



Senate

General Assembly

File No. 739

January Session, 2025

Substitute Senate Bill No. 1439

Senate, April 23, 2025

The Committee on Judiciary reported through SEN. WINFIELD of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE DEFINITION OF "CHILD SEXUAL ABUSE MATERIAL".

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

1 Section 1. Section 53a-193 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2025*):

3 The following definitions are applicable to this section and sections
4 53a-194 to 53a-210, inclusive:

5 (1) Any material or performance is "obscene" if, (A) taken as a whole,
6 it predominantly appeals to the prurient interest, (B) it depicts or
7 describes in a patently offensive way a prohibited sexual act, and (C)
8 taken as a whole, it lacks serious literary, artistic, educational, political
9 or scientific value. Predominant appeal shall be judged with reference
10 to ordinary adults unless it appears from the character of the material or
11 performance or the circumstances of its dissemination to be designed
12 for some other specially susceptible audience. Whether a material or
13 performance is obscene shall be judged by ordinary adults applying

14 contemporary community standards. In applying contemporary
15 community standards, the state of Connecticut is deemed to be the
16 community.

17 (2) Material or a performance is "obscene as to minors" if it depicts a
18 prohibited sexual act and, taken as a whole, it is harmful to minors. For
19 purposes of this subdivision: (A) "Minor" means any person less than
20 seventeen years old as used in section 53a-196 and less than sixteen
21 years old as used in sections 53a-196a and 53a-196b, and (B) "harmful to
22 minors" means that quality of any description or representation, in
23 whatever form, of a prohibited sexual act, when (i) it predominantly
24 appeals to the prurient, shameful or morbid interest of minors, (ii) it is
25 patently offensive to prevailing standards in the adult community as a
26 whole with respect to what is suitable material for minors, and (iii) taken
27 as a whole, it lacks serious literary, artistic, educational, political or
28 scientific value for minors.

29 (3) "Prohibited sexual act" means erotic fondling, nude performance,
30 sexual excitement, sado-masochistic abuse, masturbation or sexual
31 intercourse.

32 (4) "Nude performance" means the showing of the human male or
33 female genitals, pubic area or buttocks with less than a fully opaque
34 covering, or the showing of the female breast with less than a fully
35 opaque covering of any portion thereof below the top of the nipple, or
36 the depiction of covered male genitals in a discernibly turgid state in
37 any play, motion picture, dance or other exhibition performed before an
38 audience.

39 (5) "Erotic fondling" means touching a person's clothed or unclothed
40 genitals, pubic area, buttocks, or if such person is a female, breast.

41 (6) "Sexual excitement" means the condition of human male or female
42 genitals when in a state of sexual stimulation or arousal.

43 (7) "Sado-masochistic abuse" means flagellation or torture by or upon
44 a person clad in undergarments, a mask or bizarre costume, or the

45 condition of being fettered, bound or otherwise physically restrained on
46 the part of one so clothed.

47 (8) "Masturbation" means the real or simulated touching, rubbing or
48 otherwise stimulating a person's own clothed or unclothed genitals,
49 pubic area, buttocks, or, if the person is female, breast, either by manual
50 manipulation or with an artificial instrument.

51 (9) "Sexual intercourse" means intercourse, real or simulated,
52 whether genital-genital, oral-genital, anal-genital or oral-anal, whether
53 between persons of the same or opposite sex or between a human and
54 an animal, or with an artificial genital.

55 (10) "Material" means anything tangible which is capable of being
56 used or adapted to arouse prurient, shameful or morbid interest,
57 whether through the medium of reading, observation, sound or in any
58 other manner. Undeveloped photographs, molds, printing plates, and
59 the like, may be deemed obscene notwithstanding that processing or
60 other acts may be required to make the obscenity patent or to
61 disseminate it.

62 (11) "Performance" means any play, motion picture, dance or other
63 exhibition performed before an audience.

64 (12) "Promote" means to manufacture, issue, sell, give, provide, lend,
65 mail, deliver, transfer, transmit, publish, distribute, circulate,
66 disseminate, present, exhibit, advertise, produce, direct or participate in.

67 (13) "Child sexual abuse material" means any visual depiction
68 including any photograph, film, videotape, picture or computer-
69 generated image or picture, whether made or produced by electronic,
70 digital, mechanical or other means, of sexually explicit conduct, where
71 the production of such visual depiction involves the use of a person
72 under sixteen years of age, or the subject of such visual depiction
73 appears indistinguishable from a person under sixteen years of age,
74 engaging in sexually explicit conduct, provided whether the subject of
75 a visual depiction was a person under sixteen years of age at the time

76 the visual depiction was created is a question to be decided by the trier
77 of fact.

78 (14) "Sexually explicit conduct" means actual or simulated (A) sexual
79 intercourse, including genital-genital, oral-genital, anal-genital or oral-
80 anal physical contact, whether between persons of the same or opposite
81 sex, or with an artificial genital, (B) bestiality, (C) masturbation, (D)
82 sadistic or masochistic abuse, or (E) lascivious exhibition of the genitals
83 or pubic area of any person.

84 (15) "Visual depiction" includes undeveloped film and videotape and
85 data, as defined in subdivision (8) of section 53a-250, that is capable of
86 conversion into a visual image and includes encrypted data.

