



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

H.B. 4360 (S-1): FLOOR ANALYSIS

House Bill 4360 (Substitute S-1 as reported) Sponsor: Representative Triette Reeves

House Committee: Commerce Senate Committee: Judiciary

## CONTENT

The bill would amend Public Act 33 of 1978, which prohibits disseminating, exhibiting, or displaying sexually explicit matter to minors, to revise the offense that makes it a misdemeanor for a manager of a business that sells "visual matter" depicting sexual intercourse or sadomasochistic abuse that is harmful to minors, knowingly to permit a minor who is not accompanied by a parent or guardian to examine that matter. Under the bill, the offense would apply to a manager of a business enterprise that sold "sexually explicit visual material" that visually depicted sexual intercourse or sadomasochistic abuse and was harmful to minors, if he or she either 1) knowingly permitted a minor who was not accompanied by a parent or quardian to view the material, or 2) displayed the material knowing its nature, except in a restricted area. The bill also would increase the maximum term of imprisonment from 90 to 93 days, and would retain the \$5,000 maximum fine.

"Display" would mean to put or set out to view or to make visible. "Restricted area" would mean an area where sexually explicit matter was displayed only in a manner that prevented public view of the lower two-thirds of its cover or exterior; a building, or a distinct and enclosed area or room within a building, if access by minors were prohibited, notice of the prohibition were prominently displayed, and access were monitored to prevent minors from entering; or an area with at least 75% of its perimeter surrounded by walls or solid, nontransparent dividers that prevented a minor in a nonrestricted area from viewing sexually explicit matter within the perimeter, if the entry provided prominent notice that access to minors was prohibited.

The bill also would delete and repeal provisions that prescribe misdemeanor and felony penalties for disseminating material by computer network or the Internet (added by Public Act 33 of 1999). The bill would take effect on January 1, 2004.

Legislative Analyst: Patrick Affholter MCL 722.671 et al.

## **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on State and local government. There are no Statewide data to indicate how many offenders are currently convicted of this misdemeanor or how many would be convicted under the proposed changes. Local units of government incur the costs of misdemeanor probation and incarceration in a local facility, which vary by county, and would incur any additional incarceration costs due to the maximum sentence increase.

According to the Department of Corrections Statistical Report, in 2001 six offenders were convicted of distributing sexually explicit matter to a minor. Three were sentenced to prison, two to jail, and one to probation. There are no data to indicate how the proposed deletions regarding dissemination involving a computer or the Internet would change these figures. The State is responsible for the cost of felony probation at an average annual cost of \$1,750, as well as the cost of incarceration in a State facility at an average annual cost of \$27,000.

Date Completed: 10-9-03 Fiscal Analyst: Bethany Wicksall