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INTERNET/COMPUTER USE FOR CRIME

Senate Bill 562 (Substitute H-3) First Analysis (11-30-99)

Sponsor: Sen. Mike Rogers
House Committee: Criminal Law and
Corrections
Senate Committee: Judiciary

THE APPARENT PROBLEM:

On August 1, 1999, Public Acts 32 and 39 of 1999 took effect. The acts provided for the establishment of felony penalties for individuals who use the Internet to commit certain crimes involving minors. These new felonies were created to protect children from pedophiles who use the Internet to exploit and prey upon children. Proponents of the new law say that it provides police and prosecutors with strong statutory standards to support prosecutions in court by subjecting violators to imprisonment and/or fines, and imposing greater penalties for subsequent offenses. It has been suggested that the use of the Internet in certain other crimes should also be subject to enhanced penalties.

THE CONTENT OF THE BILL:

The bill would amend the Michigan Penal Code to prohibit the use of the Internet, a computer, or a computer program, network, or system to communicate with any person for the purpose of committing, attempting to commit, conspiring to commit, or soliciting another to commit any of the following crimes:

- An explosives offense listed in Chapter 33 of the code; causing a death by explosives; causing a death by explosives that were placed to destroy a building or object; selling explosives to a minor; or falsely reporting a bomb threat.
- Gambling; keeping and occupying a building for gambling; keeping a gambling room or table for hire, gain, or reward; publication or distribution of betting odds; selling pools and registering bets; unlawful use of a teletype ticker; or gambling on stocks, bonds, grain or produce.

- A violation of section 18 of the Michigan Gaming Control and Revenue Act, which prohibits, among other things, unlicensed gambling, providing false information or testimony to the Michigan Gaming Control Board, and knowingly permitting someone under the age of 21 to make a wager.

A violation involving a gambling offense or violation of the Gaming Control and Revenue Act would be a felony, punishable by up to two years' imprisonment and/or a maximum fine of \$2,000; a violation involving bombing or a bomb threat, or a second or subsequent conviction for a gambling offense would be a felony punishable by up to five years and/or a fine of up to \$5,000.

Finally, the bill would also provide that its provisions would apply (for both the new crimes and for those created by Public Act 32 of 1999) where the communication originated, was intended to terminate, or both originated and terminated in this state. The act current states that the communication must originate, terminate, or both originate and terminate in the state.
MCL 750.145d

HOUSE COMMITTEE ACTION:

The House Committee on Criminal Law and Corrections adopted a conflict substitute to note the enacting of Public Acts 32 and 39 of 1999 and an amendment that specified that the bill would apply only false reporting of a bomb threat (and not false reporting of other crimes).

FISCAL IMPLICATIONS:

Fiscal information is not available.

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ARGUMENTS:***For:***

The bill would expand recently enacted provisions to help to deal with people who use the Internet to commit crimes. The law will provide police and prosecutors with an additional tool to use in enforcing and prosecuting these violations. It is hoped that offenders will be deterred from using the Internet and other computer connections to commit the specified crimes. In addition, the penalty provisions could be used to exact greater punishment on those who did use this technology in furtherance of their crimes, just as the law provides for greater penalties for the use of a firearm in committing a felony.

Against:

The bills are unnecessary. Current law already provides ample punishment for these crimes. Enhancing these penalties merely because a computer or the Internet was used is unreasonable. Why these crimes? Why not enhance the punishment for threats made over the telephone or in person? Why violations of the gambling laws, in particular? What is so harmful about the use of a computer or the Internet to gamble that warrants such severe punishment?

Furthermore, the gambling provisions could be seen as interfering with interstate commerce and violating Article I, section 8 of the U.S. Constitution, which provides the federal government with authority over interstate commerce. In particular, the bill's provisions could be seen as having been designed to protect gambling interests within the state by placing a harsher penalty on gambling violations that occur outside the state and take place over the Internet. Further, the violations of the Gaming Control and Revenue Act based on failure to be licensed by this state would significantly affect persons running legal gambling operations within their own state.

Finally, to the extent that citizens of foreign nations would come under the provisions of these bills, the state would obviously have no ability to prosecute or even arrest those individuals unless they physically entered the state.

Analyst: W. Flory

POSITIONS:

There are no positions on the bill.

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.