



Reprinted
January 28, 2000

SENATE BILL No. 471

DIGEST OF SB 471 (Updated January 27, 2000 5:10 PM - DI 69)

Citations Affected: IC 35-42.

Synopsis: Possession of child pornography. Raises the penalty for possession of child pornography from a Class A misdemeanor to a Class D felony. Raises the penalty for child exploitation from a Class D felony to a Class C felony. (Under current law the penalty for child exploitation is a Class C felony only if it is committed by using a computer network.) Specifies that the laws concerning child exploitation, possession of child pornography, and obscenity and pornography apply to digitized images.

Effective: July 1, 2000.

**Ford, Adams K, Skillman, Zakas,
Mrvan, Craycraft, Blade, Lubbers,
Clark, Long**

January 10, 2000, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.
January 20, 2000, amended, reported favorably — Do Pass.
January 27, 2000, read second time, amended, ordered engrossed.

SB 471—LS 7087/DI 76+



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Second Regular Session 111th General Assembly (2000)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1999 General Assembly.

SENATE BILL No. 471

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 35-42-4-4 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. (a) As used in this
3 section:
4 "Disseminate" means to transfer possession for free or for a
5 consideration.
6 "Matter" has the same meaning as in IC 35-49-1-3.
7 "Performance" has the same meaning as in IC 35-49-1-7.
8 "Sexual conduct" means sexual intercourse, deviate sexual conduct,
9 exhibition of the uncovered genitals intended to satisfy or arouse the
10 sexual desires of any person, sado-masochistic abuse, sexual
11 intercourse or deviate sexual conduct with an animal, or any fondling
12 or touching of a child by another person or of another person by a child
13 intended to arouse or satisfy the sexual desires of either the child or the
14 other person.
15 (b) A person who knowingly or intentionally:
16 (1) manages, produces, sponsors, presents, exhibits, photographs,
17 films, ~~or~~ videotapes, **or creates a digitized image of** any

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1 performance or incident that includes sexual conduct by a child
 2 under eighteen (18) years of age; or
 3 (2) disseminates, exhibits to another person, offers to disseminate
 4 or exhibit to another person, or sends or brings into Indiana for
 5 dissemination or exhibition matter that depicts or describes sexual
 6 conduct by a child under eighteen (18) years of age;
 7 commits child exploitation, a ~~Class D~~ **Class C** felony. ~~However, the~~
 8 ~~offense is a Class E felony if it is committed by using a computer~~
 9 ~~network (as defined in IC 35-43-2-3(a)).~~

10 (c) A person who knowingly or intentionally possesses:

- 11 (1) a picture;
- 12 (2) a drawing;
- 13 (3) a photograph;
- 14 (4) a negative image;
- 15 (5) undeveloped film;
- 16 (6) a motion picture;
- 17 (7) a videotape; ~~or~~
- 18 **(8) a digitized image; or**
- 19 ~~(8)~~ **(9)** any pictorial representation;

20 that depicts or describes sexual conduct by a child who is less than
 21 sixteen (16) years of age, or appears to be less than sixteen (16) years
 22 of age, and that lacks serious literary, artistic, political, or scientific
 23 value commits possession of child pornography, a ~~Class A~~
 24 ~~misdemeanor.~~ **Class D felony.**

25 (d) Subsections (b) and (c) do not apply to a bona fide school,
 26 museum, or public library that qualifies for certain property tax
 27 exemptions under IC 6-1.1-10, or to an employee of such a school,
 28 museum, or public library acting within the scope of the employee's
 29 employment when the possession of the listed materials are for
 30 legitimate scientific or educational purposes.

31 SECTION 2. IC 35-49-1-3 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. "Matter" means:

- 33 (1) any book, magazine, newspaper, or other printed or written
 34 material;
- 35 (2) any picture, drawing, photograph, motion picture, **digitized**
 36 **image**, or other pictorial representation;
- 37 (3) any statue or other figure;
- 38 (4) any recording, transcription, or mechanical, chemical, or
 39 electrical reproduction; or
- 40 (5) any other articles, equipment, machines, or materials.

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SENATE MOTION

Mr. President: I move that Senators Lubbers and Clark be added as coauthors of Senate Bill 471.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Corrections, Criminal and Civil Procedures, to which was referred Senate Bill No. 471, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 6, strike "Class D" and insert "**Class C**".

Page 2, line 6, strike "However, the offense is".

Page 2, strike lines 7 through 8.

and when so amended that said bill do pass.

(Reference is to SB 471 as introduced.)

MEEKS R, Chairperson

Committee Vote: Yeas 8, Nays 2.

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SENATE MOTION

Mr. President: I move that Senator Long be added as coauthor of Senate Bill 471.

FORD

SENATE MOTION

Mr. President: I move that Senate Bill 471 be amended to read as follows:

Page 1, line 17, before "videotapes" strike "or".

Page 1, line 17, after "videotapes" insert ", **or creates a digitized image of**".

Page 2, line 16, strike "or".

Page 2, between lines 16 and 17, begin a new line block indented and insert:

"(8) a digitized image; or".

Page 2, line 17, strike "(8)" and insert "(9)".

Page 2, after line 28, begin a new paragraph and insert:

"SECTION 2. IC 35-49-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. "Matter" means:

- (1) any book, magazine, newspaper, or other printed or written material;
- (2) any picture, drawing, photograph, motion picture, **digitized image**, or other pictorial representation;
- (3) any statue or other figure;
- (4) any recording, transcription, or mechanical, chemical, or electrical reproduction; or
- (5) any other articles, equipment, machines, or materials."

(Reference is to SB 471 as printed January 21, 2000.)

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