

# HOUSE BILL NO. 5607

March 10, 2020, Introduced by Reps. Filler and Guerra and referred to the Committee on Judiciary.

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

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 145h. (1) A person who is less than 18 years of age or  
2       who is enrolled in school, who knowingly possesses or disseminates  
3       sexually explicit visual material is guilty of a misdemeanor  
4       punishable as provided in subsection (3) if all of the following  
5       apply:



1 (a) The person is the subject of the sexually explicit visual  
2 material.

3 (b) The recipient of the sexually explicit visual material did  
4 not disseminate the material to any other person.

5 (c) The recipient of the sexually explicit visual material did  
6 not threaten, intimidate, or coerce any individual to create or  
7 disseminate the sexually explicit visual material.

8 (2) A person who is less than 18 years of age or who is  
9 enrolled in school, who knowingly possesses or disseminates  
10 sexually explicit visual material is guilty of a misdemeanor  
11 punishable as provided in subsection (5) if 1 or more of the  
12 following apply:

13 (a) The person disseminated sexually explicit visual material  
14 to an individual who is more than 18 years of age.

15 (b) The recipient of the sexually explicit visual material  
16 disseminated the sexually explicit visual material to any  
17 individual other than the person who is the subject of the sexually  
18 explicit visual material.

19 (c) The person caused the subject of the sexually explicit  
20 visual material to create or disseminate the sexually explicit  
21 visual material by intimidation, threats, or coercion.

22 (d) The recipient of the sexually explicit visual material  
23 downloaded the sexually explicit visual material onto an electronic  
24 device that is capable of storing the sexually explicit visual  
25 material.

26 (3) Except as provided in subsection (4) for a second or  
27 subsequent violation of subsection (1), a person who violates  
28 subsection (1) is guilty of a misdemeanor punishable by  
29 imprisonment for not more than 93 days or a fine of not more than

1 \$100.00, or both.

2 (4) A person who commits a second or subsequent violation of  
3 subsection (1) is guilty of a misdemeanor punishable by  
4 imprisonment for not more than 1 year or a fine of not more than  
5 \$1,000.00, or both.

6 (5) Except as provided in subsection (6) for a second or  
7 subsequent violation of subsection (2), a person who violates  
8 subsection (2) is guilty of a misdemeanor punishable by  
9 imprisonment for not more than 1 year or a fine of not more than  
10 \$1,000.00, or both.

11 (6) A person who commits a second or subsequent violation of  
12 subsection (2) is guilty of a felony punishable by imprisonment for  
13 not more than 4 years or a fine of not more than \$10,000.00, or  
14 both.

15 (7) Any device that contains sexually explicit visual material  
16 depicting a subject less than 18 years of age must be purged of the  
17 sexually explicit visual material before being released to the  
18 owner. However, rather than purging sexually explicit visual  
19 material, the court, at its discretion, may order any device  
20 depicting sexually explicit visual material to be forfeited and  
21 destroyed by the law enforcement agency.

22 (8) This section does not prohibit an individual from being  
23 charged with, convicted of, or punished for any other violation of  
24 law that is committed by that individual while violating this  
25 section.

26 (9) As used in this section:

27 (a) "Disseminate" means post, distribute, or publish on a  
28 computer device, computer network, website, or other electronic  
29 device or medium of communication.

1 (b) "Nudity" means displaying a person's genitalia or anus or,  
2 if the person is a female, her nipples or areola.

3 (c) "School" means any public or private learning institution  
4 that services grades K-12, including any online program or home  
5 school program.

6 (d) "Sexually explicit visual material" means a photograph or  
7 video that depicts nudity, erotic fondling, sexual intercourse, or  
8 sadomasochistic abuse.

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

