



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



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 416 (Substitute S-4 as reported by the Committee of the Whole)
Sponsor: Senator Alan L. Cropsey
Committee: Judiciary

CONTENT

The bill would add Part II (Ultra-Violent Explicit Matter) to Public Act 33 of 1978, which prohibits disseminating, exhibiting, or displaying sexually explicit matter to minors. The bill would prohibit a person from knowingly doing any of the following:

- Disseminating to a minor ultra-violent explicit visual matter that is harmful to minors.
- Exhibiting to a minor an ultra-violent explicit performance that is harmful to minors.
- Disseminating to a minor an ultra-violent explicit video game harmful to minors.
- Making a false representation that he or she was the parent or guardian of a minor, or that a minor was 17 or older, with the intent to facilitate the dissemination to the minor of ultra-violent explicit matter that is harmful to minors.

A violation would be subject to the penalties described in the following table. The sanctions for disseminating would not apply to a parent or guardian who disseminated the matter to his or her own child or ward or to any person who disseminated the matter for a legitimate medical, scientific, governmental, or judicial purpose.

Violation	Offense Category	Maximum Fine	Maximum Imprisonment
Dissemination - 1st offense	Civil infraction	\$5,000	N/A
Dissemination - 2nd offense	Misdemeanor	\$15,000	93 days
Dissemination - 3rd offense	Felony	\$40,000	2 years
False Representation	Misdemeanor	\$15,000	93 days

A person who had managerial responsibilities for a business renting or selling ultra-violent explicit visual matter that is harmful to minors, an ultra-violent explicit performance that is harmful to minors, or ultra-violent explicit video games that are harmful to minors could not knowingly permit a minor not accompanied by a parent or guardian to view the matter or performance, or play or view the video game. Except in a restricted area, a manager could not knowingly display the matter or performance or knowingly permit a minor to play or view the video game. A violation would be a misdemeanor punishable by up to 93 days' imprisonment and/or a fine of up to \$25,000.

The bill also specifies that it would be an affirmative defense that a person acted in good faith, which would exist if conditions described in the bill were satisfied. In addition, the bill would allow a prosecutor to bring an action to enjoin the dissemination of ultra-violent explicit matter that is harmful to matter.

The bill is tie-barred to Senate Bills 249, 463, and 464 and House Bills 4702 and 4703. (Senate Bill 249 (S-4) would amend the Michigan Penal Code to prohibit selling or renting a violent video game to a minor. Senate Bill 463 and House Bill 4702 (H-1) would add video

games to the definitions of “sexually explicit performance” and “sexually explicit visual material” in Public Act 33. Senate Bill 464 (S-2) would add a good faith defense to Public Act 33. House Bill 4703 (H-1) would require video game retailers to post signs regarding a rating system.)

MCL 722.671 et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders would be convicted of the proposed crimes. Local governments would incur the costs of misdemeanor probation and incarceration in a local facility, both of which vary by county. The State would incur the cost of felony probation at an average annual cost of \$2,000 per offender as well as the cost of incarceration in a State facility at an average annual cost of \$28,000 per offender. Public libraries would benefit from any additional revenue collected from civil infraction and penal fines.

Date Completed: 5-11-05

Fiscal Analyst: Bethany Wicksall

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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.