SUBSTITUTE FOR

HOUSE BILL NO. 4320

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 shall not intentionally or knowingly**

2   **harass, abuse, threaten, force, coerce, compel, or exploit the**

3   **vulnerability of a vulnerable adult in a manner that causes the**

4   **vulnerable adult to provide that person, or any other person,**

5   **sexually explicit visual material.**

6   **(2) Except as provided in subsection (3), a person who**

7   **violates subsection (1) is guilty of a misdemeanor punishable by**

8   **imprisonment for not more than 1 year or a fine of not more than**

9   **$500.00, or both.**

1   (3) A person who violates subsection (1) who has 1 or more

2 prior convictions for a violation of subsection (1) is guilty of a

3 felony punishable by imprisonment for not more than 2 years or a

4 fine of not more than $1,000.00, or both.

5   (4) If the prosecuting attorney intends to seek an enhanced

6 sentence based upon the defendant having 1 or more prior

7 convictions, the prosecuting attorney shall include on the

8 complaint and information a statement listing the prior conviction

9 or convictions. The existence of the defendant's prior conviction

10 or convictions must be determined by the court, without a jury, at

11 sentencing or at a separate hearing for that purpose before

12 sentencing. The existence of a prior conviction may be established

13 by any evidence relevant for that purpose, including, but not

14 limited to, 1 or more of the following:

15   (a) A copy of the judgment of conviction.

16   (b) A transcript of a prior trial, plea-taking, or sentencing.

17   (c) Information contained in a presentence report.

18   (d) The defendant's statement.

19   (5) As used in this section:

20   (a) "Sexually explicit visual material" means that term as

21 defined in section 145e.

22   (b) "Vulnerable adult" means that term as defined in section

23 145m.

24   Enacting section 1. This amendatory act takes effect 90 days

25 after the date it is enacted into law.