c)(2)

**Statement of Legislative Commissioners:**

In Sections 1, 7 and 8, ""Child [pornography] sexual abuse material"" was changed to "[Child pornography]" "Child sexual abuse material"" for proper form.

**KID** Joint Favorable Subst. -LCO

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*The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.*

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**OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

**Explanation**

The bill, which replaces the phrase "child pornography" with "child sexual abuse material," does not result in a fiscal impact. This change does not alter how individuals who commit this crime may be prosecuted or charged.

**The Out Years**

**State Impact:** None

**Municipal Impact:** None

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**OLR Bill Analysis****HB 5161*****AN ACT CONCERNING CHILD SEXUAL ABUSE MATERIAL.*****SUMMARY**

This bill replaces the term “child pornography” with “child sexual abuse material” in statutes that define the term and criminalize the possession, importation, and transmission of this material. These offenses include 1st, 2nd, and 3rd degree possession; importing; and possession and transmission by a minor. In changing the terminology, the bill retains the elements of, and penalties for, these crimes.

The bill similarly changes this terminology in statutes that (1) provide an affirmative defense under certain circumstances for the 1st, 2nd, and 3rd degree and misdemeanor possession offenses; (2) address the state’s care, custody, and control of such material in criminal proceedings; and (3) specify the offenses that constitute the basis for bringing an action to abate a public nuisance.

EFFECTIVE DATE: October 1, 2024

**BACKGROUND*****Definition of Child Pornography***

By law, “child pornography” (“child sexual abuse material” under the bill) is any visual depiction (e.g., photograph, film, videotape, picture, or computer-generated image or picture) of sexually explicit conduct involving a person under age 16 engaging in sexually explicit conduct, whether made or produced electronically, digitally, mechanically, or by other means.

**COMMITTEE ACTION**

Committee on Children

Joint Favorable

Yea 15    Nay 2    (02/29/2024)