**South Carolina General Assembly**

125th Session, 2023-2024

**H. 4972**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Felder, Bernstein, Calhoon, Guffey and Taylor

Companion/Similar bill(s): 996

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Introduced in the House on January 30, 2024

Currently residing in the House

Summary: Obscene visual representations of child sexual abuse

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 1/30/2024 House Introduced and read first time (House Journal‑page 8)

 1/30/2024 House Referred to Committee on **Judiciary** (House Journal‑page 8)

 2/6/2024 House Member(s) request name added as sponsor: Guffey,
 Taylor

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**VERSIONS OF THIS BILL**

[01/30/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/4972_20240130.docx)

[01/30/2024-A](https://www.scstatehouse.gov/sess125_2023-2024/prever/4972_20240130a.docx)

[01/30/2024-B](https://www.scstatehouse.gov/sess125_2023-2024/prever/4972_20240130b.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 16‑15‑390 SO AS TO provide that it is unlawful to produce or distribute OBSCENE VISUAL REPRESENTATIONS OF CHILD SEXUAL ABUSE, or to possess such obscene visual representation, to DEFINE NECESSARY TERMS, AND to ESTABLISH PENALTIES FOR VIOLATIONS; AND BY AMENDING SECTION 23‑3‑430, RELATING TO THE SEX OFFENDER REGISTRY AND OFFENSES FOR WHICH A CONVICTION REQUIRES REGISTRATION, SO AS TO ADD THE OFFENSE OF OBSCENE VISUAL REPRESENTATIONS OF CHILD SEXUAL ABUSE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 3, Chapter 15, Title 16 of the S.C. Code is amended by adding:

 Section 16‑15‑390. (A) For purposes of this section:

 (1) “Obscene” has the same meaning as provided in Section 16‑15‑305.

 (2) “Visual depiction or representation” means and includes undeveloped film and videotape, and data stored on a computer disk or by electronic means which is capable of conversion into a visual image, and also includes any photograph, film, video, picture, digital image or picture, computer image or picture, or computer‑generated image or picture, whether made or produced by electronic, mechanical, or other means.

 (B)(1) It is unlawful for a person to knowingly produce, distribute, receive, or possess with intent to distribute, a visual depiction or representation of any kind, including a drawing, cartoon, sculpture, or painting, that:

 (a) depicts a minor engaging in sexually explicit conduct, sexually explicit activity, or sexually explicit nudity; and

 (b) is obscene.

 (2) A person who violates the provisions of this subsection is guilty of a felony and, upon conviction, must be imprisoned for a mandatory minimum of two years, but not more than ten years, no part of which may be suspended nor probation granted.

 (3) A person who attempts or conspires to commit the offense provided in this subsection, upon conviction, must be punished as for the principal offense.

 (C)(1) It is unlawful for a person to knowingly possess a visual depiction or representation of any kind, including a drawing, cartoon, sculpture, or painting, that:

 (a) depicts a minor engaging in sexually explicit conduct, sexually explicit activity, or sexually explicit nudity; and

 (b) is obscene.

 (2) A person who violates the provisions of this subsection is guilty of a felony and, upon conviction, must be imprisoned not more than ten years.

 (3) A person who attempts or conspires to commit the offense provided in this subsection, upon conviction, must be punished as for the principal offense.

 (D) It is not a required element of any offense under this section that the minor depicted actually exists.

SECTION 2. Section 23‑3‑430(C)(2) of the S.C. Code is amended by adding a subitem to read:

 (i) obscene visual representations of child sexual abuse (Section 16‑15‑390).

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. This act takes effect upon approval by the Governor.

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