

HOUSE No. 3528

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to protecting children from exploitation..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Paragraph (a) of Section 29A of chapter 272 of the General Laws, as
2 appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 9-10, the
3 words:— “or by a fine of not less than ten thousand nor more than fifty thousand dollars, or by
4 both such fine and imprisonment” and inserting in place thereof the following words:— “, and
5 whoever, either with knowledge that a person is a child under fourteen years of age or while in
6 possession of such facts that he should have reason to know that such person is a child under
7 fourteen years of age, and with lascivious intent, hires, coerces, solicits or entices, employs,
8 procures, uses, causes, encourages, or knowingly permits such child to pose or be exhibited in a
9 state of nudity, for the purpose of representation or reproduction in any visual material, shall be
10 punished by imprisonment in the state prison for a term of not less than ten years nor more than
11 twenty-five years. The provisions of section 87 of chapter 276 relating to the power of the court
12 to place certain offenders on probation shall not apply to any person charged with a violation of
13 this section.”

14 SECTION 2. Paragraph (b) of Section 29A of chapter 272 of the General Laws, as
15 appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 7-10, the
16 words:— “shall be punished by imprisonment in the state prison for a term of not less than ten
17 nor more than twenty years, or by a fine of not less than ten thousand nor more than fifty
18 thousand dollars, or by both such fine and imprisonment” and inserting in place thereof the
19 following words:— “shall be punished by imprisonment in the state prison for a term of not less
20 than fifteen nor more than twenty-five years, and whoever, either with knowledge that a person
21 is a child under fourteen years of age or while in possession of such facts that he should have
22 reason to know that such person is a child under fourteen years of age, and hires, coerces, solicits
23 or entices, employs, procures, uses, causes, encourages, or knowingly permits such child to
24 participate or engage in any act that depicts, describes, or represents sexual conduct for the
25 purpose of representation or reproduction in any visual material, or to engage in any live
26 performance involving sexual conduct, shall be punished by imprisonment in the state prison for
27 a term of not less than twenty years nor more than thirty years. The provisions of section 87 of
28 chapter 276 relating to the power of the court to place certain offenders on probation shall not
29 apply to any person charged with a violation of this section.”

30 SECTION 3. Section 29A(d) of chapter 272, as appearing in the 2006 Official Edition,
31 is hereby amended by adding, following the word “eighteen” in line 26, the following:— “or
32 under fourteen”.

33 SECTION 4. Paragraph (a) of Section 29B of chapter 272 of the General Laws, as
34 appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 9-13, the
35 words:— “shall be punished in the state prison for a term of not less than ten nor more than
36 twenty years or by a fine of not less than ten thousand nor more than fifty thousand dollars or

37 three times the monetary value of any economic gain derived from said dissemination, whichever
38 is greater, or by both such fine and imprisonment” and inserting in place thereof the following
39 words:— “for the first offense, shall be punished in the state prison for a term of not less than ten
40 years nor more than twenty years or by a fine of not less than fifty thousand dollars or ten times
41 the monetary value of any economic gain derived from said dissemination, whichever is greater,
42 or by both such fine and imprisonment; a second or subsequent violation of this section shall be
43 punished in the state prison for a term of not less than fifteen years nor more than twenty years.”

44 SECTION 5. Paragraph (b) of Section 29B of chapter 272 of the General Laws, as
45 appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 22-26, the
46 words:— “shall be punished in the state prison for a term of not less than ten nor more than
47 twenty years or by a fine of not less than ten thousand nor more than fifty thousand dollars or
48 three times the monetary value of any economic gain derived from said dissemination, whichever
49 is greater, or by both such fine and imprisonment” and inserting in place thereof the following
50 words:— “shall be punished in the state prison for a term of not less than ten years nor more than
51 twenty years. The provisions of section 87 of chapter 276 relating to the power of the court to
52 place certain offenders on probation shall not apply to any person charged with a violation of this
53 section.”

54 SECTION 6. Paragraph (vii) of Section 29C of chapter 272 of the General Laws, as
55 appearing in the 2006 Official Edition, is hereby amended by striking out, in lines in lines 23-32,
56 the words:— “shall be punished by imprisonment in the state prison for not more than five years
57 or in a jail or house of correction for not more than two and one-half years or by a fine of not less
58 than \$1,000 nor more than \$10,000, or by both such fine and imprisonment for the first offense,
59 not less than five years in a state prison or by a fine of not less than \$5,000 nor more than

60 \$20,000, or by both such fine and imprisonment for the second offense, not less than 10 years in
61 a state prison or by a fine of not less than \$10,000 nor more than \$30,000, or by both such fine
62 and imprisonment for the third and subsequent offenses” and inserting in place thereof the
63 following words:— “shall be punished by imprisonment in the state prison or in a jail or house of
64 correction for a term of not less than two years or by a fine of not less than \$10,000 nor more
65 than \$30,000, or by both such fine and imprisonment for the first offense, not less than five years
66 in a state prison or by a fine of not less than \$50,000 nor more than \$100,000, or by both such
67 fine and imprisonment for the second offense, not less than ten years in a state prison for the
68 third and subsequent offenses.”