

SENATE BILL No. 508

September 24, 2015, Introduced by Senators BIEDA, JONES, YOUNG and HOOD and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
(MCL 750.1 to 750.568) by adding section 145e.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 145E. (1) A PERSON SHALL NOT INTENTIONALLY DISSEMINATE
2 ANY SEXUALLY EXPLICIT VISUAL MATERIAL OF ANOTHER PERSON IF ALL OF
3 THE FOLLOWING CONDITIONS APPLY:

4 (A) THE OTHER PERSON IS NOT LESS THAN 18 YEARS OF AGE.

5 (B) THE OTHER PERSON IS IDENTIFIABLE FROM THE SEXUALLY
6 EXPLICIT VISUAL MATERIAL ITSELF OR INFORMATION DISPLAYED IN
7 CONNECTION WITH THE SEXUALLY EXPLICIT VISUAL MATERIAL.

8 (C) THE PERSON OBTAINS THE SEXUALLY EXPLICIT VISUAL MATERIAL
9 OF THE OTHER PERSON UNDER CIRCUMSTANCES IN WHICH A REASONABLE
10 PERSON WOULD KNOW OR UNDERSTAND THAT THE SEXUALLY EXPLICIT VISUAL
11 MATERIAL WAS TO REMAIN PRIVATE.

1 (D) THE PERSON KNOWS OR SHOULD KNOW THAT THE OTHER PERSON DID
2 NOT CONSENT TO THE DISSEMINATION OF THE SEXUALLY EXPLICIT VISUAL
3 MATERIAL.

4 (2) SUBSECTION (1) DOES NOT APPLY TO ANY OF THE FOLLOWING:

5 (A) AN INTERACTIVE COMPUTER SERVICE AS THAT TERM IS DEFINED IN
6 47 USC 230, OR AN INFORMATION SERVICE OR TELECOMMUNICATIONS SERVICE
7 AS THOSE TERMS ARE DEFINED IN 47 USC 153, FOR CONTENT THAT IS
8 PROVIDED BY ANOTHER PERSON.

9 (B) THE USE OF SEXUALLY EXPLICIT VISUAL MATERIAL THAT IS PART
10 OF A NEWS REPORT OR COMMENTARY OR AN ARTISTIC OR EXPRESSIVE WORK,
11 SUCH AS A PERFORMANCE, WORK OF ART, LITERARY WORK, THEATRICAL WORK,
12 MUSICAL WORK, MOTION PICTURE, FILM, OR AUDIOVISUAL WORK.

13 (C) A LAW ENFORCEMENT OFFICER, OR A CORRECTIONS OFFICER OR
14 GUARD IN A CORRECTIONAL FACILITY OR JAIL, WHO IS ENGAGED IN THE
15 OFFICIAL PERFORMANCE OF HIS OR HER DUTIES.

16 (D) A PERSON DISSEMINATING SEXUALLY EXPLICIT VISUAL MATERIAL
17 IN THE REPORTING OF A CRIME.

18 (3) THIS SECTION DOES NOT PROHIBIT A PERSON FROM BEING CHARGED
19 WITH, CONVICTED OF, OR PUNISHED FOR ANOTHER VIOLATION OF LAW
20 COMMITTED BY THAT PERSON WHILE VIOLATING OR ATTEMPTING TO VIOLATE
21 THIS SECTION.

22 (4) A PERSON WHO VIOLATES SUBSECTION (1) IS GUILTY OF A CRIME
23 AND PUNISHABLE AS PROVIDED IN SECTION 145F.

24 (5) AS USED IN THIS SECTION:

25 (A) "DISSEMINATE" MEANS POST, DISTRIBUTE, OR PUBLISH ON A
26 COMPUTER DEVICE, COMPUTER NETWORK, WEBSITE, OR OTHER ELECTRONIC
27 DEVICE OR MEDIUM OF COMMUNICATION.

1 (B) "NUDITY" MEANS DISPLAYING A PERSON'S GENITALIA OR ANUS OR,
2 IF THE PERSON IS A FEMALE, HER NIPPLES OR AREOLA.

3 (C) "SEXUALLY EXPLICIT VISUAL MATERIAL" MEANS A PICTURE,
4 PHOTOGRAPH, OR VIDEO THAT DEPICTS NUDITY, SEXUAL EXCITEMENT, EROTIC
5 FONDLING, SEXUAL INTERCOURSE, OR SADOMASOCHISTIC ABUSE.

6 Enacting section 1. This amendatory act takes effect 90 days
7 after the date it is enacted into law.