



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL



ANALYSIS

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

Senate Bill 508 (Substitute S-3 as reported)
Senate Bill 509 (as reported without amendment)
Sponsor: Senator Steven Bieda (S.B. 508)
Senator Rick Jones (S.B. 509)
Committee: Judiciary

CONTENT

Senate Bill 508 (S-3) would amend the Michigan Penal Code to prohibit a person from intentionally disseminating any sexually explicit visual material of another person with the intent to threaten, coerce, or intimidate, if all of the following conditions were met:

- The other person was at least 18 years of age.
- The other person was identifiable from the sexually explicit visual material itself or information displayed in connection with it, unless the identifying information were supplied by someone other than the disseminator.
- The person obtained the sexually explicit visual material of the other person under circumstances in which a reasonable person would know or understand that the material was to remain private.
- The person knew or reasonably should have known that the other person did not consent to the dissemination of the material.

("Disseminate" would mean post, distribute, or publish on a computer device, computer network, website, or other electronic device or medium of communication.)

The prohibition would not apply to any of the following:

- A person who disseminated sexually explicit visual material that was part of a news report or commentary or an artistic or expressive work, such as a performance, work of art, literary work, theatrical work, musical work, motion picture, film, or audiovisual work.
- A law enforcement officer, or a corrections officer or guard in a correctional facility or jail, who was engaged in the official performance of his or her duties.
- A person disseminating sexually explicit visual material in the reporting of a crime.

The prohibition also would not apply to a person engaged in providing "interactive computer service", an "information service", a "telecommunications service", or a "cable service" as those terms are defined in Title 47 (Telecommunications) of Federal law, for content provided by another person.

Senate Bill 509 would amend the Michigan Penal Code to establish a penalty for a violation of the prohibition proposed by Senate Bill 508 (S-3). The offense would be a misdemeanor punishable by up to 93 days' imprisonment and/or a maximum fine of \$500. A second or subsequent violation would be a misdemeanor punishable by up to one year's imprisonment and/or a maximum fine of \$1,000.

The bills would take effect 90 days after their enactment. Senate Bill 509 is tie-barred to Senate Bill 508.

Proposed MCL 750.145e (S.B. 508)
Proposed MCL 750.145f (S.B. 509)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would have no fiscal impact on the State and a negative, though likely minor, fiscal impact on local government, the magnitude of which would depend on how many cases would be prosecuted under the law. An increase in misdemeanor arrests and convictions could increase resource demands on local court systems, law enforcement, and jails. Any associated increase in fine revenue would increase funding to public libraries.

Date Completed: 11-13-15

Fiscal Analyst: Ryan Bergan

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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.