

HOUSE BILL No. 4329

March 12, 2003, Introduced by Reps. Bieda, Lipsey, Wojno, Elkins, Meisner, Gillard, Condino, Spade, Clack, Vagnozzi, Hunter, Tobocman, Smith, Accavitti, Law, Plakas, Gleason, Paletko, Sheltroun, Zelenko, Phillips, Minore, Ward, Gaffney, Nofs, Steil, Dennis, Sheen, Pappageorge and Rocca 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 XXXVIII 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 with
13 a maximum term of imprisonment of less than 1 year, the person is
14 guilty of a misdemeanor punishable by imprisonment for not more
15 than 1 year or a fine of not more than \$5,000.00, or both.

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

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

26 (d) If the underlying crime is a felony with a maximum term
27 of imprisonment of 4 years or more but less than 10 years, the

1 person is guilty of a felony punishable by imprisonment for not
2 more than 10 years or a fine of not more than \$5,000.00, or
3 both.

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

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

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

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

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

25 (6) A violation or attempted violation of this section occurs
26 if the communication originates in this state, is intended to
27 terminate in this state, or is intended to terminate with a

1 person who is in this state.

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

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

11 (9) As used in this section:

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

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

24 (c) "Computer program" means a series of internal or external
25 instructions communicated in a form acceptable to a computer that
26 directs the functioning of a computer, computer system, or
27 computer network in a manner designed to provide or produce

1 products or results from the computer, computer system, or
2 computer network.

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

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

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

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