

COMMON COMPUTER CRIMES



Oakland County Sheriff's Department
Computer Crimes Unit

Common Computer Crimes

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THE MICHIGAN PENAL CODE (EXCERPT)
Act 328 of 1931

******* 750.145c.amended THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2002 REGULAR SESSION SINE DIE *******

750.145c.amended Definitions; child sexually abusive activity or material; penalties; possession of child sexually abusive material; expert testimony; defenses; acts of commercial film or photographic print processor; applicability and uniformity of section; enactment or enforcement of ordinances, rules, or regulations prohibited.

Sec. 145c. (1) As used in this section:

(a) "Appears to include a child" means that the depiction appears to include, or conveys the impression that it includes, a person who is less than 18 years of age, and the depiction meets either of the following conditions:

(i) It was created using a depiction of any part of an actual person under the age of 18.

(ii) It was not created using a depiction of any part of an actual person under the age of 18, but all of the following apply to that depiction:

(A) The average individual, applying contemporary community standards, would find the depiction, taken as a whole, appeals to the prurient interest.

(B) The reasonable person would find the depiction, taken as a whole, lacks serious literary, artistic, political, or scientific value.

(C) The depiction depicts or describes a listed sexual act in a patently offensive way.

(b) "Child" means a person who is less than 18 years of age, subject to the affirmative defense created in subsection (6) regarding persons emancipated by operation of law.

(c) "Commercial film or photographic print processor" means a person or his or her employee who, for compensation, develops exposed photographic film into movie films, negatives, slides, or prints; makes prints from negatives or slides; or duplicates movie films or videotapes.

(d) "Contemporary community standards" means the customary limits of candor and decency in this state at or near the time of the alleged violation of this section.

(e) "Erotic fondling" means touching a person's clothed or unclothed genitals, pubic area, buttocks, or, if the person is female, breasts, or if the person is a child, the developing or undeveloped breast area, for the purpose of real or simulated overt sexual gratification or stimulation of 1 or more of the persons involved. Erotic fondling does not include physical contact, even if affectionate, that is not for the purpose of real or simulated overt sexual gratification or stimulation of 1 or more of the persons involved.

(f) "Erotic nudity" means the lascivious exhibition of the genital, pubic, or rectal area of any person. As used in this subdivision, "lascivious" means wanton, lewd, and lustful and tending to produce voluptuous or lewd emotions.

(g) "Listed sexual act" means sexual intercourse, erotic fondling, sadomasochistic abuse, masturbation, passive sexual involvement, sexual excitement, or erotic nudity.

(h) "Masturbation" means the real or simulated touching, rubbing, or otherwise stimulating of a person's own clothed or unclothed genitals, pubic area, buttocks, or, if the person is female, breasts, or if the person is a child, the developing or undeveloped breast area, either by manual manipulation or self-induced or with an artificial instrument, for the purpose of real or simulated overt sexual gratification or arousal of the person.

(i) "Passive sexual involvement" means an act, real or simulated, that exposes another person to or draws another person's attention to an act of sexual intercourse, erotic fondling, sadomasochistic abuse, masturbation, sexual excitement, or erotic nudity because of viewing any of these acts or because of the proximity of the act to that person, for the purpose of real or simulated overt sexual gratification or stimulation of 1 or more of the persons involved.

(j) "Prurient interest" means a shameful or morbid interest in nudity, sex, or excretion.

(k) "Child sexually abusive activity" means a child engaging in a listed sexual act.

(l) "Child sexually abusive material" means any depiction, whether made or produced by electronic, mechanical,

or other means, including a developed or undeveloped photograph, picture, film, slide, video, electronic visual image, computer diskette, computer or computer-generated image, or picture, or sound recording which is of a child or appears to include a child engaging in a listed sexual act; a book, magazine, computer, computer storage device, or other visual or print or printable medium containing such a photograph, picture, film, slide, video, electronic visual image, computer, or computer-generated image, or picture, or sound recording; or any reproduction, copy, or print of such a photograph, picture, film, slide, video, electronic visual image, book, magazine, computer, or computer-generated image, or picture, other visual or print or printable medium, or sound recording.

