



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

BILL



ANALYSIS

Telephone: (517) 373-5383

Fax: (517) 373-1986

House Bill 5284 (as passed by the House)
Sponsor: Representative John Walsh
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 5-29-12

CONTENT

The bill would amend the Michigan Penal Code to expand the definition of "computer", with regard to the use of a computer to commit certain crimes, to include handheld devices used to transmit or receive data over the internet.

The Penal Code prohibits a person from using the internet or a computer, computer program, computer network, or computer system to communicate with any person for the purpose of committing certain crimes (which are described below).

The Code defines "computer" as any connected, directly interoperable or interactive device, equipment, or facility that uses a computer program or other instructions to perform specific operations including logical, arithmetic, or memory functions with or on computer data or a computer program and that can store, retrieve, alter, or communicate the results of the operations to a person, computer program, computer, computer system, or computer network.

The bill specifies that "computer" also would include a cellular telephone, personal digital assistant (PDA), or other handheld device while being used to transmit or receive data over the internet.

(The Penal Code prohibits a person from using the internet, a computer, computer program, computer network, or computer 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 offenses in which the victim or intended victim is a minor or is believed by that person to be a minor:

- Solicitation of a child for immoral purposes.
- Involvement in child sexually abusive activity or material.
- Recruitment or inducement of a minor to commit a felony.
- Kidnapping.
- Kidnapping of a child under the age of 14.
- First-, second-, third-, or fourth-degree criminal sexual conduct (CSC) or assault with intent to commit CSC.
- Distribution of obscene matter to a minor.

The Code also prohibits the use of the internet, a computer, etc. to communicate with another person for the purpose of committing, attempting or conspiring to commit, or soliciting another person to commit any of the following:

- Stalking or aggravated stalking.
- An explosives offense listed in Chapter 33 (Explosives and Bombs, and Harmful Devices) of the Penal Code.
- Causing a death by explosives.
- Selling explosives to a minor.
- Intentionally reporting a crime relating to a bombing, attempted bombing, or threat to bomb, knowing that the report is false.)

MCL 750.145d

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate, but likely minor, fiscal impact on State and local government. By broadening the definition of "computer" to include hand-held and mobile internet access devices, the bill could cause a marginal increase in convictions for the felonies and misdemeanors affected by the change. The extent of this increase would result in associated cost increases for State and local government due to incarceration and community supervision. Any increase in penal fine revenue would benefit public libraries.

Fiscal Analyst: Dan O'Connor

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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.