

SENATE SUBSTITUTE FOR HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 463

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:

1       Sec. 3. As used in this ~~act~~ PART:

2       (A) "COMPUTER" MEANS ANY CONNECTED, DIRECTLY INTEROPERABLE OR  
3       INTERACTIVE DEVICE, EQUIPMENT, OR FACILITY THAT USES A COMPUTER  
4       PROGRAM OR OTHER INSTRUCTIONS TO PERFORM SPECIFIC OPERATIONS  
5       INCLUDING LOGICAL, ARITHMETIC, OR MEMORY FUNCTIONS WITH OR ON  
6       COMPUTER DATA OR A COMPUTER PROGRAM AND THAT CAN STORE, RETRIEVE,

1 ALTER, OR COMMUNICATE THE RESULTS OF THE OPERATIONS TO A PERSON,  
2 COMPUTER PROGRAM, COMPUTER, COMPUTER SYSTEM, OR COMPUTER NETWORK.

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

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

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

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

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

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

26 (H) ~~—(c)—~~ "Sexually explicit verbal material" means a book,  
27 pamphlet, magazine, printed matter reproduced in any manner, or

1 sound recording that contains an explicit and detailed verbal  
2 description or narrative account of sexual excitement, erotic  
3 fondling, sexual intercourse, or sadomasochistic abuse.

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

13 (J) **"VIDEO GAME" MEANS AN OBJECT OR DEVICE THAT STORES**  
14 **RECORDED DATA OR INSTRUCTIONS GENERATED BY A PERSON WHO USES IT,**  
15 **AND BY PROCESSING THE DATA OR INSTRUCTIONS CREATES AN INTERACTIVE**  
16 **GAME CAPABLE OF BEING PLAYED, VIEWED, OR EXPERIENCED ON OR THROUGH**  
17 **A COMPUTER, GAMING SYSTEM, GAME CONSOLE, OR OTHER TECHNOLOGY.**

18 Enacting section 1. This amendatory act takes effect December  
19 1, 2005.

20 Enacting section 2. This amendatory act does not take effect  
21 unless all of the following bills of the 93rd Legislature are  
22 enacted into law:

23 (a) Senate Bill No. 416.

24 (b) House Bill No. 4702.

25 (c) House Bill No. 4703.