

Legislative Analysis



SEXUALLY EXPLICIT VISUAL MATERIAL OF VULNERABLE ADULTS

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<http://www.house.mi.gov/hfa>

House Bill 4076 (H-2) as referred to second committee

Sponsor: Rep. Padma Kuppa

1st Committee: Families, Children and Seniors

2nd Committee: Judiciary

Complete to 4-23-20

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4076 would add a new section to the Michigan Penal Code to prohibit a person from intentionally or knowingly threatening, commanding, forcing, coercing, or exploiting the vulnerability of a *vulnerable adult* to cause the vulnerable adult to provide *sexually explicit visual material* of the vulnerable adult to that person or to anyone else.

Vulnerable adult would mean that term as defined in section 145m of the Penal Code, namely:

- A person 18 years of age or older who, because of age, developmental disability, mental illness, or physical disability, requires supervision or personal care or lacks the personal and social skills required to live independently.
- A person 18 years of age or older who is unable to protect himself or herself from abuse, neglect, or exploitation because of a mental or physical impairment or advanced age and who is suspected of being abused, neglected, or exploited.¹
- A child who is placed in an adult foster care family home or an adult foster care small group home under the child care licensing act, 1973 PA 116.

Sexually explicit visual material would mean, as defined in section 145e of the Penal Code, a photograph or video that depicts nudity, erotic fondling, sexual intercourse, or sadomasochistic abuse.

A violation of the new section would be a misdemeanor punishable by imprisonment for up to 93 days or a fine of up to \$500, or both.

The bill would take effect 90 days after its enactment.

Proposed MCL 750.145h

¹ For the definitions of “abuse,” “neglect,” and “exploitation” that pertain to this provision, see MCL 400.11: <https://www.legislature.mi.gov/documents/mcl/pdf/mcl-400-11.pdf>

FISCAL IMPACT:

House Bill 4076 would have an indeterminate fiscal impact on the state and on local units of government. The number of convictions that would result under provisions of the bill is not known. New misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision. Costs of local incarceration in county jails and local misdemeanor probation supervision, and how those costs are financed, vary by jurisdiction. The fiscal impact on local court systems would depend on how provisions of the bill affected caseloads and related administrative costs. Increased costs could be offset, to some degree, depending on the amount of additional court-imposed fee revenue generated. Any increase in penal fine revenue would increase funding for local public libraries, which are the constitutionally designated recipients of those revenues.

POSITIONS:

Representatives of the following entities testified in support of the bill (6-12-19):

- Eastern Michigan University
- Troy Police Department
- Troy Schools

The following entities indicated support for the bill (6-12-19):

- Michigan State Police
- Autism Alliance of Michigan
- Prosecuting Attorneys Association of Michigan
- Troy City Attorney

The following organizations indicated support for the bill in concept (6-12-19):

- Area Agency on Aging
- The ARC of Michigan

Legislative Analyst: E. Best
Fiscal Analyst: Robin Risko

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.