

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Alan Silvia

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the harmful distribution of sexually explicit visual material.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Alan Silvia</i>	<i>7th Bristol</i>	<i>2/26/2014</i>
<i>Paul A. Schmid, III</i>	<i>8th Bristol</i>	<i>2/26/2014</i>
<i>Carole Fiola</i>	<i>6th Bristol</i>	<i>2/26/2014</i>

HOUSE No.

By Mr. Silvia of Fall River, a petition (subject to Joint Rule 12) of Alan Silvia, Paul A. Schmid, III and Carole Fiola for legislation to include instructions on the dangers and negative consequences of distributing sexually explicit visual material in human sexuality curriculum. Education.

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

An Act relative to the harmful distribution of sexually explicit visual material.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 32A of said chapter 71 of the General Laws is hereby amended by
2 inserting after the third paragraph the following paragraph:-

3 Every city, town, regional school district or vocational school district implementing or
4 maintaining a curriculum which primarily involves human sexual education or human sexuality
5 issues shall include as a component of such curriculum, for students determined to be an
6 appropriate age, instruction on the dangers and negative consequences of distributing sexually
7 explicit visual material depicting other students or sexually explicit self-depictions, as those
8 terms are defined in section 106 of chapter 272. Every city, town, regional school district or
9 vocational school district shall also include, for students determined to be an appropriate age,
10 instruction on the dangers and negative consequences of distributing sexually explicit visual
11 material depicting other students or sexually explicit self-depictions, as those terms are defined
12 in section 106 of chapter 272, in any curriculum for health education that it implements or
13 maintains. For purposes of this paragraph, the term “distributing” shall mean distributing,
14 transmitting, posting, exchanging or disseminating through a computer, wireless communication
15 device, or other digital media.

16 SECTION 2. Chapter 272 of the General Laws is hereby amended by adding the
17 following 2 sections:-

18 Section 106. (a) As used in this section, the following terms shall have the following
19 meanings:-

20 “Distribute”, distribute, transmit, post, exchange or disseminate through a computer,
21 wireless communication device, or other digital media.

22 “Minor”, a person under 18 years of age.

23 “Nudity”, showing of the human male or female genitals, pubic area, or buttocks with
24 less than a fully opaque covering or the showing of the female breast below a point immediately
25 above the top of the areola.

26 “Sexual act”, sexual intercourse, including genital, anal or oral sex.

27 “Sexually explicit visual material”, any motion picture film, picture, photograph, image,
28 videotape, recording by computer, telephone or any other device capable of electronic data
29 storage or transmission, or any similar visual representations or reproductions thereof depicting
30 another person in any condition of nudity or committing a sexual act.

31 “Sexually explicit self-depiction”, any motion picture film, picture, photograph, image,
32 videotape, recording by computer, telephone or any other device capable of electronic data
33 storage or transmission, or any similar visual representations or reproductions thereof, depicting
34 a person in any condition of nudity and created by that person so depicted.

35 (b) Whoever, being a minor, distributes any sexually explicit visual material depicting
36 another minor shall be punished by a fine of not more than \$250 for a first offense, by a fine of
37 not more than \$500 for a second offense and by a fine of not more than \$1000 or imprisonment
38 for not more than 60 days for a third or subsequent offense.

39 (c) Whoever, being a minor, distributes a sexually explicit self-depiction shall be
40 punished by a civil fine of not more than \$50 for a first offense and by a civil fine of not more
41 than \$100 for a second or subsequent offense.

42 Section 107. As used in this section, the following terms shall have the following
43 meanings:-

44 “Electronic communication device” shall include but not be limited to, a telephone, cell
45 phone, computer, Internet Web pages or sites, Internet phones, hybrid cellular and wireless
46 devices, personal digital assistances, video recorders or digital cameras.

47 “Nudity”, showing of the human male or female genitals, pubic area, or buttocks with
48 less than a fully opaque covering or the showing of the female breast below a point immediately
49 above the top of the areola.

50 “Sexual act”, sexual intercourse, including genital, anal or oral sex.

51 “Visual material”, any motion picture film, picture, photograph, image, videotape,
52 recording by computer, telephone or any other device capable of electronic data storage or
53 transmission, or any similar visual representations or reproductions thereof.

54 Whoever, with the intent to cause substantial emotional distress or humiliation, by means
55 of an electronic communication device, and without consent of the other person, electronically
56 distributes, publishes, emails, hyperlinks, or makes available for downloading, visual material
57 depicting nudity of another, identifiable person, or showing another, identifiable person engaged
58 in a sexual act, shall be punished by a fine of not less than \$1,000 or imprisonment for not less
59 than 1 year, or by both such fine and imprisonment, for a first offense, and by a fine of not less
60 than \$2,000 or imprisonment for not less than 5 years, or by both such fine and imprisonment,
61 for a second or subsequent offense.