

SENATE BILL No. 894

December 1, 1999, Introduced by Senators ROGERS, SHUGARS, JOHNSON,
HAMMERSTROM, STILLE, STEIL and GAST and referred to the Committee on
Judiciary.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 145d (MCL 750.145d), as added by 1999 PA 32.

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 145c, 349, 411h, 411i, 520b, 520c, 520d, 520e, or 520g in
8 which the victim or intended victim is a minor.

9 (b) Committing, attempting to commit, conspiring to commit,
10 or soliciting another person to commit conduct proscribed under
11 section 145a, 157c, or 350.

1 (2) Except as provided in subsection (3), a person who
2 violates subsection (1) is guilty of a felony punishable by
3 imprisonment for not more than 2 years or a fine of not more than
4 \$2,000.00, or both.

5 (3) A person who violates subsection (1) and who has 1 or
6 more prior convictions is guilty of a felony punishable by
7 imprisonment for not more than 5 years or a fine of not more than
8 \$5,000.00, or both.

9 (4) The court may order that a term of imprisonment imposed
10 under this section be served consecutively to and preceding any
11 term of imprisonment imposed for conviction of the underlying
12 offense.

13 (5) This section does not prohibit a person from being
14 charged with, convicted of, or punished for any other violation
15 of law committed by that person while violating or attempting to
16 violate this section, including the underlying offense.

17 (6) This section applies regardless of whether the person is
18 convicted of committing, attempting to commit, conspiring to
19 commit, or soliciting another person to commit the underlying
20 offense.

21 (7) A violation or attempted violation of this section
22 occurs if the communication originates, terminates, or both orig-
23 inates and terminates in this state.

24 (8) A violation or attempted violation of this section may
25 be prosecuted in any jurisdiction in which the communication
26 originated or terminated.

1 (9) If the prosecuting attorney intends to seek an enhanced
2 sentence based upon the defendant having 1 or more prior
3 convictions, the prosecuting attorney shall include on the com-
4 plaint and information a statement listing the prior conviction
5 or convictions. The existence of the defendant's prior convic-
6 tion or convictions shall be determined by the court, without a
7 jury, at sentencing or at a separate hearing for that purpose
8 before sentencing. The existence of a prior conviction may be
9 established by any evidence relevant for that purpose, including,
10 but not limited to, 1 or more of the following:

11 (a) A copy of the judgment of conviction.

12 (b) A transcript of a prior trial, plea-taking, or
13 sentencing.

14 (c) Information contained in a presentence report.

15 (d) The defendant's statement.

16 (10) THE COURT MAY ORDER A PERSON CONVICTED OF VIOLATING
17 THIS SECTION TO REIMBURSE THIS STATE OR A LOCAL UNIT OF GOVERN-
18 MENT OF THIS STATE FOR EXPENSES INCURRED IN RELATION TO THE VIO-
19 LATION IN THE SAME MANNER THAT EXPENSES MAY BE ORDERED TO BE
20 REIMBURSED UNDER SECTION 1F OF CHAPTER IX OF THE CODE OF CRIMINAL
21 PROCEDURE, 1927 PA 175, MCL 769.1F.

22 (11) ~~(10)~~ As used in this section:

23 (a) "Computer" means any connected, directly interoperable
24 or interactive device, equipment, or facility that uses a com-
25 puter program or other instructions to perform specific opera-
26 tions including logical, arithmetic, or memory functions with or
27 on computer data or a computer program and that can store,

1 retrieve, alter, or communicate the results of the operations to
2 a person, computer program, computer, computer system, or com-
3 puter network.

4 (b) "Computer network" means the interconnection of hardware
5 or wireless communication lines with a computer through remote
6 terminals, or a complex consisting of 2 or more interconnected
7 computers.

8 (c) "Computer program" means a series of internal or exter-
9 nal instructions communicated in a form acceptable to a computer
10 that directs the functioning of a computer, computer system, or
11 computer network in a manner designed to provide or produce pro-
12 ducts or results from the computer, computer system, or computer
13 network.

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

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

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

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

25 (h) "Prior conviction" means a conviction for a violation or
26 attempted violation of subsection (1) or a law of the United

1 States or another state substantially corresponding to subsection
2 (1).