

1 HOUSE BILL 236

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO CHILD PORNOGRAPHY; INCREASING THE PENALTY FOR  
12 POSSESSION OF PROHIBITED IMAGES DEPICTING A PROHIBITED SEXUAL  
13 ACT OR SIMULATION OF SUCH AN ACT BY A CHILD UNDER EIGHTEEN TO A  
14 SECOND DEGREE FELONY.

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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 30-6A-3 NMSA 1978 (being Laws 1984,  
18 Chapter 92, Section 3, as amended) is amended to read:

19 "30-6A-3. SEXUAL EXPLOITATION OF CHILDREN.--

20 A. It is unlawful for a person to intentionally  
21 possess any obscene visual or print medium depicting any  
22 prohibited sexual act or simulation of such an act if that  
23 person knows or has reason to know that the obscene medium  
24 depicts any prohibited sexual act or simulation of such act and  
25 if that person knows or has reason to know that one or more of

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1 the participants in that act is a child under eighteen years of  
2 age. A person who violates the provisions of this subsection  
3 is guilty of a [~~fourth~~] second degree felony.

4 B. It is unlawful for a person to intentionally  
5 distribute any obscene visual or print medium depicting any  
6 prohibited sexual act or simulation of such an act if that  
7 person knows or has reason to know that the obscene medium  
8 depicts any prohibited sexual act or simulation of such act and  
9 if that person knows or has reason to know that one or more of  
10 the participants in that act is a child under eighteen years of  
11 age. A person who violates the provisions of this subsection  
12 is guilty of a third degree felony.

13 C. It is unlawful for a person to intentionally  
14 cause or permit a child under eighteen years of age to engage  
15 in any prohibited sexual act or simulation of such an act if  
16 that person knows, has reason to know or intends that the act  
17 may be recorded in any obscene visual or print medium or  
18 performed publicly. A person who violates the provisions of  
19 this subsection is guilty of a third degree felony, unless the  
20 child is under the age of thirteen, in which event the person  
21 is guilty of a second degree felony.

22 D. It is unlawful for a person to intentionally  
23 manufacture any obscene visual or print medium depicting any  
24 prohibited sexual act or simulation of such an act if one or  
25 more of the participants in that act is a child under eighteen

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1 years of age. A person who violates the provisions of this  
2 subsection is guilty of a second degree felony.

3 E. It is unlawful for a person to intentionally  
4 manufacture any obscene visual or print medium depicting any  
5 prohibited sexual act or simulation of such an act if that  
6 person knows or has reason to know that the obscene medium  
7 depicts a prohibited sexual act or simulation of such an act  
8 and if that person knows or has reason to know that a real  
9 child under eighteen years of age, who is not a participant, is  
10 depicted as a participant in that act. A person who violates  
11 the provisions of this subsection is guilty of a fourth degree  
12 felony.

13 F. It is unlawful for a person to intentionally  
14 distribute any obscene visual or print medium depicting any  
15 prohibited sexual act or simulation of such an act if that  
16 person knows or has reason to know that the obscene medium  
17 depicts a prohibited sexual act or simulation of such an act  
18 and if that person knows or has reason to know that a real  
19 child under eighteen years of age, who is not a participant, is  
20 depicted as a participant in that act. A person who violates  
21 the provisions of this subsection is guilty of a third degree  
22 felony.

23 G. The penalties provided for in this section shall  
24 be in addition to those set out in Section 30-9-11 NMSA 1978."