



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 773 (as introduced 10-14-03)
Sponsor: Senator Buzz Thomas
Committee: Judiciary

Date Completed: 6-7-04

CONTENT

The bill would amend the Michigan Penal Code to 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.**

Under the 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.

The bill also would exclude from the prohibition and criminal penalties a computer technician who reported a violation. ("Computer technician" would mean a person who installs, maintains, troubleshoots, upgrades, or repairs computer hardware, software, personal computer networks, or peripheral equipment.)

In addition, under the bill, 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

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have little, if any, fiscal impact on State and local government. To the extent that it would decrease the number of offenders prosecuted and convicted for possessing child sexually abusive material by exempting computer technicians under certain circumstances, the bill could potentially decrease court and corrections costs.

Fiscal Analyst: Bethany Wicksall

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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.