HOUSE DOCKET, NO. FILED ON: 1/13/2009

**HOUSE . . . . . . . . . . . . . . No.**

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The Commonwealth of Massachusetts

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PRESENTED BY:

**Karyn E. Polito**

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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General
 Court assembled:*

 The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to protecting children from exploitation.

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

PETITION OF:

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| --- | --- |
| Name: | District/Address: |
| Karyn E. Polito | 11th Worcester |

The Commonwealth of Massachusetts

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**In the Year Two Thousand and 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:*

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

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

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

SECTION 4. Paragraph (a) of Section 29B of chapter 272 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 9-13, the words:— “shall be punished in the state prison for a term of not less than ten nor more than twenty years or by a fine of not less than ten thousand nor more than fifty thousand dollars or three times the monetary value of any economic gain derived from said dissemination, whichever is greater, or by both such fine and imprisonment” and inserting in place thereof the following words:— “for the first offense, shall be punished in the state prison for a term of not less than ten years nor more than twenty years or by a fine of not less than fifty thousand dollars or ten times the monetary value of any economic gain derived from said dissemination, whichever is greater, or by both such fine and imprisonment; a second or subsequent violation of this section shall be punished in the state prison for a term of not less than fifteen years nor more than twenty years.”

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

SECTION 6. Paragraph (vii) of Section 29C of chapter 272 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines in lines 23-32, the words:— “shall be punished by imprisonment in the state prison for not more than five years or in a jail or house of correction for not more than two and one-half years or by a fine of not less than $1,000 nor more than $10,000, or by both such fine and imprisonment for the first offense, not less than five years in a state prison or by a fine of not less than $5,000 nor more than $20,000, or by both such fine and imprisonment for the second offense, not less than 10 years in a state prison or by a fine of not less than $10,000 nor more than $30,000, or by both such fine and imprisonment for the third and subsequent offenses” and inserting in place thereof the following words:— “shall be punished by imprisonment in the state prison or in a jail or house of correction for a term of not less than two years or by a fine of not less than $10,000 nor more than $30,000, or by both such fine and imprisonment for the first offense, not less than five years in a state prison or by a fine of not less than $50,000 nor more than $100,000, or by both such fine and imprisonment for the second offense, not less than ten years in a state prison for the third and subsequent offenses.”