

SENATE BILL No. 463

May 5, 2005, Introduced by Senators VAN WOERKOM and CROPSEY and referred to the Committee on Judiciary.

A bill to amend 1978 PA 33, entitled

"An act to prohibit the dissemination, exhibiting, or displaying of certain sexually explicit matter to minors; to prohibit certain misrepresentations facilitating the dissemination of sexually explicit matter to minors; to provide penalties; to provide for declaratory judgments and injunctive relief in certain instances; to impose certain duties upon prosecuting attorneys and the circuit court; to preempt local units of government from proscribing certain conduct; and to repeal certain acts and parts of acts,"

by amending section 3 (MCL 722.673), as amended by 2003 PA 192.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 3. As used in this act:

(A) "COMPUTER" MEANS ANY CONNECTED, DIRECTLY INTEROPERABLE OR INTERACTIVE DEVICE, EQUIPMENT, OR FACILITY THAT USES A COMPUTER PROGRAM OR OTHER INSTRUCTIONS TO PERFORM SPECIFIC OPERATIONS INCLUDING LOGICAL, ARITHMETIC, OR MEMORY FUNCTIONS WITH OR ON

1 COMPUTER DATA OR A COMPUTER PROGRAM AND THAT CAN STORE, RETRIEVE,
2 ALTER, OR COMMUNICATE THE RESULTS OF THE OPERATIONS TO A PERSON,
3 COMPUTER PROGRAM, COMPUTER, COMPUTER SYSTEM, OR COMPUTER NETWORK.

4 (B) "COMPUTER NETWORK" MEANS THE INTERCONNECTION OF HARDWARE
5 OR WIRELESS COMMUNICATION LINES WITH A COMPUTER THROUGH REMOTE
6 TERMINALS, OR A COMPLEX CONSISTING OF 2 OR MORE INTERCONNECTED
7 COMPUTERS.

8 (C) "COMPUTER PROGRAM" MEANS A SERIES OF INTERNAL OR EXTERNAL
9 INSTRUCTIONS COMMUNICATED IN A FORM ACCEPTABLE TO A COMPUTER THAT
10 DIRECTS THE FUNCTIONING OF A COMPUTER, COMPUTER SYSTEM, OR COMPUTER
11 NETWORK IN A MANNER DESIGNED TO PROVIDE OR PRODUCE PRODUCTS OR
12 RESULTS FROM THE COMPUTER, COMPUTER SYSTEM, OR COMPUTER NETWORK.

13 (D) "COMPUTER SYSTEM" MEANS A SET OF RELATED, CONNECTED OR
14 UNCONNECTED, COMPUTER EQUIPMENT, DEVICES, SOFTWARE, OR HARDWARE.

15 (E) "DEVICE" INCLUDES, BUT IS NOT LIMITED TO, AN ELECTRONIC,
16 MAGNETIC, ELECTROCHEMICAL, BIOCHEMICAL, HYDRAULIC, OPTICAL, OR
17 ORGANIC OBJECT THAT PERFORMS INPUT, OUTPUT, OR STORAGE FUNCTIONS BY
18 THE MANIPULATION OF ELECTRONIC, MAGNETIC, OR OTHER IMPULSES.

19 (F) ~~—(a)—~~ "Sexually explicit matter" means sexually explicit
20 visual material, sexually explicit verbal material, or sexually
21 explicit performance.

22 (G) ~~—(b)—~~ "Sexually explicit performance" means a motion
23 picture, **VIDEO GAME**, exhibition, show, representation, or other
24 presentation that, in whole or in part, depicts nudity, sexual
25 excitement, erotic fondling, sexual intercourse, or sadomasochistic
26 abuse.

27 (H) ~~—(e)—~~ "Sexually explicit verbal material" means a book,

1 pamphlet, magazine, printed matter reproduced in any manner, or
2 sound recording that contains an explicit and detailed verbal
3 description or narrative account of sexual excitement, erotic
4 fondling, sexual intercourse, or sadomasochistic abuse.

5 (I) ~~—(d)—~~ "Sexually explicit visual material" means a picture,
6 photograph, drawing, sculpture, motion picture film, **VIDEO GAME**, or
7 similar visual representation that depicts nudity, sexual
8 excitement, erotic fondling, sexual intercourse, or sadomasochistic
9 abuse, or a book, magazine, or pamphlet that contains such a visual
10 representation. An undeveloped photograph, mold, or similar visual
11 material may be sexually explicit material notwithstanding that
12 processing or other acts may be required to make its sexually
13 explicit content apparent.

14 (J) **"VIDEO GAME" MEANS A COMPUTER OR OTHER ELECTRONIC DEVICE**
15 **OR COMPUTER PROGRAM THAT STORES OR RECEIVES DATA OR INSTRUCTIONS**
16 **GENERATED BY A PERSON USING THE DEVICE OR PROGRAM, AND BY**
17 **PROCESSING THE DATA OR INSTRUCTIONS, CREATES AN INTERACTIVE GAME**
18 **CAPABLE OF BEING PLAYED, VIEWED, OR OTHERWISE EXPERIENCED BY AN**
19 **INDIVIDUAL.**

20 Enacting section 1. This amendatory act takes effect December
21 1, 2005.