(m) "Sadomasochistic abuse" means either of the following:

(i) Flagellation or torture, real or simulated, for the purpose of real or simulated sexual stimulation or gratification, by or upon a person.

(ii) The condition, real or simulated, of being fettered, bound, or otherwise physically restrained for sexual stimulation or gratification of a person.

(n) "Sexual excitement" means the condition, real or simulated, of human male or female genitals in a state of real or simulated overt sexual stimulation or arousal.

(o) "Sexual intercourse" means intercourse, real or simulated, whether genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between a human and an animal, or with an artificial genital.

(2) A person who persuades, induces, entices, coerces, causes, or knowingly allows a child to engage in a child sexually abusive activity for the purpose of producing any child sexually abusive material, or a person who arranges for, produces, makes, or finances, or a person who attempts or prepares or conspires to arrange for, produce, make, or finance any child sexually abusive activity or child sexually abusive material is guilty of a felony, punishable by imprisonment for not more than 20 years, or a fine of not more than \$100,000.00, or both, if that person knows, has reason to know, or should reasonably be expected to know that the child is a child or that the child sexually abusive material includes a child or that the depiction constituting the child sexually abusive material appears to include a child, or that person has not taken reasonable precautions to determine the age of the child.

(3) A person who distributes or promotes, or finances the distribution or promotion of, or receives for the purpose of distributing or promoting, or conspires, attempts, or prepares to distribute, receive, finance, or promote any child sexually abusive material or child sexually abusive activity is guilty of a felony, punishable by imprisonment for not more than 7 years, or a fine of not more than \$50,000.00, or both, if that person knows, has reason to know, or should reasonably be expected to know that the child is a child or that the child sexually abusive material includes a child or that the depiction constituting the child sexually abusive material appears to include a child, or that person has not taken reasonable precautions to determine the age of the child. This subsection does not apply to the persons described in section 7 of 1984 PA 343, MCL 752.367.

(4) A person who knowingly possesses any child sexually abusive material is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$10,000.00, or both, if that person knows, has reason to know, or should reasonably be expected to know the child is a child or that the child sexually abusive material includes a child or that the depiction constituting the child sexually abusive material appears to include a child, or that person has not taken reasonable precautions to determine the age of the child. This subsection does not apply to any of the following:

(a) A person described in section 7 of 1984 PA 343, MCL 752.367, or to a commercial film or photographic print processor acting pursuant to subsection (8).

(b) A police officer acting within the scope of his or her duties as a police officer.

(c) An employee or contract agent of the department of social services acting within the scope of his or her duties as an employee or contract agent.

(d) A judicial officer or judicial employee acting within the scope of his or her duties as a judicial officer or judicial employee.

(e) A party or witness in a criminal or civil proceeding acting within the scope of that criminal or civil proceeding.

(f) A physician, psychologist, limited license psychologist, professional counselor, or registered nurse licensed under the public health code, 1978 PA 368, MCL 333.1101 to 333.25211, acting within the scope of practice for which he or she is licensed.

(g) A social worker registered in this state under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, acting within the scope of practice for which he or she is registered.

(5) Expert testimony as to the age of the child used in a child sexually abusive material or a child sexually abusive activity is admissible as evidence in court and may be a legitimate basis for determining age, if age is not

otherwise proven.

(6) It is an affirmative defense to a prosecution under this section that the alleged child is a person who is emancipated by operation of law under section 4(2) of 1968 PA 293, MCL 722.4, as proven by a preponderance of the evidence.

