

Act No. 242
Public Acts of 2004
Approved by the Governor
July 21, 2004
Filed with the Secretary of State
July 21, 2004
EFFECTIVE DATE: July 21, 2004

**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2004**

Introduced by Reps. Palsrok, Stewart, Gielegem, Woodward, Shulman, Pappageorge, Phillips, Jamnick, DeRossett, Richardville, Spade, Voorhees, Hager, Meyer, Newell, Vander Veen, Howell, Sheltroun, Bradstreet, Gaffney, Pastor, LaJoy, Bieda, Meisner, Wojno, Acciavatti, Vagnozzi, DeRoche, Taub, Accavitti, Stakoe, Hune, Gleason, Milosch, Nofs, Wenke, Ward, Emmons, Stahl, Farhat, Moolenaar, Walker and Casperson

ENROLLED HOUSE BILL No. 5979

AN ACT 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, 6a, and 6b.

The People of the State of Michigan enact:

TITLE

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; to prohibit the sending of certain electronic messages; and to prescribe penalties.

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

Sec. 6a. (1) A person who violates section 5a is guilty of the following:

(a) For the first violation, a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$10,000.00, or both.

(b) For the second violation, a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$20,000.00, or both.

(c) For the third and any subsequent violation, a felony punishable by imprisonment for not more than 3 years or a fine of not more than \$30,000.00, or both.

(2) A person does not violate section 5a because the person is an intermediary between the sender and recipient in the transmission of an electronic message that violates section 5a or unknowingly provides transmission of electronic messages over the person's computer network or facilities that violate section 5a.

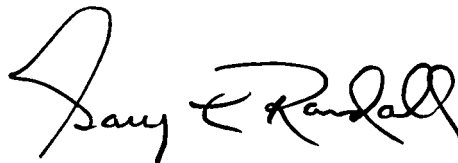
(3) It is a defense to an action brought under this section that the communication was transmitted accidentally. The burden of proving that the communication was transmitted accidentally is on the sender.

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

Sec. 6b. All money and other income, including all proceeds earned but not yet received by a defendant from a third party as a result of the defendant's violations of this act, and all computer equipment, all computer software, and all personal property used in connection with any violation of this act known by the owner to have been used in violation of this act are subject to lawful seizure and forfeiture in the same manner as provided under sections 4701 to 4709 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709.

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

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor