

HOUSE BILL No. 4508

March 24, 2011, Introduced by Rep. McMillin and referred to the Committee on Judiciary.

A bill 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; to prohibit the sending of certain electronic messages; and to prescribe penalties,"

by amending section 5 (MCL 752.795), as amended by 1996 PA 326.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5. (1) A person shall not intentionally and without
2 authorization or by exceeding valid authorization do any of the
3 following:

4 (a) Access or cause access to be made to a computer program,
5 computer, computer system, or computer network to acquire, alter,
6 damage, delete, or destroy property or otherwise use the service of
7 a computer program, computer, computer system, or computer network.

8 (b) Insert or attach or knowingly create the opportunity for

1 an unknowing and unwanted insertion or attachment of a set of
2 instructions or a computer program into a computer program,
3 computer, computer system, or computer network, that is intended to
4 acquire, alter, damage, delete, disrupt, or destroy property or
5 otherwise use the services of a computer program, computer,
6 computer system, or computer network. This subdivision does not
7 prohibit conduct protected under section 5 of article I of the
8 state constitution of 1963 or under the first amendment of the
9 constitution of the United States.

10 (2) THIS SECTION DOES NOT PROHIBIT A PERSON FROM ACCESSING OR
11 USING A COMPUTER, COMPUTER PROGRAM, OR ELECTRONIC MAIL SERVICE OF
12 HIS OR HER SPOUSE IF ALL OF THE FOLLOWING CONDITIONS APPLY:

13 (A) THE PERSON LIVES IN THE SAME RESIDENCE AS THE SPOUSE AND
14 THE SPOUSE'S COMPUTER IS NOT THE PROPERTY OF A SCHOOL, BUSINESS, OR
15 OTHER ENTITY THAT IS NOT OWNED BY THE PERSON OR THE PERSON'S
16 SPOUSE.

17 (B) THE PERSON'S SPOUSE HAS NOT EXPRESSLY PROHIBITED THE
18 PERSON FROM USING HIS OR HER COMPUTER, COMPUTER PROGRAM, OR
19 ELECTRONIC MAIL SERVICE.

20 (C) THE PERSON DOES NOT USE FORCE OR COERCION TO ACCESS THE
21 COMPUTER, COMPUTER PROGRAM, OR ELECTRONIC MAIL SERVICE.

22 (D) THE PERSON DOES NOT DAMAGE, DELETE, OR DESTROY THE
23 COMPUTER, COMPUTER PROGRAM, ELECTRONIC MAIL SERVICE, OR ANY
24 ELECTRONIC MAIL MESSAGE.

25 (3) THIS SECTION DOES NOT PROHIBIT A PERSON FROM ACCESSING OR
26 USING A COMPUTER, COMPUTER PROGRAM, OR ELECTRONIC MAIL SERVICE OF
27 HIS OR HER CHILD IF THE PERSON HAS FULL OR SHARED LEGAL CUSTODY OF

1 THE CHILD. AS USED IN THIS SUBSECTION, "CHILD" MEANS THE PERSON'S
2 BIOLOGICAL CHILD, STEPCHILD, OR FOSTER CHILD WHO IS LESS THAN 18
3 YEARS OF AGE.

4 (4) SUBSECTIONS (2) AND (3) ARE REMEDIAL AND SHALL BE
5 RETROACTIVELY APPLIED TO ANY CRIMINAL PROSECUTION UNDER THIS
6 SECTION THAT HAS NOT RESULTED IN A CONVICTION AS OF THE EFFECTIVE
7 DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION.