

## Computer Technicians' Duty to Report Child Pornography

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Last week, I [blogged](#) about the application of the private search doctrine in child pornography cases. I noted that one recent case began when a computer repair technician contacted police to report child pornography on a computer he was repairing. A [story about the case](#) stated that “North Carolina law requires computer technicians to report any such images found during the course of their work to local law enforcement or the National Center for Missing and Exploited Children.” I didn’t know that, so I did some research.

**The requirement is in G.S. 66-67.4.** It provides in pertinent part that “[a]ny . . . computer technician who, within the person’s scope of employment, observes an image of a minor or a person who reasonably appears to be a minor engaging in sexual activity shall report the name and address of the . . . owner or person in possession of the computer . . . to the Cyber Tip Line at the National Center for Missing and Exploited Children or to [an] appropriate [local] law enforcement official.” The CyberTipline is [here](#) and it appears to be quite straightforward to submit a report.

**The mandate was added in 2007**, as [S.L. 2007-263](#). It also applies to people who process photographic images professionally, though there may not be too many of those left.

**The statute provides no penalty for failure to comply.** However, given the existence of the statute, perhaps it would be possible to charge a person who failed to comply with obstruction of justice.

**There is no liability for reports made in good faith.** The statute provides that a person “complying with [the reporting requirement] in good faith shall be immune from any civil or criminal liability that might otherwise be incurred as a result of the report.” Of course, so long as such a report is made in good faith, it is hard to imagine what “liability might otherwise be incurred.”

**At least 12 states have similar laws.** So says the National Conference of State Legislatures [here](#). It summarizes the debate regarding such provisions as follows: “Critics charge that this type of law unfairly transfers law enforcement duties to individuals who may not be qualified to handle evidence or determine what constitutes child pornography. Supporters say reporting mandates for photo labs have proven effective, and that similar laws for IT workers will help combat child pornography on the Internet.”

**Relationship to duty to report child abuse.** North Carolina requires any person who suspects that a child has been abused to report that fact to DSS “in the county where the juvenile resides or is found.” G.S. 7B-301(a). The computer technician statute is not redundant with this provision, for two reasons. First, legally, abuse may be committed only by a “parent, guardian, custodian, or caretaker,” G.S. 7B-101, so there may be some instances in which a child used in the production of child pornography is not a victim of abuse. Second, I imagine that in most cases involving images or videos of child pornography, there is no way for a computer technician to know the county in which the victim resides. It isn’t obvious what the technician should do under G.S. 7B-301 in such a case, but under G.S. 66-67.4, it is clear what he or she should do. Of course, there is no harm in making a report to a DSS office as well. Immunity applies to abuse reports made in good faith. G.S. 7B-309.

I don’t have a good sense of how widely known this statute is. Obviously, it wasn’t known to me! If any readers have

worked in the field of computer repair since 2007, I would be interested to hear whether you knew about or received any training concerning this provision.