(7) If a defendant in a prosecution under this section proposes to offer in his or her defense evidence to establish that a depiction that appears to include a child was not, in fact, created using a depiction of any part of an actual person under the age of 18, the defendant shall at the time of the arraignment on the information or within 15 days after arraignment but not less than 10 days before the trial of the case, or at such other time as the court directs, file and serve upon the prosecuting attorney of record a notice in writing of his or her intention to offer that defense. The notice shall contain, as particularly as is known to the defendant or the defendant's attorney, the names of witnesses to be called in behalf of the defendant to establish that defense. The defendant's notice shall include specific information as to the facts that establish that the depiction was not, in fact, created using a depiction of any part of an actual person under the age of 18. Failure to file a timely notice in conformance with this subsection precludes a defendant from offering this defense.

(8) If a commercial film or photographic print processor reports to the local prosecuting attorney his or her knowledge or observation, within the scope of his or her professional capacity or employment, of a film, photograph, movie film, videotape, negative, or slide depicting a person that the processor has reason to know or reason to believe is a child engaged in a listed sexual act; furnishes a copy of the film, photograph, movie film, videotape, negative, or slide to the prosecuting attorney; or keeps the film, photograph, movie film, videotape, negative, or slide according to the prosecuting attorney's instructions, both of the following shall apply:

(a) The identity of the processor shall be confidential, subject to disclosure only with his or her consent or by judicial process.

(b) If the processor acted in good faith, he or she shall be immune from civil liability that might otherwise be incurred by his or her actions. This immunity extends only to acts described in this subsection.

(9) This section applies uniformly throughout the state and all political subdivisions and municipalities in the state.

(10) A local municipality or political subdivision shall not enact ordinances, nor enforce existing ordinances, rules, or regulations governing child sexually abusive activity or child sexually abusive material as defined by this section.

History: Add. 1977, Act 301, Eff. Mar. 30, 1978;—Am. 1988, Act 110, Eff. June 1, 1988;—Am. 1994, Act 444, Eff. Apr. 1, 1995;—Am. 2002, Act 629, Eff. (sine die).

THE MICHIGAN PENAL CODE (EXCERPT)
Act 328 of 1931

750.145d Use of internet or computer system; prohibited communication; violation; penalty; order to reimburse state or local governmental unit; definitions.

Sec. 145d. (1) A person shall not use the internet or a computer, computer program, computer network, or computer system to communicate with any person for the purpose of doing any of the following:

(a) Committing, attempting to commit, conspiring to commit, or soliciting another person to commit conduct proscribed under section 145a, 145c, 157c, 349, 350, 520b, 520c, 520d, 520e, or 520g, or section 5 of 1978 PA 33, MCL 722.675, in which the victim or intended victim is a minor or is believed by that person to be a minor.

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

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

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

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

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

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

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

(e) If the underlying crime is a felony punishable by a maximum term of imprisonment of 10 years or more but less than 15 years, the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$10,000.00, or both.

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

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

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

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

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

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

(8) The court may order a person convicted of violating this section to reimburse this state or a local unit of government of this state for expenses incurred in relation to the violation in the same manner that expenses may be ordered to be reimbursed under section 1f of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1f.

(9) As used in this section:

(a) "Computer" means any connected, directly interoperable or interactive device, equipment, or facility that uses a computer program or other instructions to perform specific operations including logical, arithmetic, or memory

functions with or on computer data or a computer program and that can store, retrieve, alter, or communicate the results of the operations to a person, computer program, computer, computer system, or computer network.

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

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

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

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

(f) “Internet” means that term as defined in section 230 of title II of the communications act of 1934, chapter 652, 110 Stat. 137, 47 U.S.C. 230.

(g) “Minor” means an individual who is less than 18 years of age.

History: Add. 1999, Act 32, Eff. Aug. 1, 1999;—Am. 1999, Act 235, Eff. Mar. 10, 2000;—Am. 2000, Act 185, Eff. Sept. 18, 2000.

THE MICHIGAN PENAL CODE (EXCERPT)
Act 328 of 1931

750.145a Accosting, enticing or soliciting child for immoral purpose.

