

# HOUSE BILL No. 5284

January 25, 2012, Introduced by Rep. Walsh 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 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 to  
3 communicate with any person for the purpose of doing any of the  
4 following:

5           (a) Committing, attempting to commit, conspiring to commit, or  
6 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 victim  
9 or intended victim is a minor or is believed by that person to be a  
10 minor.

1 (b) Committing, attempting to commit, conspiring to commit, or  
2 soliciting another person to commit conduct proscribed under  
3 section 411h or 411i.

4 (c) Committing, attempting to commit, conspiring to commit, or  
5 soliciting another person to commit conduct proscribed under  
6 chapter XXXVIII or section 327, 327a, 328, or 411a(2).

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

9 (a) If the underlying crime is a misdemeanor or a felony with  
10 a maximum term of imprisonment of less than 1 year, the person is  
11 guilty of a misdemeanor punishable by imprisonment for not more  
12 than 1 year or a fine of not more than \$5,000.00, or both.

13 (b) If the underlying crime is a misdemeanor or a felony with  
14 a maximum term of imprisonment of 1 year or more but less than 2  
15 years, the person is guilty of a felony punishable by imprisonment  
16 for not more than 2 years or a fine of not more than \$5,000.00, or  
17 both.

18 (c) If the underlying crime is a misdemeanor or a felony with  
19 a maximum term of imprisonment of 2 years or more but less than 4  
20 years, the person is guilty of a felony punishable by imprisonment  
21 for not more than 4 years or a fine of not more than \$5,000.00, or  
22 both.

23 (d) If the underlying crime is a felony with a maximum term of  
24 imprisonment of 4 years or more but less than 10 years, the person  
25 is guilty of a felony punishable by imprisonment for not more than  
26 10 years or a fine of not more than \$5,000.00, or both.

27 (e) If the underlying crime is a felony punishable by a

1 maximum term of imprisonment of 10 years or more but less than 15  
2 years, the person is guilty of a felony punishable by imprisonment  
3 for not more than 15 years or a fine of not more than \$10,000.00,  
4 or both.

5 (f) If the underlying crime is a felony punishable by a  
6 maximum term of imprisonment of 15 years or more or for life, the  
7 person is guilty of a felony punishable by imprisonment for not  
8 more than 20 years or a fine of not more than \$20,000.00, or both.

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

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

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

20 (6) A violation or attempted violation of this section occurs  
21 if the communication originates in this state, is intended to  
22 terminate in this state, or is intended to terminate with a person  
23 who is in this state.

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

27 (8) The court may order a person convicted of violating this

1 section to reimburse this state or a local unit of government of  
2 this state for expenses incurred in relation to the violation in  
3 the same manner that expenses may be ordered to be reimbursed under  
4 section 1f of chapter IX of the code of criminal procedure, 1927 PA  
5 175, MCL 769.1f.

6 (9) As used in this section:

7 (a) "Computer" means any connected, directly interoperable or  
8 interactive device, equipment, or facility that uses a computer  
9 program or other instructions to perform specific operations  
10 including logical, arithmetic, or memory functions with or on  
11 computer data or a computer program and that can store, retrieve,  
12 alter, or communicate the results of the operations to a person,  
13 computer program, computer, computer system, or computer network.  
14 **COMPUTER INCLUDES A CELLULAR TELEPHONE, PERSONAL DIGITAL ASSISTANT**  
15 **(PDA), OR OTHER HANDHELD DEVICE WHILE BEING USED TO TRANSMIT OR**  
16 **RECEIVE DATA OVER THE INTERNET.**

17 (b) "Computer network" means the interconnection of hardwire  
18 or wireless communication lines with a computer through remote  
19 terminals, or a complex consisting of 2 or more interconnected  
20 computers.

21 (c) "Computer program" means a series of internal or external  
22 instructions communicated in a form acceptable to a computer that  
23 directs the functioning of a computer, computer system, or computer  
24 network in a manner designed to provide or produce products or  
25 results from the computer, computer system, or computer network.

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

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

5           (f) "Internet" means that term as defined in section 230 of  
6 ~~title II of the communications act of 1934, chapter 652, 110 Stat.~~  
7 ~~137, 47 U.S.C.~~ **USC** 230.

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