



Senate Fiscal Agency
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Senate Bills 924 and 925 (as introduced 5-1-14)
Sponsor: Senator Steven Bieda (S.B. 924)
Senator Rick Jones (S.B. 925)
Committee: Judiciary

Date Completed: 5-2-14

CONTENT

The bills would amend the Michigan Penal Code to prohibit and prescribe penalties for posting sexually explicit images on the internet to frighten, intimidate, or harass a person or failing to remove such images upon request of the person depicted in them.

The bills are tie-barred and would take effect 90 days after their enactment.

Senate Bill 924

The bill would prohibit a person from doing either of the following:

- Posting on the internet any sexually explicit photograph, drawing, or other visual image of another person with the intent to frighten, intimidate, or harass any person.
- Refusing or otherwise failing to remove from the internet a sexually explicit photograph, drawing, or other visual image of another person, upon the written request of that person.

The second prohibition would apply regardless of whether the posting was with the intent to frighten, intimidate, or harass any person. It also would apply regardless of whether the other person consented to the posting unless he or she knew or had reason to know that the photograph, drawing, or other visual image was sexually explicit and had signed a release knowingly allowing it to be posted on the internet by the person who did so.

It would be an affirmative defense in a prosecution for a violation of the bill that the person took all reasonable steps to have the photograph, drawing, or other visual image removed from the internet immediately upon the written request of the other person. (An affirmative defense is new matter that constitutes a defense to a complaint, or evidence that outweighs the evidence against the defense.)

As used in the bill, "sexually explicit" would mean displaying a person's genitalia or anus or a female's nipples or areola.

Senate Bill 925

A violation of the prohibition proposed by Senate Bill 924 would be a misdemeanor punishable by up to 90 days' imprisonment and/or a maximum fine of \$500. A second or subsequent violation would be a misdemeanor punishable by up to one year's imprisonment and/or a maximum fine of \$1,000.

FISCAL IMPACT

Under the bills, there could be an increase in the number of misdemeanor violations as individuals were prosecuted for posting or failing to remove images. The possible increase in misdemeanors could increase the requirements on local court systems and jails. Any associated fine revenue would be provided to public libraries.

Fiscal Analyst: John Maxwell