Sec. 145a. A person who accosts, entices, or solicits a child less than 16 years of age, regardless of whether the person knows the individual is a child or knows the actual age of the child, or an individual whom he or she believes is a child less than 16 years of age with the intent to induce or force that child or individual to commit an immoral act, to submit to an act of sexual intercourse or an act of gross indecency, or to any other act of depravity or delinquency, or who encourages a child less than 16 years of age, regardless of whether the person knows the individual is a child or knows the actual age of the child, or an individual whom he or she believes is a child less than 16 years of age to engage in any of those acts is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$4,000.00, or both.

History: Add. 1935, Act 174, Eff. Sept. 21, 1935;—Am. 1939, Act 88, Eff. Sept. 29, 1939;—CL 1948, 750.145a;—Am. 2002, Act 45, Eff. June 1, 2002.

**FRAUDULENT ACCESS TO COMPUTERS, COMPUTER SYSTEMS, AND
COMPUTER NETWORKS (EXCERPT)**
Act 53 of 1979

752.795 Prohibited conduct.

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

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

(b) Insert or attach or knowingly create the opportunity for an unknowing and unwanted insertion or attachment of a set of instructions or a computer program into a computer program, computer, computer system, or computer network, that is intended to acquire, alter, damage, delete, disrupt, or destroy property or otherwise use the services of a computer program, computer, computer system, or computer network. This subdivision does not prohibit conduct protected under section 5 of article I of the state constitution of 1963 or under the first amendment of the constitution of the United States.

History: 1979, Act 53, Eff. Mar. 27, 1980;—Am. 1996, Act 326, Eff. Apr. 1, 1997.

**FRAUDULENT ACCESS TO COMPUTERS, COMPUTER SYSTEMS, AND
COMPUTER NETWORKS (EXCERPT)**
Act 53 of 1979

752.794 Prohibited access to computer program, computer, computer system, or computer network.

Sec. 4. A person shall not intentionally access or cause access to be made to a computer program, computer, computer system, or computer network to devise or execute a scheme or artifice with the intent to defraud or to obtain money, property, or a service by a false or fraudulent pretense, representation, or promise.

History: 1979, Act 53, Eff. Mar. 27, 1980;—Am. 1996, Act 326, Eff. Apr. 1, 1997.

**FRAUDULENT ACCESS TO COMPUTERS, COMPUTER SYSTEMS, AND
COMPUTER NETWORKS (EXCERPT)**

Act 53 of 1979

752.796 Use of computer program, computer, computer system, or computer network to commit crime.

Sec. 6. (1) A person shall not use a computer program, computer, computer system, or computer network to commit, attempt to commit, conspire to commit, or solicit another person to commit a crime.

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

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

History: 1979, Act 53, Eff. Mar. 27, 1980;—Am. 1996, Act 326, Eff. Apr. 1, 1997;—Am. 2000, Act 179, Eff. Sept. 18, 2000.

THE MICHIGAN PENAL CODE (EXCERPT)
Act 328 of 1931

750.411h Stalking; definitions; violation as misdemeanor; penalties; probation; conditions; evidence of continued conduct as rebuttable presumption; additional penalties.

Sec. 411h. (1) As used in this section:

(a) "Course of conduct" means a pattern of conduct composed of a series of 2 or more separate noncontinuous acts evidencing a continuity of purpose.

(b) "Emotional distress" means significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling.

(c) "Harassment" means conduct directed toward a victim that includes, but is not limited to, repeated or continuing unconsented contact that would cause a reasonable individual to suffer emotional distress and that actually causes the victim to suffer emotional distress. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose.

(d) "Stalking" means a willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested and that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

(e) "Unconsented contact" means any contact with another individual that is initiated or continued without that individual's consent or in disregard of that individual's expressed desire that the contact be avoided or discontinued. Unconsented contact includes, but is not limited to, any of the following:

(i) Following or appearing within the sight of that individual.

(ii) Approaching or confronting that individual in a public place or on private property.

(iii) Appearing at that individual's workplace or residence.

(iv) Entering onto or remaining on property owned, leased, or occupied by that individual.

(v) Contacting that individual by telephone.

(vi) Sending mail or electronic communications to that individual.

