

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bills 893 & 894 (as introduced 12-1-99)
Sponsor: Senator Mike Rogers
Committee: Judiciary

Date Completed: 2-28-00

CONTENT

Senate Bills 893 and 894 would amend the Revised Judicature Act and the Michigan Penal Code, respectively, to provide for the forfeiture of property used in or obtained through certain crimes involving the Internet or a computer, and to allow a sentencing court to order reimbursement to the State or a local unit for investigation and prosecution of those crimes.

Senate Bill 893

The bill would amend the Revised Judicature Act (RJA) to include violations committed by use of the Internet, a computer, or a computer program, network, or system in the list of offenses for which seizure and forfeiture proceedings may apply to property used in or obtained through the commission of a crime.

Under the Michigan Penal Code, the offense that would be added to the definition of "crime" in Chapter 47 of the RJA ("Forfeiture or Seizure of Certain Property") currently prohibits use of the Internet, a computer, or a computer program, network, or system to communicate with any person for the purpose of doing any of the following:

- Committing, attempting to commit, conspiring to commit, or soliciting another to commit any of the following crimes, when the victim or intended victim is a minor: involvement in child sexually abusive activity or material (MCL 750.145c); kidnapping (MCL 750.349); stalking or aggravated stalking (MCL 750.411h & 750.411i); first-, second-, third-, or fourth-degree criminal sexual conduct (CSC) (MCL 750.520b-750.520e); or assault with intent to commit CSC (MCL 750.520g).
- Committing, attempting to commit, conspiring to commit, or soliciting another to commit any of the following: solicitation of a child for immoral purposes (MCL 750.145a); recruitment or inducement of a minor to commit a felony (MCL 750.157c); or kidnapping of a child under the age of 14 (MCL 750.350).

Public Act 235 of 1999, which takes effect on March 10, 2000, amended that Penal Code provision to include in the offense 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:

- An explosives offense listed in Chapter 33 of the Code; causing a death by explosives (MCL 750.327 or 750.328); selling explosives to a minor (MCL 750.327a); or intentionally reporting a crime relating to a bombing, attempted bombing, or threat to bomb, knowing that the report is false (MCL 750.411a(2)).

- Accepting money or other valuables contingent on an uncertain event (MCL 750.301); keeping or occupying a gambling house or gambling apparatus, or manufacturing or possessing a gambling apparatus for sale, except as otherwise allowed (MCL 750.302); illegally keeping or maintaining a gaming room, gaming table or game of skill or chance for hire, gain, or reward (MCL 750.303); selling pools and registering bets (MCL 750.304); publication or distribution of betting odds (MCL 750.305); unlawful use of a teletype ticker or other machine for communicating information concerning racing results (MCL 750.305a); gambling in stocks, bonds, or other commodities by the pretended buying or selling of shares (MCL 750.311); or various violations of the Michigan Gaming Control and Revenue Act (MCL 432.218).

In addition, currently, use of the Internet or a computer to commit, attempt to commit, conspire to commit, or solicit another to commit stalking or aggravated stalking qualifies for enhanced penalties only if the victim or intended victim is a minor. Under Public Act 235, enhanced penalties will apply to those offenses regardless of the victim's age.

Senate Bill 894

The bill would amend the Michigan Penal Code to specify that a court could order a person convicted of an Internet or computer use offense described above to reimburse the State or a local unit of government of this State for expenses incurred in relation to the violation in the same manner that expenses may be ordered to be reimbursed under a section of the Code of Criminal Procedure (MCL 769.1f). That section allows a court to order, as part of the sentence for various offenses, that the person convicted reimburse the State or a local unit for expenses incurred in relation to that incident, including expenses for an emergency response and expenses for prosecuting the person.

MCL 600.4701 (S.B. 893)
750.145d (S.B. 894)

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State and local government. The bills would provide for seizure and forfeiture proceedings and reimbursement of law enforcement costs associated with computer-related crimes. It is not possible at this time to estimate the likely revenue that would be received by State and local government under this provision.

Fiscal Analyst: B. Baker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.