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BILL ANALYSIS

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House Bill 4702 (Substitute H-1 as passed by the House)
Sponsor: Representative Phil Pavlov
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 5-23-05

CONTENT

The bill would amend Public Act 33 of 1978, which prohibits disseminating, exhibiting, or displaying sexually explicit matter to minors, to include video games in the Act's definitions of "sexually explicit performance" and "sexually explicit visual material".

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.)

Currently, "sexually explicit performance" means a motion picture, exhibition, show, representation, or other presentation that, in whole or in part, depicts nudity, sexual excitement, erotic fondling, sexual intercourse, or sadomasochistic abuse. "Sexually explicit visual material" means a picture, photograph, drawing, sculpture, motion picture film, or similar visual representation that depicts nudity, sexual excitement, erotic fondling, sexual intercourse, or sadomasochistic abuse, or a book, magazine, or pamphlet that contains such a visual representation. The bill would include in those definitions a video game that depicted nudity, sexual excitement, erotic fondling, sexual intercourse, or sadomasochistic abuse.

Under the bill, "video game" would mean an object or device that stores recorded data or instructions generated by a person who uses it, and by processing the data or instructions, creates an interactive game capable of being played, viewed, or experienced on or through a computer, gaming system, game console, or other technology.

MCL 722.673

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

To the extent that expanding sexually explicit visual material to include video games would increase the number of violations of the Act, the bill would increase State and local corrections costs. There are no available data to indicate how many additional offenders would be convicted under the proposed change. Local units would incur the additional costs of misdemeanor probation and incarceration in local facilities, both of which vary by county. The State would incur any additional costs 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.

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.