(vii) Placing an object on, or delivering an object to, property owned, leased, or occupied by that individual.

(f) "Victim" means an individual who is the target of a willful course of conduct involving repeated or continuing harassment.

(2) An individual who engages in stalking is guilty of a crime as follows:

(a) Except as provided in subdivision (b), a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(b) If the victim was less than 18 years of age at any time during the individual's course of conduct and the individual is 5 or more years older than the victim, a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00, or both.

(3) The court may place an individual convicted of violating this section on probation for a term of not more than 5 years. If a term of probation is ordered, the court may, in addition to any other lawful condition of probation, order the defendant to do any of the following:

(a) Refrain from stalking any individual during the term of probation.

(b) Refrain from having any contact with the victim of the offense.

(c) Be evaluated to determine the need for psychiatric, psychological, or social counseling and if, determined appropriate by the court, to receive psychiatric, psychological, or social counseling at his or her own expense.

(4) In a prosecution for a violation of this section, evidence that the defendant continued to engage in a course of conduct involving repeated unconsented contact with the victim after having been requested by the victim to discontinue the same or a different form of unconsented contact, and to refrain from any further unconsented contact with the victim, gives rise to a rebuttable presumption that the continuation of the course of conduct caused the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

(5) A criminal penalty provided for under this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct or for any contempt of court arising from the same conduct.

History: Add. 1992, Act 260, Eff. Jan. 1, 1993;—Am. 1997, Act 65, Eff. Mar. 31, 1998.

THE MICHIGAN PENAL CODE (EXCERPT)

Act 328 of 1931

750.411s Posting message through electronic medium; prohibitions; penalty; exceptions; definitions.

Sec. 411s. (1) A person shall not post a message through the use of any medium of communication, including the internet or a computer, computer program, computer system, or computer network, or other electronic medium of communication, without the victim's consent, if all of the following apply:

(a) The person knows or has reason to know that posting the message could cause 2 or more separate noncontinuous acts of unconsented contact with the victim.

(b) Posting the message is intended to cause conduct that would make the victim feel terrorized, frightened, intimidated, threatened, harassed, or molested.

(c) Conduct arising from posting the message would cause a reasonable person to suffer emotional distress and to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

(d) Conduct arising from posting the message causes the victim to suffer emotional distress and to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

(2) A person who violates subsection (1) is guilty of a crime as follows:

(a) Except as provided in subdivision (b), the person is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$5,000.00, or both.

(b) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00, or both:

(i) Posting the message is in violation of a restraining order and the person has received actual notice of that restraining order or posting the message is in violation of an injunction or preliminary injunction.

(ii) Posting the message is in violation of a condition of probation, a condition of parole, a condition of pretrial release, or a condition of release on bond pending appeal.

(iii) Posting the message results in a credible threat being communicated to the victim, a member of the victim's family, or another individual living in the same household as the victim.

(iv) The person has been previously convicted of violating this section or section 145d, 411h, or 411i, or section 6 of 1979 PA 53, MCL 752.796, or a substantially similar law of another state, a political subdivision of another state, or of the United States.

(v) The victim is less than 18 years of age when the violation is committed and the person committing the violation is 5 or more years older than the victim.

(3) This section does not apply to an internet or computer network service provider who in good faith, and without knowledge of the specific nature of the message posted, provides the medium for disseminating information or communication between persons.

(4) The court may order a person convicted of violating this section to reimburse this state or a local unit of government of this state for the expenses incurred in relation to the violation in the same manner that expenses may be ordered to be reimbursed under section 1f of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1f.

(5) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law committed by that person while violating or attempting to violate this section.

(6) This section does not prohibit constitutionally protected speech or activity.

(7) A person may be prosecuted in this state for violating or attempting to violate this section only if 1 of the following applies:

(a) The person posts the message while in this state.

(b) Conduct arising from posting the message occurs in this state.

(c) The victim is present in this state at the time the offense or any element of the offense occurs.

(d) The person posting the message knows that the victim resides in this state.

