

CHILD PORNOGRAPHY: REPORTING

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Senate Bill 773

Sponsor: Sen. Buzz Thomas

Senate Committee: Judiciary

House Committee: Criminal Justice

Complete to 11-30-04

A SUMMARY OF SENATE BILL 773 AS PASSED BY THE SENATE]

Under the Michigan Penal Code, knowingly possessing child sexually abusive material is a felony punishable by up to four years' imprisonment, a maximum fine of \$10,000, or both. The prohibition and penalty do not apply to certain people, including a commercial film or photographic print processor who reports a violation. In addition, the identity of a film or photograph processor reporting a violation must remain confidential, and the processor is immune from civil liability for good faith actions taken in reporting the violation.

Senate Bill 773 would amend the Michigan Penal Code to include computer technicians in the list of people for whom the prohibition and penalty for knowingly possessing child sexually abusive material, in certain circumstances, does not apply. The bill would do all of the following:

- Exclude a computer technician who reported a violation from the prohibition against and penalties for knowingly possessing child sexually abusive material.
- Require that the identity of a computer technician who reported a violation be kept confidential.
- Provide that a computer technician who acted in good faith would be immune from civil liability for actions taken in reporting a violation.

"Computer technician" would mean a person who installs, maintains, troubleshoots, upgrades, or repairs computer hardware, software, personal computer networks, or peripheral equipment.

If a computer technician did any of the following within the scope of his or her professional capacity or employment, the technician's identity would have to remain confidential, subject to disclosure only by judicial process or with his or her consent, and the technician would be immune from civil liability for taking that action:

- Reported to the local prosecuting attorney his or her knowledge or observation of an electronic visual image, computer-generated image, or picture or sound recording depicting a person whom the technician had reason to know or believe was a child engaged in a "listed sexual act" as defined in the Code.

- Furnished a copy of the image, picture, or sound recording to the prosecuting attorney.
- Kept the image, picture, or sound recording, according to the prosecuting attorney's instructions.

MCL 750.145c

FISCAL IMPACT:

The bill would have no significant fiscal impact on the state or local units of government.

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