87 (16) A visual depiction of a subject when described as
88 "indistinguishable" means virtually indistinguishable, in that the visual
89 depiction is such that an ordinary person viewing the visual depiction
90 would conclude that the subject of the visual depiction is an actual
91 person under sixteen years of age engaging in sexually explicit conduct.
92 "Indistinguishable" is not applicable to a visual depiction that is a
93 drawing, cartoon, sculpture or painting of a person under sixteen years
94 of age.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2025	53a-193

JUD *Joint Favorable Subst.*

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.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 26 \$	FY 27 \$
Judicial Dept. (Probation); Correction, Dept.	GF - Potential Cost	Minimal	Minimal
Resources of the General Fund	GF - Potential Revenue Gain	Minimal	Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill expands the definition of "child sexual abuse material" which results in a potential cost to the Department of Correction and the Judicial Department for incarceration or probation and a potential revenue gain to the General Fund from fines.¹ This change impacts certain crimes ranging from a class A misdemeanor to a class B felony. On average, the marginal cost to the state for incarcerating an offender for the year is \$3,300² while the average marginal cost for supervision in the community is less than \$600³ each year for adults and \$450 each year for juveniles.

¹ There are currently 65 individuals incarcerated for these offenses. In FY 24, 81 charges were recorded and \$152 was collected in associated revenue under CGS §§ 53a-196c-f and 53a-196h.

² Inmate marginal cost is based on increased consumables (e.g., food, clothing, water, sewage, living supplies, etc.) This does not include a change in staffing costs or utility expenses because these would only be realized if a unit or facility opened.

³ Probation marginal cost is based on services provided by private providers and only includes costs that increase with each additional participant. This does not include a cost for additional supervision by a probation officer unless a new offense is anticipated to result in enough additional offenders to require additional probation officers.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation and the actual number of violations.

OLR Bill Analysis**sSB 1439*****AN ACT CONCERNING THE DEFINITION OF "CHILD SEXUAL ABUSE MATERIAL".*****SUMMARY**

Connecticut law generally criminalizes the importation, possession, or transmission of child sexual abuse material in any manner or through any medium. Under current law, "child sexual abuse material" is any visual depiction (e.g., photograph, film, videotape, picture, or computer-generated image or picture) of sexually explicit conduct involving in its production a person under age 16 engaging in sexually explicit conduct, whether made or produced electronically, digitally, mechanically, or by other means.

This bill expands what constitutes "child sexual abuse material" by specifically including any material where the subject of the visual depiction appears indistinguishable from a person under age 16. In doing so, the bill expands the types of visual depictions that could constitute the specific crimes of 1st, 2nd, and 3rd degree possession of child sexual abuse material; importation of child sexual abuse material; and possession and transmission of child sexual abuse material by a minor (see BACKGROUND).

Under the bill, "indistinguishable" means virtually indistinguishable, in that the visual depiction is such that an ordinary person viewing it would conclude that the subject in it is an actual person under age 16 engaging in sexually explicit conduct. It does not apply to visual depictions that are drawings, cartoons, sculptures, or paintings of a person under age 16.

Under existing law, which applies to the bill's provisions, it is an affirmative defense if the defendant possessed the visual depictions

under certain circumstances, such as for a bona fide artistic, medical, scientific, educational, religious, governmental, or judicial purpose (see BACKGROUND).

EFFECTIVE DATE: October 1, 2025

BACKGROUND

1st, 2nd, and 3rd Degree Possession of Child Sexual Abuse Material

By law, a person is guilty of possessing child sexual abuse material when he or she knowingly possesses visual depictions of, or certain images, film, or videotape depicting, child sexual abuse material in varying degrees depending on the number of depictions or if they depict physical injury.

The penalties range from a class B felony, punishable by a fine up to \$15,000, 1 to 20 years in prison, or both, with a five-year mandatory minimum prison term, to a class D felony, punishable by a fine up to \$5,000, up to 5 years in prison, or both, with a one-year mandatory minimum prison term.

Importing Child Sexual Abuse Material

By law, a person is guilty of importing child sexual abuse material when, with intent to promote child sexual abuse material, he or she knowingly imports or causes to be imported into the state three or more visual depictions of child sexual abuse material of known content and character. This is a class B felony, with a five-year mandatory minimum prison term (CGS § 53a-196c).

Possessing or Transmitting Child Sexual Abuse Material by a Minor

Under the law, it is a crime for a person under age 18 to knowingly possess a visual depiction of child sexual abuse material when the subject of the visual depiction is a child under age 16 who knowingly and voluntarily transmitted the depiction to that person by an electronic communication device. Relatedly, the law prohibits a child under age 16 from knowingly and voluntarily using an electronic communication

device to transmit a visual depiction of child sexual abuse material in which he or she is the subject to another person who is under age 18.

By law, possessing or transmitting child sexual abuse material by a minor is a class A misdemeanor, punishable by a fine up to \$2,000, up to 364 days in prison, or both (CGS § 53a-196h).

Affirmative Defense

Under existing law, it is generally an affirmative defense that the defendant (1) possessed less than three visual depictions; (2) did not knowingly take certain actions to possess the depictions; and (3) promptly, in good faith, took reasonable steps to destroy the depictions or reported the matter to law enforcement.

It is also an affirmative defense if the defendant possessed a visual depiction of a nude person under age 16 for a bona fide artistic, medical, scientific, educational, religious, governmental, or judicial purpose or the defendant (CGS § 53a-196g).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 41 Nay 0 (04/08/2025)