(8) As used in this section:

(a) "Computer" means any connected, directly interoperable or interactive device, equipment, or facility that uses a computer program or other instructions to perform specific operations including logical, arithmetic, or memory

functions with or on computer data or a computer program and that can store, retrieve, alter, or communicate the results of the operations to a person, computer program, computer, computer system, or computer network.

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

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

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

(e) "Credible threat" means a threat to kill another individual or a threat to inflict physical injury upon another individual that is made in any manner or in any context that causes the individual hearing or receiving the threat to reasonably fear for his or her safety or the safety of another individual.

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

(g) "Emotional distress" means significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling.

(h) "Internet" means that term as defined in section 230 of title II of the communications act of 1934, chapter 652, 110 Stat. 137, 47 U.S.C. 230.

(i) "Post a message" means transferring, sending, posting, publishing, disseminating, or otherwise communicating or attempting to transfer, send, post, publish, disseminate, or otherwise communicate information, whether truthful or untruthful, about the victim.

(j) "Unconsented contact" means any contact with another individual that is initiated or continued without that individual's consent or in disregard of that individual's expressed desire that the contact be avoided or discontinued.

Unconsented contact includes any of the following:

(i) Following or appearing within sight of the victim.

(ii) Approaching or confronting the victim in a public place or on private property.

(iii) Appearing at the victim's workplace or residence.

(iv) Entering onto or remaining on property owned, leased, or occupied by the victim.

(v) Contacting the victim by telephone.

(vi) Sending mail or electronic communications to the victim through the use of any medium, including the internet or a computer, computer program, computer system, or computer network.

(vii) Placing an object on, or delivering or having delivered an object to, property owned, leased, or occupied by the victim.

(k) "Victim" means the individual who is the target of the conduct elicited by the posted message or a member of that individual's immediate family.

History: Add. 2000, Act 475, Eff. Apr. 1, 2001.

THE MICHIGAN PENAL CODE (EXCERPT)
Act 328 of 1931

750.219e Prohibited conduct; violation as felony; penalty; exception; “financial institution” defined.

Sec. 219e. (1) Except as otherwise provided by law, a person shall not do any of the following:

(a) Prepare or submit an application for a loan or other extension of credit in another person's name without authorization from that other person.

(b) Receive or possess an application for a loan or other extension of credit knowing or having reason to know the application was prepared or submitted in violation of subsection (1).

(c) Receive or possess any instrument or device for accessing the proceeds of a loan or other extension of credit knowing or having reason to know the instrument or device was obtained as a result of a violation of subsection (1).

(2) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$2,500.00, or both.

(3) Subsection (1) does not apply to a financial institution or an affiliate, licensee, or franchisee of a financial institution or to a director, officer, or employee of a financial institution or an affiliate, licensee, or franchisee of a financial institution who does any of the following:

(a) Prepares or submits an application in another person's name without prior actual knowledge that the application is being prepared or was prepared in violation of subsection (1).

(b) Submits an application prepared in another person's name to a federal, state, or local law enforcement agency or regulatory agency.

(c) Submits an application prepared in another person's name to a credit reporting bureau or other person to determine whether the application was prepared in violation of subsection (1) or any other law or regulation.

(d) Receives or possesses an application prepared in another person's name without prior actual knowledge that the application was prepared in violation of subsection (1).

(e) Receives or possesses an instrument or device obtained as a result of a violation of subsection (1) without prior actual knowledge that the instrument or device was obtained as a result of a violation of subsection (1).

(4) As used in this section, “financial institution” means any of the following:

(a) A regulated lender as defined in section 2 of the credit reform act, 1995 PA 162, MCL 445.1852.

(b) A person licensed under the Michigan BIDCO act, 1986 PA 89, MCL 487.1101 to 487.2001.

(c) A person licensed or registered under the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684.

(d) A person licensed or registered under the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81.

(e) A person subject to the retail installment sales act, 1966 PA 224, MCL 445.851 to 445.873.

