

Requested by HOUSE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2593**

1 On page 1 of the printed bill, delete lines 7 through 30 and insert:

2 **“SECTION 2. (1)(a) Except as otherwise provided in this section, in**  
3 **any criminal proceeding, property or material that constitutes a visual**  
4 **depiction of a child engaged in sexually explicit conduct must remain**  
5 **in the care, custody and control of a law enforcement agency.**

6 **“(b) In connection with a court proceeding, the court may assume**  
7 **the care, custody and control of property or material that constitutes**  
8 **a visual depiction of a child engaged in sexually explicit conduct.**

9 **“(2)(a) Notwithstanding any request by the defendant or prosecuting**  
10 **attorney, any property or material that constitutes a visual depiction**  
11 **of a child engaged in sexually explicit conduct may not be copied,**  
12 **photographed, duplicated or otherwise reproduced, so long as the**  
13 **property or material is made reasonably available to the parties.**

14 **“(b) A law enforcement agency may, pursuant to policies adopted**  
15 **by the agency, reproduce property or material that constitutes a visual**  
16 **depiction of a child engaged in sexually explicit conduct for criminal**  
17 **justice purposes, including for the purpose of introducing the property**  
18 **or material as evidence in a criminal proceeding, or to make the**  
19 **property or material, or a forensic backup of the property or material,**  
20 **reasonably available for inspection and analysis by either party or an**  
21 **expert retained by either party.**

1       **“(3) The defendant may view and examine property or material that**  
2 **constitutes a visual depiction of a child engaged in sexually explicit**  
3 **conduct only while in the presence of the defendant’s attorney. If the**  
4 **defendant does not have an attorney, the court shall appoint an indi-**  
5 **vidual who shall be present while the defendant examines the property**  
6 **or material.**

7       **“(4) Upon a showing by either party that property or material that**  
8 **constitutes a visual depiction of a child engaged in sexually explicit**  
9 **conduct, or a forensic backup of the property or material, has not been**  
10 **made reasonably available and a forensic analysis and examination by**  
11 **an expert retained by the party cannot be accomplished while the ev-**  
12 **idence is kept within the care, custody and control of a law enforce-**  
13 **ment agency, the court may order the release of a forensic backup of**  
14 **the property or material to the expert for analysis for a limited time**  
15 **and shall specify the time limit in the order. If the release is granted,**  
16 **the court shall issue a protective order setting forth conditions that**  
17 **are necessary to protect the rights of the victim, to document the**  
18 **chain of custody and to protect physical evidence.**

19       **“(5) As used in this section:**

20       **“(a) ‘Child’ has the meaning given that term in ORS 163.665.**

21       **“(b) ‘Law enforcement agency’ means a municipal police depart-**  
22 **ment, a county sheriff, the Oregon State Police or a tribal government**  
23 **as defined in ORS 181A.680 that employs authorized tribal police offi-**  
24 **cers as defined in ORS 181A.680.**

25       **“(c) ‘Reasonably available’ means ample opportunity to inspect,**  
26 **view and examine the property or material at a law enforcement fa-**  
27 **ility.**

28       **“(d) ‘Sexually explicit conduct’ has the meaning given that term in**  
29 **ORS 163.665.**

30       **“(e) ‘Visual depiction’ has the meaning given that term in ORS**

1 **163.665.”.**

2 On page 2, delete lines 1 through 7.

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