



HOUSE BILL No. 6052

September 28, 2000, Introduced by Reps. Howell, Richardville, Caul, Woronchak, Hager, Shackleton, Shulman, Patterson, Julian and Faunce and referred to the Committee on Criminal Law and Corrections.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
(MCL 750.1 to 750.568) by adding section 411s.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 411S. (1) A PERSON SHALL NOT COMMIT AN ACT THROUGH THE
2 USE OF ANY MEDIUM OF COMMUNICATION OR POSTING OF MESSAGES,
3 INCLUDING THE INTERNET OR A COMPUTER, COMPUTER PROGRAM, COMPUTER
4 SYSTEM, OR COMPUTER NETWORK, OR OTHER ELECTRONIC MEDIUM OF COMMU-
5 NICATION, WITHOUT THE VICTIM'S CONSENT, IF ALL OF THE FOLLOWING
6 APPLY:

7 (A) THE PERSON KNOWS THAT CONDUCT ARISING FROM THE ACT COULD
8 CAUSE CONTINUING OR REPEATED SEPARATE NONCONTINUOUS ACTS OF
9 UNCONSENTED CONTACT WITH THE VICTIM OR A MEMBER OF HIS OR HER
10 IMMEDIATE FAMILY BY INDIVIDUALS OR A SERIES OF 3 OR MORE SEPARATE

1 NONCONTINUOUS ACTS OF REPEATED OR CONTINUING UNCONSENTED CONTACT
2 WITH THE VICTIM BY AN INDIVIDUAL, OR BOTH.

3 (B) THE ACT IS INTENDED TO CAUSE CONDUCT THAT WOULD MAKE THE
4 VICTIM TO FEEL TERRORIZED, FRIGHTENED, INTIMIDATED, THREATENED,
5 HARASSED, OR MOLESTED.

6 (C) CONDUCT ARISING FROM THE ACT WOULD CAUSE A REASONABLE
7 PERSON TO SUFFER EMOTIONAL DISTRESS AND TO FEEL TERRORIZED,
8 FRIGHTENED, INTIMIDATED, THREATENED, HARASSED, OR MOLESTED.

9 (D) CONDUCT ARISING FROM THE ACT CAUSES THE VICTIM TO SUFFER
10 EMOTIONAL DISTRESS AND TO FEEL TERRORIZED, FRIGHTENED, INTIMIDAT-
11 ED, THREATENED, HARASSED, OR MOLESTED.

12 (2) A PERSON WHO VIOLATES SUBSECTION (1) IS GUILTY OF A
13 CRIME AS FOLLOWS:

14 (A) EXCEPT AS PROVIDED IN SUBDIVISION (B), THE PERSON IS
15 GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE
16 THAN 1 YEAR OR A FINE OF NOT MORE THAN \$2,500.00, OR BOTH.

17 (B) IF THE VICTIM IS LESS THAN 18 YEARS OF AGE WHEN THE VIO-
18 LATION OCCURS AND THE PERSON COMMITTING THE VIOLATION IS 5 OR
19 MORE YEARS OLDER THAN THE VICTIM, THE PERSON IS GUILTY OF A
20 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 2 YEARS OR A
21 FINE OF NOT MORE THAN \$10,000.00, OR BOTH.

22 (3) THIS SECTION DOES NOT APPLY TO AN INTERNET OR COMPUTER
23 NETWORK SERVICE PROVIDER WHO IN GOOD FAITH, AND WITHOUT KNOWLEDGE
24 OF THE SPECIFIC NATURE OF THE ACT COMMITTED, PROVIDES THE MEDIUM
25 FOR DISSEMINATING INFORMATION OR COMMUNICATION BETWEEN PERSONS.

26 (4) THE COURT MAY ORDER A PERSON CONVICTED OR VIOLATING THIS
27 SECTION TO REIMBURSE THIS STATE OR A LOCAL UNIT OF GOVERNMENT OF

1 THIS STATE FOR THE EXPENSES INCURRED IN RELATION TO THE VIOLATION
2 IN THE SAME MANNER THAT EXPENSES MAY BE ORDERED TO BE REIMBURSED
3 UNDER SECTION 1F OF CHAPTER IX OF THE CODE OF CRIMINAL PROCEDURE,
4 1927 PA 175, MCL 769.1F.

5 (5) THIS SECTION DOES NOT PROHIBIT A PERSON FROM BEING
6 CHARGED WITH, CONVICTED OF, OR PUNISHED FOR ANY OTHER VIOLATION
7 OF LAW COMMITTED BY THAT PERSON WHILE VIOLATING OR ATTEMPTING TO
8 VIOLATE THIS SECTION.

9 (6) A VIOLATION OR ATTEMPTED VIOLATION OF THIS SECTION
10 OCCURS ONLY IF EITHER OF THE FOLLOWING APPLY:

11 (A) THE PERSON COMMITS THE ACT WHILE IN THIS STATE.

12 (B) THE PERSON WHO COMMITS THE ACT KNOWS THAT THE VICTIM
13 LIVES IN THIS STATE OR THAT THE CONDUCT ARISING FROM THE ACT
14 WOULD OCCUR IN THIS STATE.

