
Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 117 (as introduced 1-27-99)
Sponsor: Senator Bev Hammerstrom
Committee: Judiciary

Date Completed: 2-2-99

CONTENT

The bill would amend Public Act 33 of 1978, which prohibits the dissemination, exhibition, or display of certain sexually explicit matter to minors, to include in that prohibition material that is transmitted over the Internet.

Under Public Act 33, distributing obscene matter to a minor is a misdemeanor, punishable by up to two years' imprisonment and/or a maximum fine of \$10,000. The prohibition is violated if a person knowingly disseminates to a minor either sexually explicit visual or verbal material or a sexually explicit performance that is harmful to minors. A person knowingly disseminates sexually explicit matter to a minor when he or she knows both the nature of the matter and the status of the minor to whom it is disseminated.

The Act defines "sexually explicit performance" as a motion picture, exhibition, show, representation, or other presentation that depicts nudity, sexual excitement, erotic fondling, sexual intercourse, or sadomasochistic abuse. "Sexually explicit verbal material" means a book, pamphlet, magazine, printed matter reproduced in any manner, or sound recording that includes an explicit and detailed verbal description or narrative account of sexual excitement, erotic fondling, sexual intercourse, or sadomasochistic abuse. "Sexually explicit visual material" means a picture, photograph, drawing, sculpture, motion picture film, or similar visual representation that depicts nudity, sexual excitement, erotic fondling, sexual intercourse, or sadomasochistic abuse, or a book, magazine, or pamphlet that contains such a visual representation. The bill would add "internet transmission" to each of those definitions.

In addition, the Act provides that a person knows the nature of matter if he or she either is aware of, or recklessly disregards circumstances suggesting, the character and content of the matter. A person knows the status of a minor if the person either is aware that the person to whom dissemination is made is under 18, or recklessly disregards a substantial risk that the person is under 18. The bill specifies that these provisions would not apply to an Internet service provider who, in good faith and without knowledge of the nature of a sexually explicit matter or the status of a minor, provided the medium for the dissemination of a sexually explicit matter to the minor.

MCL 722.673 & 722.675

Legislative Analyst: P. Affholter

FISCAL IMPACT

Senate Bill 117 would have an indeterminate fiscal impact on State and local government. In 1996, there were seven people convicted of distributing obscene matter to a minor. There are no data to indicate how many more people may be convicted if Internet transmissions were included in the definitions.

Fiscal Analyst: K. Firestone

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.