

SUBSTITUTE FOR
HOUSE BILL NO. 5979

A bill to amend 1979 PA 53, entitled

"An act to prohibit access to computers, computer systems, and computer networks for certain fraudulent purposes; to prohibit intentional and unauthorized access, alteration, damage, and destruction of computers, computer systems, computer networks, computer software programs, and data; and to prescribe penalties,"

(MCL 752.791 to 752.797) by amending the title and by adding sections 5a and 7a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

TITLE

2

An act to prohibit access to computers, computer systems,

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and computer networks for certain fraudulent purposes; to

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prohibit intentional and unauthorized access, alteration, damage,

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and destruction of computers, computer systems, computer

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networks, computer software programs, and data; **to prohibit the**

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sending of certain electronic messages; and to prescribe

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penalties.

1 Sec. 5a. A violation of the Michigan children's protection
2 registry act is a violation of this act.

3 Sec. 7a. (1) A person who violates section 5a is guilty of
4 a misdemeanor punishable by 1 of the following:

5 (a) For the first violation, by imprisonment for not more
6 than 6 months or a fine of not more than \$5,000.00, or both.

7 (b) For the second violation, by imprisonment for not more
8 than 1 year or a fine of not more than \$10,000.00, or both.

9 (c) For the third and any subsequent violation, by
10 imprisonment for not more than 1 year or a fine of not more than
11 \$25,000.00, or both.

12 (2) A person does not violate section 5a because the person
13 is an intermediary between the sender and recipient in the
14 transmission of an electronic message that violates section 5a.

15 (3) It is a defense to an action brought under this section
16 that the communication was transmitted accidentally. The burden
17 of proving that the communication was transmitted accidentally is
18 on the sender.

19 (4) All money and other income, including all proceeds earned
20 but not yet received by a defendant from a third party as a
21 result of the defendant's violations of section 5a, and all
22 computer equipment, all computer software, and all personal
23 property used in connection with any violation of section 5a
24 known by the owner to have been used in violation of section 5a
25 are subject to lawful seizure and forfeiture in the same manner
26 as provided under sections 4701 to 4709 of the revised judicature
27 act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709.

1 **(5) This section does not take effect until July 1, 2005.**

2 Enacting section 1. This amendatory act does not take
3 effect unless Senate Bill No. 1025 of the 92nd Legislature is
4 enacted into law.