

CHAPTER 87**(HB 254)**

AN ACT relating to the sexual exploitation of minors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 531.335 is amended to read as follows:

- (1) A person is guilty of possession or viewing of matter portraying a sexual performance by a minor when, having knowledge of its content, character, and that the sexual performance is by a minor, he or she:
 - (a) Knowingly has in his or her possession or control any matter which visually depicts an actual sexual performance by a minor person; or
 - (b) Intentionally views any matter which visually depicts an actual sexual performance by a minor person.
- (2) The provisions of subsection (1)(b) of this section:
 - (a) Shall only apply to the deliberate, purposeful, and voluntary viewing of matter depicting sexual conduct by a minor person and not to the accidental or inadvertent viewing of such matter;
 - (b) Shall not apply to persons viewing the matter in the course of a law enforcement investigation or criminal or civil litigation involving the matter; and
 - (c) Shall not apply to viewing the matter by a minor or the minor's parents or guardians, or to school administrators investigating violations of subsection (1)(b) of this section.
- (3) Possession or viewing of matter portraying a sexual performance by a minor is:
 - (a) A Class D felony *if the person knows that the minor portrayed is less than eighteen (18) years old at the time of the sexual performance; and*
 - (b) A Class C felony *if the person knows that the minor portrayed is less than twelve (12) years old at the time of the sexual performance.*

➔Section 2. KRS 531.340 is amended to read as follows:

- (1) A person is guilty of distribution of matter portraying a sexual performance by a minor when, having knowledge of its content and character, he or she:
 - (a) Sends or causes to be sent into this state for sale or distribution; or
 - (b) Brings or causes to be brought into this state for sale or distribution; or
 - (c) In this state, he or she:
 1. Exhibits for profit or gain; or
 2. Distributes; or
 3. Offers to distribute; or
 4. Has in his or her possession with intent to distribute, exhibit for profit or gain or offer to distribute, any matter portraying a sexual performance by a minor.
- (2) Any person who has in his or her possession more than one (1) unit of material coming within the provision of KRS 531.300(2) shall be rebuttably presumed to have such material in his or her possession with the intent to distribute it.
- (3) Distribution of matter portraying a sexual performance by a minor is:
 - (a) A Class D felony for the first offense, and a Class C felony for each subsequent offense, *if the person knows that the minor portrayed is less than eighteen (18) years old at the time of the sexual performance; and*

- (b) *A Class C felony for the first offense, and a Class B felony for each subsequent offense, if the person knows that the minor portrayed is less than twelve (12) years old at the time of the sexual performance.*

Signed by Governor March 23, 2021.