

SUBSTITUTE FOR
SENATE BILL NO. 924

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
(MCL 750.1 to 750.568) by adding section 145e.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 145E. (1) A PERSON SHALL NOT DO EITHER OF THE FOLLOWING:

2 (A) POST ON THE INTERNET ANY SEXUALLY EXPLICIT PHOTOGRAPH,
3 DRAWING, OR OTHER VISUAL IMAGE OF ANOTHER PERSON WITH THE INTENT TO
4 FRIGHTEN, INTIMIDATE, OR HARASS ANY PERSON.

5 (B) HAVING POSTED ON THE INTERNET ANY SEXUALLY EXPLICIT
6 PHOTOGRAPH, DRAWING, OR OTHER VISUAL IMAGE OF ANOTHER PERSON,
7 REGARDLESS OF WHETHER THE POSTING WAS WITH THE INTENT TO FRIGHTEN,
8 INTIMIDATE, OR HARASS ANY PERSON, REFUSE OR OTHERWISE FAIL TO
9 REMOVE THAT EXPLICIT PHOTOGRAPH, DRAWING, OR OTHER VISUAL IMAGE
10 FROM THE INTERNET UPON THE WRITTEN REQUEST OF THAT OTHER PERSON.

1 THIS SUBDIVISION APPLIES REGARDLESS OF WHETHER THE OTHER PERSON
2 CONSENTED TO THE POSTING OF THAT PHOTOGRAPH, DRAWING, OR OTHER
3 VISUAL IMAGE UNLESS THAT OTHER PERSON KNEW OR HAD REASON TO KNOW
4 THE PHOTOGRAPH, DRAWING, OR OTHER VISUAL IMAGE WAS SEXUALLY
5 EXPLICIT AND SIGNED A RELEASE KNOWINGLY ALLOWING THAT PHOTOGRAPH,
6 DRAWING, OR OTHER VISUAL IMAGE TO BE POSTED ON THE INTERNET BY THAT
7 PERSON.

8 (2) SUBSECTION (1) DOES NOT APPLY TO AN INTERACTIVE COMPUTER
9 SERVICE AS THAT TERM IS DEFINED IN 47 USC 230, OR TO AN INFORMATION
10 SERVICE OR TELECOMMUNICATIONS SERVICE AS THOSE TERMS ARE DEFINED IN
11 47 USC 153, FOR CONTENT THAT IS PROVIDED BY ANOTHER PERSON.

12 (3) IT IS AN AFFIRMATIVE DEFENSE IN A PROSECUTION FOR A
13 VIOLATION OF SUBSECTION (1) THAT THE PERSON TOOK ALL REASONABLE
14 STEPS TO HAVE THE PHOTOGRAPH, DRAWING, OR OTHER VISUAL IMAGE
15 REMOVED FROM THE INTERNET IMMEDIATELY UPON THE WRITTEN REQUEST OF
16 THAT OTHER PERSON UNDER SUBSECTION (1) (B).

17 (4) AS USED IN THIS SECTION, "SEXUALLY EXPLICIT" MEANS
18 DISPLAYING A PERSON'S GENITALIA OR ANUS OR, IF THE PERSON IS A
19 FEMALE, HER NIPPLES OR AREOLA.

20 Enacting section 1. This amendatory act takes effect 90 days
21 after the date it is enacted into law.

22 Enacting section 2. This amendatory act does not take effect
23 unless Senate Bill No. 925 of the 97th Legislature is enacted into
24 law.