

HOUSE No. 318

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>1/19/2017</i>
<i>Carole A. Fiola</i>	<i>6th Bristol</i>	<i>1/26/2017</i>
<i>Paul A. Schmid, III</i>	<i>8th Bristol</i>	<i>1/27/2017</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>	
<i>Bradford R. Hill</i>	<i>4th Essex</i>	
<i>Timothy R. Whelan</i>	<i>1st Barnstable</i>	

HOUSE No. 318

By Mr. Silvia of Fall River, a petition (accompanied by bill, House, No. 318) of Alan Silvia and others for legislation to include instructions on the dangers and negative consequences of distributing sexually explicit visual material in human sexuality curriculum. Education.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 483 OF 2015-2016.]

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

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 Section1. 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

material depicting other students or sexually explicit self-depictions, as those terms are defined in section 106 of chapter 272, in any curriculum for health education that it implements or maintains. For purposes of this paragraph, the term "distributing" shall mean distributing, transmitting, posting, exchanging or disseminating through a computer, wireless communication device, or other digital media.

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

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

"Distribute", distribute, transmit, post, exchange or disseminate through a computer, wireless communication device, or other digital media.

"Minor", a person under 18 years of age.

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

"Sexual act", sexual intercourse, including genital, anal or oral sex.

"Sexually explicit visual material", any motion picture film, picture, photograph, image, videotape, recording by computer, telephone or any other device capable of electronic data storage or transmission, or similar visual representations or reproductions thereof, depicting a person in any condition of nudity and created by that person so depicted.

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

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

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

"Electronic communications device" shall include but not be limited to, a telephone, cell phone, computer, Internet Web pages or sites, Internet phones, hybrid cellular and wireless devices, personal digital assistants, video recorders or digital cameras.

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

"Sexual act", sexual intercourse, including genital, anal or oral sex.

"Visual material", any motion picture film, picture, photograph, image, videotape, recording by computer, telephone or any other device capable of electronic data storage or transmission, or any similar visual representation or reproductions thereof.

Whoever, with the intent to cause substantial emotional distress or humiliation by means of a electronic communication device, and without consent of the other person, electronically

52 distributes, publishes, emails, hyperlinks, or makes available for downloading, visual material
53 depicting nudity of another, identifiable person, or showing another, identifiable person engaged
54 in a sexual act, shall be punished by a fine of not less than \$1000 or imprisonment for not less
55 than 1 year, or by both such fine and imprisonment, for a first offense, and by a fine of not less
56 than \$2000 or imprisonment for not less than 5 years, or by both such fine and imprisonment, for
57 a second or subsequent offense.