

SUBSTITUTE FOR
SENATE BILL NO. 508

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 INTENTIONALLY AND WITH THE
2 INTENT TO THREATEN, COERCE, OR INTIMIDATE DISSEMINATE ANY SEXUALLY
3 EXPLICIT VISUAL MATERIAL OF ANOTHER PERSON IF ALL OF THE FOLLOWING
4 CONDITIONS APPLY:

5 (A) THE OTHER PERSON IS NOT LESS THAN 18 YEARS OF AGE.

6 (B) THE OTHER PERSON IS IDENTIFIABLE FROM THE SEXUALLY
7 EXPLICIT VISUAL MATERIAL ITSELF OR INFORMATION DISPLAYED IN
8 CONNECTION WITH THE SEXUALLY EXPLICIT VISUAL MATERIAL. THIS
9 SUBDIVISION DOES NOT APPLY IF THE IDENTIFYING INFORMATION IS

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SUPPLIED BY A PERSON OTHER THAN THE DISSEMINATOR.

(C) THE PERSON OBTAINS THE SEXUALLY EXPLICIT VISUAL MATERIAL OF THE OTHER PERSON UNDER CIRCUMSTANCES IN WHICH A REASONABLE PERSON WOULD KNOW OR UNDERSTAND THAT THE SEXUALLY EXPLICIT VISUAL MATERIAL WAS TO REMAIN PRIVATE.

(D) THE PERSON KNOWS OR REASONABLY SHOULD KNOW THAT THE OTHER PERSON DID NOT CONSENT TO THE DISSEMINATION OF THE SEXUALLY EXPLICIT VISUAL MATERIAL.

(2) SUBSECTION (1) DOES NOT APPLY TO ANY OF THE FOLLOWING:

(A) <<TO THE EXTENT CONTENT IS PROVIDED BY ANOTHER PERSON,>> A PERSON ENGAGED IN PROVIDING<<:

(i) AN>> INTERACTIVE COMPUTER SERVICE

AS THAT TERM IS DEFINED IN 47 USC 230<<;
<<(ii)>> AN INFORMATION SERVICE,

TELECOMMUNICATIONS SERVICE, OR CABLE SERVICE AS THOSE TERMS ARE DEFINED IN 47 USC 153<<;

(iii) A COMMERCIAL MOBILE SERVICE AS DEFINED IN 47 USC 332;

(iv) A DIRECT-TO-HOME SATELLITE SERVICE AS DEFINED IN 47 USC 303(v); OR

(v) A VIDEO SERVICE AS DEFINED IN 2006 PA 480, MCL 484.3301 TO 484.3315.>>

(B) A PERSON WHO DISSEMINATES SEXUALLY EXPLICIT VISUAL MATERIAL THAT IS 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.

(C) A LAW ENFORCEMENT OFFICER, OR A CORRECTIONS OFFICER OR GUARD IN A CORRECTIONAL FACILITY OR JAIL, WHO IS ENGAGED IN THE OFFICIAL PERFORMANCE OF HIS OR HER DUTIES.

(D) A PERSON DISSEMINATING SEXUALLY EXPLICIT VISUAL MATERIAL IN THE REPORTING OF A CRIME.

(3) THIS SECTION DOES NOT PROHIBIT A PERSON FROM BEING CHARGED WITH, CONVICTED OF, OR PUNISHED FOR ANOTHER VIOLATION OF LAW COMMITTED BY THAT PERSON WHILE VIOLATING OR ATTEMPTING TO VIOLATE

1 THIS SECTION.

2 (4) A PERSON WHO VIOLATES SUBSECTION (1) IS GUILTY OF A CRIME
3 AND PUNISHABLE AS PROVIDED IN SECTION 145F.

4 (5) AS USED IN THIS SECTION:

5 (A) "DISSEMINATE" MEANS POST, DISTRIBUTE, OR PUBLISH ON A
6 COMPUTER DEVICE, COMPUTER NETWORK, WEBSITE, OR OTHER ELECTRONIC
7 DEVICE OR MEDIUM OF COMMUNICATION.

8 (B) "NUDITY" MEANS DISPLAYING A PERSON'S GENITALIA OR ANUS OR,
9 IF THE PERSON IS A FEMALE, HER NIPPLES OR AREOLA.

10 (C) "SEXUALLY EXPLICIT VISUAL MATERIAL" MEANS A PHOTOGRAPH OR
11 VIDEO THAT DEPICTS NUDITY, EROTIC FONDLING, SEXUAL INTERCOURSE, OR
12 SADOMASOCHISTIC ABUSE.

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