

HOUSE BILL No. 4204

February 13, 2001, Introduced by Reps. Schermesser, Bovin, O'Neil, Plakas, Wojno, Jacobs, Anderson, Dennis, Hale, Gielegem, Schauer and Spade 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) THREATENING TO KILL OR PHYSICALLY INJURE ANOTHER
8 PERSON.

9 (E) THREATENING TO DAMAGE THE PROPERTY OF ANOTHER PERSON OR
10 OTHERWISE INTENTIONALLY HARASSING, INTIMIDATING, OR FRIGHTENING
11 ANOTHER PERSON.

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

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

19 (b) If the underlying crime is a misdemeanor or a felony
20 with a maximum term of imprisonment of 1 year or more but less
21 than 2 years, the person is guilty of a felony punishable by
22 imprisonment for not more than 2 years or a fine of not more than
23 \$5,000.00, or both.

24 (c) If THE VIOLATION IS A VIOLATION OF SUBSECTION (1)(D) OR
25 the underlying crime is a misdemeanor or a felony with a maximum
26 term of imprisonment of 2 years or more but less than 4 years,
27 the person is guilty of a felony punishable by imprisonment for

1 not more than 4 years or a fine of not more than \$5,000.00, or
2 both.

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

8 (e) If the underlying crime is a felony punishable by a max-
9 imum term of imprisonment of 10 years or more but less than 15
10 years, the person is guilty of a felony punishable by imprison-
11 ment for not more than 15 years or a fine of not more than
12 \$10,000.00, or both.

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

18 (G) EXCEPT AS PROVIDED IN SUBDIVISION (H), A PERSON WHO VIO-
19 LATES SUBSECTION (1)(E) IS GUILTY OF A MISDEMEANOR PUNISHABLE BY
20 IMPRISONMENT FOR NOT MORE THAN 6 MONTHS OR A FINE OF NOT MORE
21 THAN \$500.00, OR BOTH.

22 (H) A PERSON WHO VIOLATES SUBSECTION (1)(E) AND WHO HAS 1 OR
23 MORE PRIOR CONVICTIONS IS GUILTY OF A MISDEMEANOR PUNISHABLE BY
24 IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN
25 \$1,000.00, OR BOTH.

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

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

8 (5) This section applies regardless of whether the person is
9 convicted of committing, attempting to commit, conspiring to
10 commit, or soliciting another person to commit the underlying
11 offense.

12 (6) A violation or attempted violation of this section
13 occurs if the communication originates in this state, is intended
14 to terminate in this state, or is intended to terminate with a
15 person who is in this state.

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

19 (8) The court may order a person convicted of violating this
20 section to reimburse this state or a local unit of government of
21 this state for expenses incurred in relation to the violation in
22 the same manner that expenses may be ordered to be reimbursed
23 under section 1f of chapter IX of the code of criminal procedure,
24 1927 PA 175, MCL 769.1f.

25 (9) As used in this section:

26 (a) "Computer" means any connected, directly interoperable
27 or interactive device, equipment, or facility that uses a

1 computer program or other instructions to perform specific
2 operations including logical, arithmetic, or memory functions
3 with or on computer data or a computer program and that can
4 store, retrieve, alter, or communicate the results of the opera-
5 tions to a person, computer program, computer, computer system,
6 or computer network.

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

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

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

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

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

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