

# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Engrossed House Bill 1083 be amended to read as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana code concerning
- 3 criminal law.
- 4 Page 1, between the enacting clause and line 1, begin a new
- 5 paragraph and insert:
- 6 "SECTION 1. IC 35-42-4-4, AS AMENDED BY P.L.216-2007,
- 7 SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 8 JULY 1, 2011]: Sec. 4. (a) As used in this section:
- 9 "Disseminate" means to transfer possession for free or for a
- 10 consideration.
- 11 "Matter" has the same meaning as in IC 35-49-1-3.
- 12 "Performance" has the same meaning as in IC 35-49-1-7.
- 13 "Sexual conduct" means sexual intercourse, deviate sexual conduct,
- 14 exhibition of the uncovered genitals intended to satisfy or arouse the
- 15 sexual desires of any person, sadomasochistic abuse, sexual intercourse
- 16 or deviate sexual conduct with an animal, or any fondling or touching
- 17 of a child by another person or of another person by a child intended to
- 18 arouse or satisfy the sexual desires of either the child or the other
- 19 person.
- 20 (b) A person who knowingly or intentionally:
- 21 (1) manages, produces, sponsors, presents, exhibits, photographs,
- 22 films, videotapes, or creates a digitized image of any performance
- 23 or incident that includes sexual conduct by a child under eighteen
- 24 (18) years of age;
- 25 (2) disseminates, exhibits to another person, offers to disseminate
- 26 or exhibit to another person, or sends or brings into Indiana for
- 27 dissemination or exhibition matter that depicts or describes sexual
- 28 conduct by a child under eighteen (18) years of age; or
- 29 (3) makes available to another person a computer, knowing that
- 30 the computer's fixed drive or peripheral device contains matter

1           that depicts or describes sexual conduct by a child less than  
2           eighteen (18) years of age;  
3       commits child exploitation, a Class C felony.

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

- 5           (1) a picture;  
6           (2) a drawing;  
7           (3) a photograph;  
8           (4) a negative image;  
9           (5) undeveloped film;  
10          (6) a motion picture;  
11          (7) a videotape;  
12          (8) a digitized image; or  
13          (9) any pictorial representation;

14       that depicts or describes sexual conduct by a child who the person  
15       knows is less than sixteen (16) years of age or who appears to be less  
16       than sixteen (16) years of age, and that lacks serious literary, artistic,  
17       political, or scientific value commits possession of child pornography,  
18       a Class D felony.

19       (d) Subsections (b) and (c) do not apply to a bona fide school,  
20       museum, or public library that qualifies for certain property tax  
21       exemptions under IC 6-1.1-10, or to an employee of such a school,  
22       museum, or public library acting within the scope of the employee's  
23       employment when the possession of the listed materials is for  
24       legitimate scientific or educational purposes.

25       **(e) It is a defense to a prosecution under this section that:**

- 26           **(1) the person is a school employee; and**  
27           **(2) the acts constituting the elements of the offense were**  
28           **performed solely within the scope of the person's employment**  
29           **as a school employee."**

30       Renumber all SECTIONS consecutively.

(Reference is to EHB 1083 as reprinted April 8, 2011.)

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Senator BANKS