

HOUSE BILL No. 4071

January 31, 2001, Introduced by Reps. Bishop, Cassis, Vear, Koetje, Gosselin, Birkholz, Pappageorge, Mead and Raczkowski and referred to the Committee on Criminal Justice.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 145d (MCL 750.145d), as amended by 2000 PA
185.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 145d. (1) A person shall not use the internet or a
2 computer, computer program, computer network, or computer system
3 to communicate with any person for the purpose of doing any of
4 the following:

5 (a) Committing, attempting to commit, conspiring to commit,
6 or soliciting another person to commit conduct proscribed under
7 section 145a, 145c, 157c, 349, 350, 520b, 520c, 520d, 520e, or
8 520g, or section 5 of 1978 PA 33, MCL 722.675, in which the
9 victim or intended victim is a minor or is believed by that
10 person to be a minor.

1 (b) Committing, attempting to commit, conspiring to commit,
2 or soliciting another person to commit conduct proscribed under
3 section 411h or 411i.

4 (c) Committing, attempting to commit, conspiring to commit,
5 or soliciting another person to commit conduct proscribed under
6 chapter XXXIII or section 327, 327a, 328, or 411a(2).

7 (D) COMMITTING, ATTEMPTING TO COMMIT, CONSPIRING TO COMMIT,
8 OR SOLICITING ANOTHER PERSON TO COMMIT ANY PROPERTY DAMAGE OR
9 DESTRUCTION.

10 (2) A person who violates this section is guilty of a crime
11 as follows:

12 (a) If the underlying crime is a misdemeanor or a felony
13 with a maximum term of imprisonment of less than 1 year, the
14 person is guilty of a misdemeanor punishable by imprisonment for
15 not more than 1 year or a fine of not more than \$5,000.00, or
16 both.

17 (b) If the underlying crime is a misdemeanor or a felony
18 with a maximum term of imprisonment of 1 year or more but less
19 than 2 years, the person is guilty of a felony punishable by
20 imprisonment for not more than 2 years or a fine of not more than
21 \$5,000.00, or both.

22 (c) If the underlying crime is a misdemeanor or a felony
23 with a maximum term of imprisonment of 2 years or more but less
24 than 4 years, the person is guilty of a felony punishable by
25 imprisonment for not more than 4 years or a fine of not more than
26 \$5,000.00, or both.

1 (d) If the underlying crime is a felony with a maximum term
2 of imprisonment of 4 years or more but less than 10 years, the
3 person is guilty of a felony punishable by imprisonment for not
4 more than 10 years or a fine of not more than \$5,000.00, or
5 both.

6 (e) If the underlying crime is a felony punishable by a max-
7 imum term of imprisonment of 10 years or more but less than 15
8 years, the person is guilty of a felony punishable by imprison-
9 ment for not more than 15 years or a fine of not more than
10 \$10,000.00, or both.

11 (f) If the underlying crime is a felony punishable by a max-
12 imum term of imprisonment of 15 years or more or for life, the
13 person is guilty of a felony punishable by imprisonment for not
14 more than 20 years or a fine of not more than \$20,000.00, or
15 both.

16 (3) The court may order that a term of imprisonment imposed
17 under this section be served consecutively to any term of impris-
18 onment imposed for conviction of the underlying offense.

19 (4) This section does not prohibit a person from being
20 charged with, convicted of, or punished for any other violation
21 of law committed by that person while violating or attempting to
22 violate this section, including the underlying offense.

23 (5) This section applies regardless of whether the person is
24 convicted of committing, attempting to commit, conspiring to
25 commit, or soliciting another person to commit the underlying
26 offense.

1 (6) A violation or attempted violation of this section
2 occurs if the communication originates in this state, is intended
3 to terminate in this state, or is intended to terminate with a
4 person who is in this state.

5 (7) A violation or attempted violation of this section may
6 be prosecuted in any jurisdiction in which the communication
7 originated or terminated.

8 (8) The court may order a person convicted of violating this
9 section to reimburse this state or a local unit of government of
10 this state for expenses incurred in relation to the violation in
11 the same manner that expenses may be ordered to be reimbursed
12 under section 1f of chapter IX of the code of criminal procedure,
13 1927 PA 175, MCL 769.1f.

14 (9) As used in this section:

15 (a) "Computer" means any connected, directly interoperable
16 or interactive device, equipment, or facility that uses a com-
17 puter program or other instructions to perform specific opera-
18 tions including logical, arithmetic, or memory functions with or
19 on computer data or a computer program and that can store,
20 retrieve, alter, or communicate the results of the operations to
21 a person, computer program, computer, computer system, or com-
22 puter network.

23 (b) "Computer network" means the interconnection of hardware
24 or wireless communication lines with a computer through remote
25 terminals, or a complex consisting of 2 or more interconnected
26 computers.

1 (c) "Computer program" means a series of internal or
2 external instructions communicated in a form acceptable to a
3 computer that directs the functioning of a computer, computer
4 system, or computer network in a manner designed to provide or
5 produce products or results from the computer, computer system,
6 or computer network.

7 (d) "Computer system" means a set of related, connected or
8 unconnected, computer equipment, devices, software, or hardware.

9 (e) "Device" includes, but is not limited to, an electronic,
10 magnetic, electrochemical, biochemical, hydraulic, optical, or
11 organic object that performs input, output, or storage functions
12 by the manipulation of electronic, magnetic, or other impulses.

13 (f) "Internet" means that term as defined in section 230 of
14 title II of the communications act of 1934, chapter 652, 110
15 Stat. 137, 47 U.S.C. 230.

16 (g) "Minor" means an individual who is less than 18 years of
17 age.