

SENATE BILL REPORT

SB 6247

As Reported By Senate Committee On:
Law & Justice, February 5, 1998

Title: An act relating to display of sexually explicit material to minors.

Brief Description: Regulating display of sexually explicit material to minors.

Sponsors: Senators Benton, Roach, Strannigan, Anderson, Oke, Swecker, Stevens and Patterson.

Brief History:

Committee Activity: Law & Justice: 1/27/98, 2/5/98 [DPS, DNPS].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 6247 be substituted therefor, and the substitute bill do pass.

Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Kline, Long, McCaslin and Zarelli.

Minority Report: Do not pass substitute.

Signed by Senator Thibaudeau.

Staff: Harry Steinmetz (786-7421)

Background: Currently, a person is guilty of unlawfully displaying sexually explicit material if the person knowingly exhibits such material on a viewing screen so that it is visible from a public thoroughfare, park or playground or from one or more family units. The statutes regarding sexually explicit material were enacted in 1975 largely in response to objectionable movies being shown at drive-in movies theaters as well as other venues where they could be viewed by the public at large. Unlawfully displaying sexually explicit material is a misdemeanor.

Erotic material differs from sexually explicit material. The character of material alleged to be erotic is determined by the superior court pursuant to a petition filed by the prosecuting attorney. Contemporary community standards are used to determine whether material is erotic. It is a violation to sell, distribute or exhibit erotic material to a minor. The first offense is a misdemeanor, the second offense is a gross misdemeanor and subsequent offenses are felonies. "Exhibit" is not defined by the statutes, so the common dictionary meaning is used. The dictionary definition is "to show or display" and "to present to public view."

It has been suggested that persons who display or exhibit these types of materials to minors in private homes cause harm to minors.

Summary of Substitute Bill: A person is guilty of unlawful display of sexually explicit material to a minor if the person knowingly shows sexually explicit material that is inappropriate for minors on a viewing screen so that it is visible to a minor who is not trespassing. For the purposes of the statutes relating to erotic material, exhibit is defined as showing the material in such place or at such a time that the minor views the material while not trespassing.

Sexually explicit material is defined in the statute as it has stood since the mid-seventies. Inappropriate for minors means that, taken as a whole, the material appeals to the prurient interest of a minor. This definition has been approved by the United States Supreme Court.

Numerous exceptions are created for legitimate purposes.

Substitute Bill Compared to Original Bill: A qualifying definition of inappropriate for minors— is added to the bill. Also, the list of expectations are expanded to include scientific or medical significance or educational or health purposes funded in part or in whole by the state, county, municipality or other political subdivision of the state.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: A neighbor invites a 12-year old boy into the neighbor's house and shows the child an X-rated video tape. There is no crime that covers this situation. Yet, it is a classic grooming behavior for a pedophile. The bill will close this hole in the law. It is very straightforward and simple. It takes this outrageous behavior and criminalizes it by amending existing laws. The definition of sexually explicit material has been part of our laws since 1975 and has never been constitutionally challenged. The definition of erotic material has been upheld by the Washington Supreme Court. Works of art and of anthropological significance are specifically excluded from this bill. The person who shows the sexually explicit material must knowingly make it visible to a nontrespassing minor; thus, movie theater operators are protected from kids who sneak into a theater different from the one they bought their ticket for. Video rentals stores and TV stations are similarly protected.

Testimony Against: This bill won't work. It is not constitutional or enforceable. What we need is a "harmful to minors" bill.

A number of classrooms have health education materials that depict adult genitals. This bill would criminalize the use of these materials. The bill should be changed to exclude these materials.

Testified: Senator Don Benton, prime sponsor; Andrea Van Gore, Executive Director, Washington Against Pornography; Mariella Cummings, Director, Infectious Diseases and Reproductive Health, Department of Health.