

SUBSTITUTE FOR  
HOUSE BILL NO. 5043

A bill to amend 1931 PA 328, entitled  
"The Michigan penal code,"  
by amending section 540 (MCL 750.540).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 540. ~~Cutting, tapping, using, etc., telephone or~~  
2 ~~telegraph wires, etc. Any person who shall wilfully and maliciously~~  
3 ~~cut, break, tap or make any connection with, or read, or copy, by~~  
4 ~~the use of telegraph or telephone instruments, or otherwise, in any~~  
5 ~~unauthorized manner, any message, either social or business,~~  
6 ~~sporting, commercial or other news reports, from any telegraph or~~  
7 ~~telephone line, wire or cable so unlawfully cut or tapped in this~~  
8 ~~state; or make unauthorized use of the same, or who shall wilfully~~  
9 ~~and maliciously prevent, obstruct or delay by any means or~~  
10 ~~contrivance whatsoever the sending, conveyance or delivery, in this~~

House Bill No. 5043 (H-1) as amended October 26, 2005

~~state, of any authorized communication, sporting, commercial or  
ether news reports, by or through any telegraph or telephone line,  
eable or wire under the control of any telegraph or telephone  
company doing business in this state, or who shall wilfully and  
maliciously aid, agree with, employ, or conspire with any other  
person or persons to do any of the aforementioned unlawful acts,  
shall be guilty of a misdemeanor, punishable by imprisonment in the  
state prison not more than 2 years, or by a fine of not more than  
1,000 dollars.~~

(1) A PERSON SHALL NOT WILLFULLY AND MALICIOUSLY CUT, BREAK,  
DISCONNECT, INTERRUPT, TAP, OR MAKE ANY UNAUTHORIZED CONNECTION  
WITH ANY ELECTRONIC MEDIUM OF COMMUNICATION, INCLUDING THE INTERNET  
OR A COMPUTER, COMPUTER PROGRAM, COMPUTER SYSTEM, OR COMPUTER  
NETWORK, OR A TELEPHONE. [THIS SUBSECTION DOES NOT APPLY TO AN  
INDIVIDUAL WHO OWNS THE ELECTRONIC MEDIUM OF COMMUNICATION UNLESS THE  
ELECTRONIC MEDIUM OF COMMUNICATION IS BEING USED BY AN INDIVIDUAL TO  
REPORT A CRIME, TO REPORT THE ILLNESS OF OR INJURY TO ANY PERSON, OR TO  
REPORT DOMESTIC VIOLENCE AS THAT TERM IS DEFINED IN SECTION 1 OF 1978 PA  
389, MCL 400.1501.]

(2) A PERSON SHALL NOT WILLFULLY AND MALICIOUSLY READ OR COPY  
ANY MESSAGE FROM ANY TELEGRAPH, TELEPHONE LINE, WIRE, CABLE,  
COMPUTER NETWORK, COMPUTER PROGRAM, OR COMPUTER SYSTEM, OR  
TELEPHONE OR OTHER ELECTRONIC MEDIUM OF COMMUNICATION THAT THE  
PERSON ACCESSED WITHOUT AUTHORIZATION.

(3) A PERSON SHALL NOT WILLFULLY AND MALICIOUSLY MAKE  
UNAUTHORIZED USE OF ANY ELECTRONIC MEDIUM OF COMMUNICATION,  
INCLUDING THE INTERNET OR A COMPUTER, COMPUTER PROGRAM, COMPUTER  
SYSTEM, OR COMPUTER NETWORK, OR TELEPHONE.

(4) A PERSON SHALL NOT WILLFULLY AND MALICIOUSLY PREVENT,  
OBSTRUCT, OR DELAY BY ANY MEANS WHATSOEVER THE SENDING, CONVEYANCE,  
OR DELIVERY OF ANY AUTHORIZED COMMUNICATION, BY OR THROUGH ANY  
TELEGRAPH OR TELEPHONE LINE, CABLE, WIRE, OR ANY ELECTRONIC MEDIUM

1 OF COMMUNICATION, INCLUDING THE INTERNET OR A COMPUTER, COMPUTER  
2 PROGRAM, COMPUTER SYSTEM, OR COMPUTER NETWORK.

3 (5) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY  
4 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 2 YEARS OR BY A FINE  
5 OF NOT MORE THAN \$1,000.00, OR BOTH.

6 (6) 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 (B) "COMPUTER NETWORK" MEANS THE INTERCONNECTION OF HARDWARE  
15 OR WIRELESS COMMUNICATION LINES WITH A COMPUTER THROUGH REMOTE  
16 TERMINALS, OR A COMPLEX CONSISTING OF 2 OR MORE INTERCONNECTED  
17 COMPUTERS.

18 (C) "COMPUTER PROGRAM" MEANS A SERIES OF INTERNAL OR EXTERNAL  
19 INSTRUCTIONS COMMUNICATED IN A FORM ACCEPTABLE TO A COMPUTER THAT  
20 DIRECTS THE FUNCTIONING OF A COMPUTER, COMPUTER SYSTEM, OR COMPUTER  
21 NETWORK IN A MANNER DESIGNED TO PROVIDE OR PRODUCE PRODUCTS OR  
22 RESULTS FROM THE COMPUTER, COMPUTER SYSTEM, OR COMPUTER NETWORK.

23 (D) "COMPUTER SYSTEM" MEANS A SET OF RELATED, CONNECTED OR  
24 UNCONNECTED, COMPUTER EQUIPMENT, DEVICES, SOFTWARE, OR HARDWARE.

25 (E) "DEVICE" INCLUDES, BUT IS NOT LIMITED TO, AN ELECTRONIC,  
26 MAGNETIC, ELECTROCHEMICAL, BIOCHEMICAL, HYDRAULIC, OPTICAL, OR  
27 ORGANIC OBJECT THAT PERFORMS INPUT, OUTPUT, OR STORAGE FUNCTIONS BY

1 THE MANIPULATION OF ELECTRONIC, MAGNETIC, OR OTHER IMPULSES.

2 (F) "INTERNET" MEANS THAT TERM AS DEFINED IN SECTION 230 OF  
3 TITLE II OF THE COMMUNICATIONS ACT OF 1934, 47 USC 230, AND  
4 INCLUDES VOICE OVER INTERNET PROTOCOL SERVICES.

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

9 Enacting section 1. This amendatory act takes effect February  
10 1, 2006.