(f) A person subject to the motor vehicle sales finance act, 1950 PA 27, MCL 492.101 to 492.141.

(g) A person chartered or regulated by the office of the comptroller of the currency, the federal deposit insurance corporation, the federal reserve, or the office of thrift management.

History: Add. 1999, Act 164, Eff. Feb. 3, 2000.

THE MICHIGAN PENAL CODE (EXCERPT)

Act 328 of 1931

750.219f Forwarding loan or accessing loan proceeds in violation of chapter; violation as felony; penalty; exception; "financial institution" defined.

Sec. 219f. (1) A person shall not receive with the intent to forward, possess with the intent to forward, or forward an application for a loan or other extension of credit on behalf of a person to another person knowing or having reason to know the application has been prepared or is being submitted in violation of this chapter.

(2) A person shall not receive with the intent to forward, possess with the intent to forward, or forward to another person any instrument or device for accessing the proceeds of a loan or other extension of credit knowing or having reason to know the instrument or device was obtained as a result of a violation of this chapter.

(3) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$100,000.00, or both.

(4) Subsections (1) and (2) do not apply to a financial institution or an affiliate, licensee, or franchisee of a financial institution or to a director, officer, or employee of a financial institution or an affiliate, licensee, or franchisee of a financial institution who does any of the following:

(a) Receives with the intent to forward, possesses with the intent to forward, or forwards an application in another person's name without prior actual knowledge that the application was prepared in violation of this chapter.

(b) Forwards an application prepared in another person's name to a federal, state, or local law enforcement agency or regulatory agency.

(c) Forwards an application prepared in another person's name to a credit reporting bureau or other person to determine whether the application was prepared in violation of subsection (1) or any other law or regulation.

(d) Receives with intent to forward, possesses with intent to forward, or forwards an instrument or device without prior actual knowledge that the instrument or device was obtained as a result of a violation of this chapter.

(5) As used in this section, "financial institution" means any of the following:

(a) A regulated lender as defined in section 2 of the credit reform act, 1995 PA 162, MCL 445.1852.

(b) A person licensed under the Michigan BIDCO act, 1986 PA 89, MCL 487.1101 to 487.2001.

(c) A person licensed or registered under the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684.

(d) A person licensed or registered under the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81.

(e) A person subject to the retail installment sales act, 1966 PA 224, MCL 445.851 to 445.873.

(f) A person subject to the motor vehicle sales finance act, 1950 PA 27, MCL 492.101 to 492.141.

(g) A person chartered or regulated by the office of the comptroller of the currency, the federal deposit insurance corporation, the federal reserve, or the office of thrift management.

History: Add. 1999, Act 166, Eff. Feb. 3, 2000.

THE MICHIGAN PENAL CODE (EXCERPT)
Act 328 of 1931

750.285 Obtaining personal identity information of another with intent to unlawfully use information; violation as felony; nonapplicability to discovery process; definitions.

Sec. 285. (1) A person shall not obtain or attempt to obtain personal identity information of another person with the intent to unlawfully use that information for any of the following purposes without that person's authorization:

- (a) To obtain financial credit.
- (b) To purchase or otherwise obtain or lease any real or personal property.
- (c) To obtain employment.
- (d) To obtain access to medical records or information contained in medical records.
- (e) To commit any illegal act.

(2) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00, or both.

(3) This section does not prohibit the person from being charged with, convicted of, or sentenced for any other violation of law committed by that person using information obtained in violation of this section.

(4) This section does not apply to a person who obtains or attempts to obtain personal identity information of another person pursuant to the discovery process of a civil action, an administrative proceeding, or an arbitration proceeding.

(5) As used in this section:

(a) "Financial transaction device" means that term as defined in section 157m.

(b) "Medical records" includes, but is not limited to, medical and mental health histories, reports, summaries, diagnoses and prognoses, treatment and medication information, notes, entries, and x-rays and other imaging records.

(c) "Personal identity information" means any of the following information of another person:

(i) A social security number.