15 (7) AS USED IN THIS SECTION:

16 (A) "ACT" MEANS PROVIDING INFORMATION TO CONTACT THE VICTIM
17 OR A MEMBER OF THE VICTIM'S IMMEDIATE FAMILY, SUCH AS THE LOCA-
18 TION OR ADDRESS OF RESIDENCE OR EMPLOYMENT OR OTHER PLACE AT
19 WHICH THE PERSON KNOWS THE VICTIM OR A MEMBER OF THE VICTIM'S
20 IMMEDIATE FAMILY CAN BE CONTACTED OR A TELEPHONE NUMBER OR ELEC-
21 TRONIC ADDRESS AT WHICH THE PERSON KNOWS THE VICTIM OR A MEMBER
22 OF THE VICTIM'S IMMEDIATE FAMILY CAN BE CONTACTED.

23 (B) "COMPUTER" MEANS ANY CONNECTED, DIRECTLY INTEROPERABLE
24 OR INTERACTIVE DEVICE, EQUIPMENT, OR FACILITY THAT USES A COM-
25 PUTER PROGRAM OR OTHER INSTRUCTIONS TO PERFORM SPECIFIC OPERA-
26 TIONS INCLUDING LOGICAL, ARITHMETIC, OR MEMORY FUNCTIONS WITH OR
27 ON COMPUTER DATA OR A COMPUTER PROGRAM AND THAT CAN STORE,

1 RETRIEVE, ALTER, OR COMMUNICATE THE RESULTS OF THE OPERATIONS TO
2 A PERSON, COMPUTER PROGRAM, COMPUTER, COMPUTER SYSTEM, OR COM-
3 PUTER NETWORK.

4 (C) "COMPUTER NETWORK" MEANS THE INTERCONNECTION OF HARDWARE
5 OR WIRELESS COMMUNICATION LINES WITH A COMPUTER THROUGH REMOTE
6 TERMINALS, OR A COMPLEX CONSISTING OF 2 OR MORE INTERCONNECTED
7 COMPUTERS.

8 (D) "COMPUTER PROGRAM" MEANS A SERIES OF INTERNAL OR EXTER-
9 NAL INSTRUCTIONS COMMUNICATED IN A FORM ACCEPTABLE TO A COMPUTER
10 THAT DIRECTS THE FUNCTIONING OF A COMPUTER, COMPUTER SYSTEM, OR
11 COMPUTER NETWORK IN A MANNER DESIGNED TO PROVIDE OR PRODUCE PRO-
12 DUCTS OR RESULTS FROM THE COMPUTER, COMPUTER SYSTEM, OR COMPUTER
13 NETWORK.

14 (E) "COMPUTER SYSTEM" MEANS A SET OF RELATED, CONNECTED OR
15 UNCONNECTED, COMPUTER EQUIPMENT, DEVICES, SOFTWARE, OR HARDWARE.

16 (F) "DEVICE" INCLUDES, BUT IS NOT LIMITED TO, AN ELECTRONIC,
17 MAGNETIC, ELECTROCHEMICAL, BIOCHEMICAL, HYDRAULIC, OPTICAL, OR
18 ORGANIC OBJECT THAT PERFORMS INPUT, OUTPUT, OR STORAGE FUNCTIONS
19 BY THE MANIPULATION OF ELECTRONIC, MAGNETIC, OR OTHER IMPULSES.

20 (G) "EMOTIONAL DISTRESS" MEANS SIGNIFICANT MENTAL SUFFERING
21 OR DISTRESS THAT MAY, BUT DOES NOT NECESSARILY, REQUIRE MEDICAL
22 OR OTHER PROFESSIONAL TREATMENT OR COUNSELING.

23 (H) "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 (I) "UNCONSENTED CONTACT" MEANS ANY CONTACT WITH ANOTHER
27 INDIVIDUAL THAT IS INITIATED OR CONTINUED WITHOUT THAT

1 INDIVIDUAL'S CONSENT OR IN DISREGARD OF THAT INDIVIDUAL'S
2 EXPRESSED DESIRE THAT THE CONTACT BE AVOIDED OR DISCONTINUED.
3 UNCONSENTED CONTACT INCLUDES ANY OF THE FOLLOWING:

4 (i) FOLLOWING OR APPEARING WITHIN SIGHT OF THAT INDIVIDUAL.

5 (ii) APPROACHING OR CONFRONTING THAT INDIVIDUAL IN A PUBLIC
6 PLACE OR ON PRIVATE PROPERTY.

7 (iii) APPEARING AT THAT INDIVIDUAL'S WORKPLACE OR
8 RESIDENCE.

9 (iv) ENTERING ONTO OR REMAINING ON PROPERTY OWNED, LEASED,
10 OR OCCUPIED BY THAT INDIVIDUAL.

11 (v) CONTACTING THAT INDIVIDUAL BY TELEPHONE.

12 (vi) SENDING MAIL OR ELECTRONIC COMMUNICATIONS TO THAT INDIV-
13 VIDUAL THROUGH THE USE OF ANY MEDIUM, INCLUDING THE INTERNET OR A
14 COMPUTER, COMPUTER PROGRAM, COMPUTER SYSTEM, OR COMPUTER
15 NETWORK.

16 (vii) PLACING AN OBJECT ON, OR DELIVERING OR HAVING DELIV-
17 ERED AN OBJECT TO, PROPERTY OWNED, LEASED, OR OCCUPIED BY THAT
18 INDIVIDUAL.

19 (J) "VICTIM" MEANS THE INDIVIDUAL WHO IS THE TARGET OF THE
20 ACT COMMITTED.