

## Viewing Child Pornography

Updated June 2012

This compilation includes laws, bills, and court cases that prohibit viewing child pornography online. This issue arises from the question of whether viewing an image online rises to possession of that image. Because the act of viewing is generally thought of and included alongside the act of possession, laws that prohibit promotion of child pornography, even where promoting is defined to include procuring, are not included.

Sixteen jurisdictions have addressed viewing legislatively: AK, AR, DE, DC,<sup>1</sup> FL, ID, ME, NJ, OH, OR, PA, UT, VA, WA, WI, and the federal government

Eleven jurisdictions have addressed viewing through appellate courts: AL, AZ, CA, CO, IL, LA, MI, MN, SD, TN, and TX.

Twenty-five jurisdictions have not addressed viewing: CT, HI, IN, IO, KS, MD, MA, MS, MO, MT, NE, NH, NM, NC, ND, OK, RI, SC, VT, WV, WY, American Samoa, Guam, Puerto Rico, and the Virgin Islands.

Three jurisdictions are currently considering legislation on viewing: KY, NV, and NY

One jurisdiction has addressed viewing with an appellate decision that viewing an image online without actively taking control of the image is not contrary to existing law: Georgia, in *Barton v. State*, 648 S.E.2d 660 (Ga. Ct. App. 2007)

Please note there may have been changes to this area of law since our last update. Please feel free to contact us at 703-549-9222 for further discussion on updates to the information included in this document.

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<sup>1</sup> DC is included as legislatively addressing the act of viewing child pornography based on subsection (d)(1) of its prohibited acts statute, which states that possession requires accessing the image if it is electronic.

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