

6003

Sponsor(s): Senators A. Smith, Quigley, L. Smith, Haugen, Oke, Nelson, McAuliffe, Ludwig and Franklin

Brief Description: Protecting children from sexually explicit films, publications, and devices.

SB 6003 - DIGEST

(DIGEST AS PASSED LEGISLATURE)

Prohibits the display of any matter which is harmful to minors, as defined by the act.

Provides for affirmative defenses to prosecution for violations of the act.

Makes a violation of the act a gross misdemeanor offense.

Provides that no person shall be vicariously liable for the conduct of agents or employees.

Specifies exemptions for official circulations of materials.

Repeals RCW 9.68.050 through 9.68.130 and RCW 9.68A.140, 9.68A.150, and 9.68A.160.

VETO MESSAGE ON SB 6003

April 1, 1994

To the Honorable President and Members,
The Senate of the State of Washington
Ladies and Gentlemen:

I am returning herewith, without my approval, Senate Bill No. 6003 entitled:

"AN ACT Relating to the well-being of Children;"

Senate Bill No. 6003 attempts to clarify obscenity laws in our state as they apply to minors. The issue of pornography is one of the most emotionally charged issues before our courts and lawmakers. We must protect our most valuable resource--our children--and I know that was the legislature's well meant intention. However, that is not what Senate Bill No. 6003 does, and it also endangers some of our most important freedoms.

Presently the Washington State Supreme Court has a case before it based on a 1992 statute which added "sound recordings" to the list of materials able to be classified as erotic. The Court has not yet rendered its opinion in this case. This decision is expected to offer guidance and interpretation to the constitutionality of our present law.

Until we hear from the State Supreme Court, a number of questions remain as to the constitutionality of the present laws and, therefore, the appropriateness of any attempted revisions to those laws. Senate Bill No. 6003 is overly broad, vague and ambiguous in a number of respects. This raises important questions as to the bill's constitutional survivability.

The bill also contains provisions which are troubling and, by all signs, unintended. Senate Bill No. 6003, as well as present law, offer special protections to minors. However, the current law defines a minor as anyone under eighteen years of age, while this

bill changes the definition to anyone under seventeen years of age. Senate Bill No. 6003 would actually allow more children to be exposed legally to the very material where access is sought to be limited. Further, under the provisions of Senate Bill No. 6003, an individual store clerk could be held criminally liable for selling material later held to be harmful to minors, while those who actually profit from such materials would be explicitly protected from liability.

We must make every effort to protect our children, and we must be likewise vigilant in protecting the fundamental freedoms they will grow to cherish. While there may be disagreement on the particular materials or circumstances from which our children require protection, there is widespread agreement on the need to adequately insulate our children from the proliferation of violence and other obscenity permeating our society. I look forward to working with the legislature, scholars, prosecutors, and citizens to craft, as necessary, changes or additions to current law which are narrowly tailored to address the problem in an enforceable, practical, and constitutionally sound manner.

For these reasons, I am vetoing Senate Bill No. 6003 in its entirety.

Respectfully submitted,
Mike Lowry
Governor