(ii) A driver license number or state personal identification card number.

(iii) Employment information.

(iv) Information regarding any financial account held by another person including, but not limited to, any of the following:

(A) A savings or checking account number.

(B) A financial transaction device account number.

(C) A stock or other security certificate or account number.

(D) A personal information number for an account described in sub-subparagraphs (A) to (C).

History: Add. 2000, Act 386, Eff. Apr. 1, 2001.

Compiler's note: Former § 750.285, which pertained to the sale or offer for sale as Michigan wheat any wheat not grown in the state as misdemeanor, was repealed by Act 256 of 1964, Eff. Aug. 28, 1964.

Popular name: Identity Theft

THE MICHIGAN PENAL CODE (EXCERPT)
Act 328 of 1931

750.390 Malicious annoyance by writing.

Sec. 390. Malicious annoyance by writing—Any person who shall knowingly send or deliver or shall make, and for the purpose of being delivered or sent, shall part with the possession of any letter, postal card or writing containing any obscene language with or without a name subscribed thereto, or signed with a fictitious name, or with any letter, mark or other designation, with the intent thereby to cause annoyance to any person, or with a view or intent to extort or gain any money or property of any description belonging to another, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.390.

Former law: See section 1 of Act 162 of 1883, being How., § 9315b; CL 1897, § 11764; CL 1915, § 15575; and CL 1929, § 16814.

THE MICHIGAN PENAL CODE (EXCERPT)
Act 328 of 1931

750.213 Malicious threats to extort money.

Sec. 213. Malicious threats to extort money—Any person who shall, either orally or by a written or printed communication, maliciously threaten to accuse another of any crime or offense, or shall orally or by any written or printed communication maliciously threaten any injury to the person or property or mother, father, husband, wife or child of another with intent thereby to extort money or any pecuniary advantage whatever, or with intent to compel the person so threatened to do or refrain from doing any act against his will, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 20 years or by a fine of not more than 10,000 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.213.

Former law: See section 19 of Ch. 153 of R.S. 1846, being CL 1857, § 5729; CL 1871, § 7528; How., § 9093; CL 1897, § 11488; CL 1915, § 15210; CL 1929, § 16726; Act 188 of 1897; and Act 83 of 1925.

THE MICHIGAN PENAL CODE (EXCERPT)
Act 328 of 1931

750.352 Molesting and disturbing persons in pursuit of occupation, vocation or avocation.

Sec. 352. Any person or persons who shall, by threats, intimidations, or otherwise, and without authority of law, interfere with, or in any way molest, or attempt to interfere with, or in any way molest or disturb, without such authority, any person, in the quiet and peaceable pursuit of his lawful occupation, vocation or avocation, or on the way to and from such occupation, vocation or avocation, or who shall aid or abet in any such unlawful acts, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1947, Act 297, Eff. Oct. 11, 1947;—CL 1948, 750.352.

Former law: See section 1 of Act 163 of 1867, being CL 1871, § 7690; How., § 9273; CL 1897, § 11343; CL 1915, § 15010; and CL 1929, § 8612.

OBSCENE MATERIAL (EXCERPT)
Act 343 of 1984

752.365 Obscenity; elements; misdemeanor; penalty; second or subsequent offense as a felony.

Sec. 5. (1) A person is guilty of obscenity when, knowing the content and character of the material, the person disseminates, or possesses with intent to disseminate, any obscene material.

(2) Obscenity is a misdemeanor, punishable by imprisonment for not more than 1 year, or by a fine of not more than \$100,000.00, or both.

(3) A person convicted of a second or subsequent offense under this section is guilty of a felony and may be imprisoned for not more than 2 years, and shall be fined not less than \$50,000.00 or more than \$5,000,000.00. For purposes of this section, an offense is considered a second or subsequent offense if the defendant has previously been convicted under this section or under any similar statute of the United States or of any state.

History: 1984, Act 343, Eff. Mar. 29, 1985;—Am. 1992, Act 216, Eff. Mar. 31, 1993.