

HOUSE RESEARCH

Bill Summary

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This bill amends the definition of “sexual conduct” used in the child pornography statutes. The bill is in response to a Minnesota Court of Appeals decision where the appellate panel found that the respondent/defendant had not possessed child pornography because the photo of his 11 year-old step-daughter that he had on his cell phone did not contain an image of physical contact depicted to be part of an apparent act of sexual stimulation or gratification. *State v. Johnson*, 775 N.W.2d 377 (Minn. App. 2009).

The changes to the definition of sexual conduct will allow for a charge of possessing child pornography if the image either depicts: (1) a child in an act of apparent sexual stimulation or gratification; or (2) physical contact with a child that is intended by the person who prepared the image to arouse the sexual desire of any person. In other words, even if the image in question does not depict a child in act of sexual stimulation or gratification, it can still constitute child pornography if the image is intended by the person who prepared the image to arouse the sexual desire of any person.