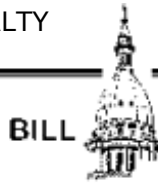




Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 5979 (Substitute H-1 as passed by the House)
Sponsor: Representative David Palsrok
House Committee: Energy and Technology
Senate Committee: Technology and Energy

Date Completed: 6-23-04

CONTENT

The bill would amend Public Act 53 of 1979, which prohibits fraudulent access to computers, computer systems, and computer networks, to provide that a violation of the proposed Michigan Children's Protection Registry Act also would be a violation of Public Act 53; and prescribe penalties. The bill would take effect on July 1, 2005. It is tie-barred to Senate Bill 1025.

Senate Bill 1025 would create the "Michigan Children's Protection Registry Act" to require the Department of Labor and Economic Growth (DLEG) to establish and operate a "Child Protection Registry" on which a person or school could register contact points (e.g., e-mail addresses) belonging to a minor or to which a minor could have access; prohibit a person from sending to a registered contact point a communication that contained, advertised, or linked to a product or service that a minor is prohibited by law from purchasing, viewing, possessing, or otherwise receiving; require a person who wanted to send such a communication to pay a fee set by DLEG to verify compliance with the Registry; and prescribe criminal penalties for violating the proposed Act.

Under House Bill 5979 (H-1), a violation of the proposed Act also would be a violation of Public Act 53 of 1979. A violator would be guilty of a misdemeanor punishable as shown in the following table.

Violation	Maximum Imprisonment	Maximum Fine
First	6 months	\$5,000
Second	1 year	\$10,000
Third or Subsequent	1 year	\$25,000

Additionally, all money and other income, including all proceeds earned but not yet received by a defendant from a third party as a result of the defendant's violations, and all computer equipment, all computer software, and all personal property used in connection with any violation known by the owner to have been used in the violation, would be subject to lawful seizure and forfeiture in the same manner as provided under the Revised Judicature Act.

The bill specifies that a person would not commit a violation by being an intermediary between the sender and recipient in the transmission of an electronic message that violated the proposed Act. It would be a defense to an action brought under the bill that the communication was transmitted accidentally. The burden of proving that the communication was transmitted accidentally would be on the sender.

Proposed MCL 752.795a & 752.797a

Legislative Analyst: Julie Koval

FISCAL IMPACT

The bill would have no fiscal impact on the State and an indeterminate fiscal impact on local government. There are no data to indicate how many offenders would be convicted of the proposed misdemeanor. Local units of government incur the costs of misdemeanor probation and incarceration in local facilities, both of which vary by county. Public libraries would benefit from any revenue raised from additional penal fines.

Fiscal Analyst: Bethany Wicksall

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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.