

Joint Committee on Ways and Means

Carrier – House: Rep. Olson
Carrier – Senate: Sen. Brown

Revenue: No revenue impact

Fiscal: Fiscal statement issued

Action: Do Pass the A-Engrossed Measure as Amended and Be Printed B-Engrossed

Vote: 19 – 1 – 2

House – Yeas: D. Edwards, Galizio, Garrard, Hanna, Jenson, Morgan, Nathanson, Shields
– Nays: Nolan
– Exc:

Senate – Yeas: Bates, Brown, Courtney, Devlin, Johnson, Morse, Nelson, Schrader, Verger, Westlund, Whitsett
– Nays:
– Exc: Gordly, Winters

Prepared By: Tim Walker, Legislative Fiscal Office

Meeting Date: 6/22/07

WHAT THE MEASURE DOES: Creates Class A misdemeanor of furnishing sexually explicit material to a child and Class C felony of luring a minor. Amends Class A misdemeanor of sending sexually explicit materials to a minor.

ISSUES DISCUSSED:

- Features of the amendment
- Who is exempted

EFFECT OF COMMITTEE AMENDMENT: Provides exemptions under certain circumstances.

BACKGROUND: HB 2843 arises out of a bipartisan coalition from the House and Senate to address problems related to pornography and children and the luring of minors for sexual conduct and activity. Its primary purpose lies in the creation of two new crimes: furnishing sexually explicit material to a child (a Class A misdemeanor) and luring a minor (a Class C felony).

Furnishing sexually explicit material to a child (under age 13) consists of the following elements: (1) defendant intentionally furnishes a child or intentionally permits a child to view, (2) sexually explicit material, (3) that the defendant knows is sexually explicit material. "Sexually explicit material" includes visual images of (1) masturbation or sexual intercourse; (2) genital to genital, oral to genital, anal to genital or oral to oral contact or (3) the penetration of the vagina or rectum by an object. There are affirmative defenses for (1) museum/school/library employees acting in the scope of employment, (2) if the materials are for sex/art education or treatment and are furnished by a parent/guardian/educator or treatment provider, (3) if the sexually explicit material is an incidental part of a nonoffending whole and serves some purpose other than titillation, (4) if the defendant had reasonable cause to believe that the victim was not a child, or (5) if the defendant was less than three years older than the victim. It is not an affirmative defense if the victim is actually a law enforcement officer posing as a child.

Luring a minor (under age 18) consists of the following elements: (1) defendant furnishes to or uses with a minor, (2) visual representation or verbal description or narrative account, (3) of sexual conduct, and (4) the purpose was to arouse or satisfy the sexual desires of the defendant or to induce the minor to engage in sexual conduct. The affirmative defenses are similar to those for furnishing (other than the scope of employment defense). The definition of sexual conduct is the same as for "sexually explicit material" except that conduct also includes touching of the genitals/public areas/buttocks or female breasts.

HB 2843 A also amends the existing crime of sending sexually explicit material to a minor to include electronic transmissions. None of the crimes entail sex offender registration requirements.