

**HOUSE . . . . . No. 318**

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**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>	

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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.

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

**The Commonwealth of Massachusetts**

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**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

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 following 2  
17 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 similar visual representations or reproductions thereof, depicting a  
30 person in any condition of nudity and created by that person so depicted.

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

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

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

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

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

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

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

50 Whoever, with the intent to cause substantial emotional distress or humiliation by means  
51 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.