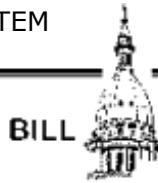




Senate Fiscal Agency
P. O. Box 30036
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**BILL ANALYSIS**

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Senate Bill 464 (as introduced 5-5-05)
Sponsor: Senator Laura M. Toy
Committee: Judiciary

Date Completed: 5-9-05

CONTENT

The bill would amend Public Act 33 of 1978, which prohibits disseminating, exhibiting, or displaying sexually explicit matter to minors, to provide immunity from prosecution under the Act to a person who in good faith disseminated or displayed matter to a minor through the use of a rating system that prohibited providing minors with certain matter considered suitable for adults but unsuitable for minors and that did not otherwise conflict with the Act. The person would be immune from prosecution if he or she abided by the rating system and did not sell to a minor matter that was prohibited from being disseminated or displayed to minors under the rating system. A rating system would include, but would not be limited, to the rating system for video games created by the Entertainment Software Rating Board or the rating system for motion pictures created by the Motion Picture Association of America.

Under Public Act 33, a person is guilty of disseminating sexually explicit matter to a minor if he or she knowingly either disseminates to a minor sexually explicit visual or verbal material that is harmful to minors, or exhibits to a minor a sexually explicit performance that is harmful to minors. A violation is a felony punishable by up to two years' imprisonment and/or a maximum fine of \$10,000.

("Harmful to minors" means sexually explicit matter that, considered as a whole, appeals to the prurient interest of minors as determined by contemporary local community standards; that is patently offensive to contemporary local community standards of adults as to what is suitable for minors; and that, considered as a whole, lacks serious literary, artistic, political, educational, and scientific value for minors.)

MCL 722.682a

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government. According to the Department of Corrections Statistical Report, in 2002, five offenders were convicted of felony distribution of sexually explicit matter; there are no statewide data available for similar misdemeanors. Of those five felony offenders, two received prison sentences, one received a jail sentence, and two received probation. There are no data to indicate the extent to which the number of either felony or misdemeanor dispositions would change if people who disseminated or displayed the matter through the use of a rating system were immune from prosecution.

Local units incur the costs of misdemeanor probation and incarceration in local facilities, which vary by county. The State incurs the cost of felony probation at an average annual cost of \$2,000 per offender, as well as the cost of incarceration in a State facility at an average annual cost of \$28,000 per offender. Public libraries benefit from penal fine revenue.

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.