

## Eavesdropping Can be a Violation of the Law



*Did you know eavesdropping on a person's conversation, unlike opening a person's e-mail, can be a civil or a criminal violation of the law in a divorce or custody proceeding?*

Generally, retrieving a spouse's e-mail from a home or work computer is not prohibited because the e-mail is stored. Thus, once an e-mail has been read by the person to whom it was sent, it is no longer a protected communication that is given an expectation of privacy. Reading or obtaining e-mail is accessible to anyone and everyone who has access to a computer where the e-mail is stored. Any expectation of privacy to opened e-mail is unrealistic. Federal and state wiretapping statutes prohibit the unauthorized interception, disclosure, or use of communications and eavesdropping on third-party conversations. Eavesdropping on another person's telephone conversations, unlike opening another person's e-mail, can be a civil or criminal violation of the law. The Michigan and federal wiretapping statutes prohibit such conduct. However, under both statutes, if the individual recording the conversation participates in the conversation and all participants are in Michigan, there is no violation of the wiretapping statutes because such conversations are not "intercepted." Taping conversations of others is very dangerous. Any attempt to do this could leave the nonparticipating eavesdropper exposed to significant civil and possibly criminal liability.

*Excerpts from "Listening In," by Henry S. Gornbein and Jorin G. Rubin. An article in the June 2002 Michigan Bar Journal.*



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#### Sources

State Bar of Michigan  
<http://www.michbar.org>

Michigan Attorney General  
<http://www.ag.state.mi.us>

American Bar Association's Safe Shopping  
[www.safeshopping.org](http://www.safeshopping.org)

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# Protecting Your Children/ Preventing Abduction

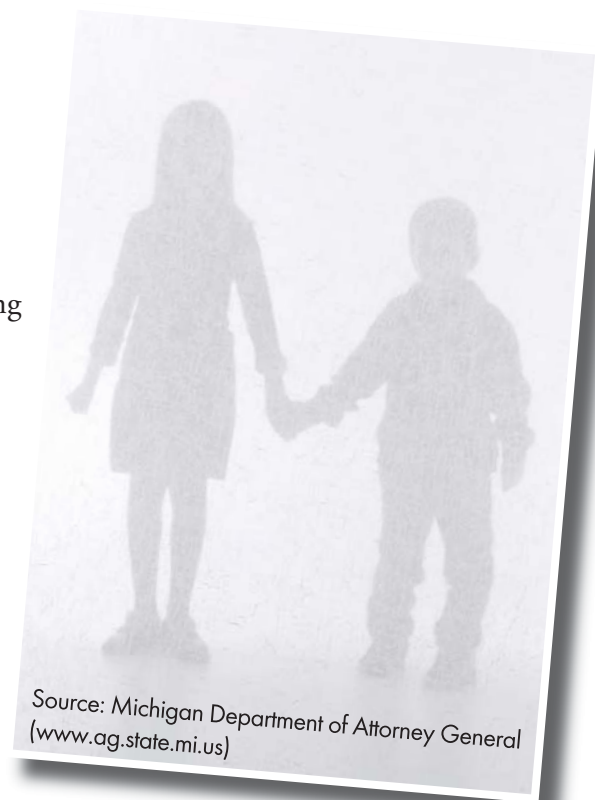
## If Your Child Is Missing:

1. CALL THE POLICE and ask them to immediately file a "Missing Persons Report."
2. If the police inform you there is a several day waiting period tell them you will waive the period and you want them to immediately file a description of your child with the F.B.I.
3. Organize a search party and call your family, neighbors and friends to let them know your child is missing.
4. Immediately put up pictures and a detailed description of the child.

Some organizations, such as CHILD FIND, have prepackaged kits, but you can make your own kit by having: a current photo of your child, a birth certificate, and medical/dental records available. You should also include a complete written description including height, weight, eye color, hair color and any identifying characteristics, such as birthmarks or moles.

## Other Things to Remember about Your Child's Personal Safety

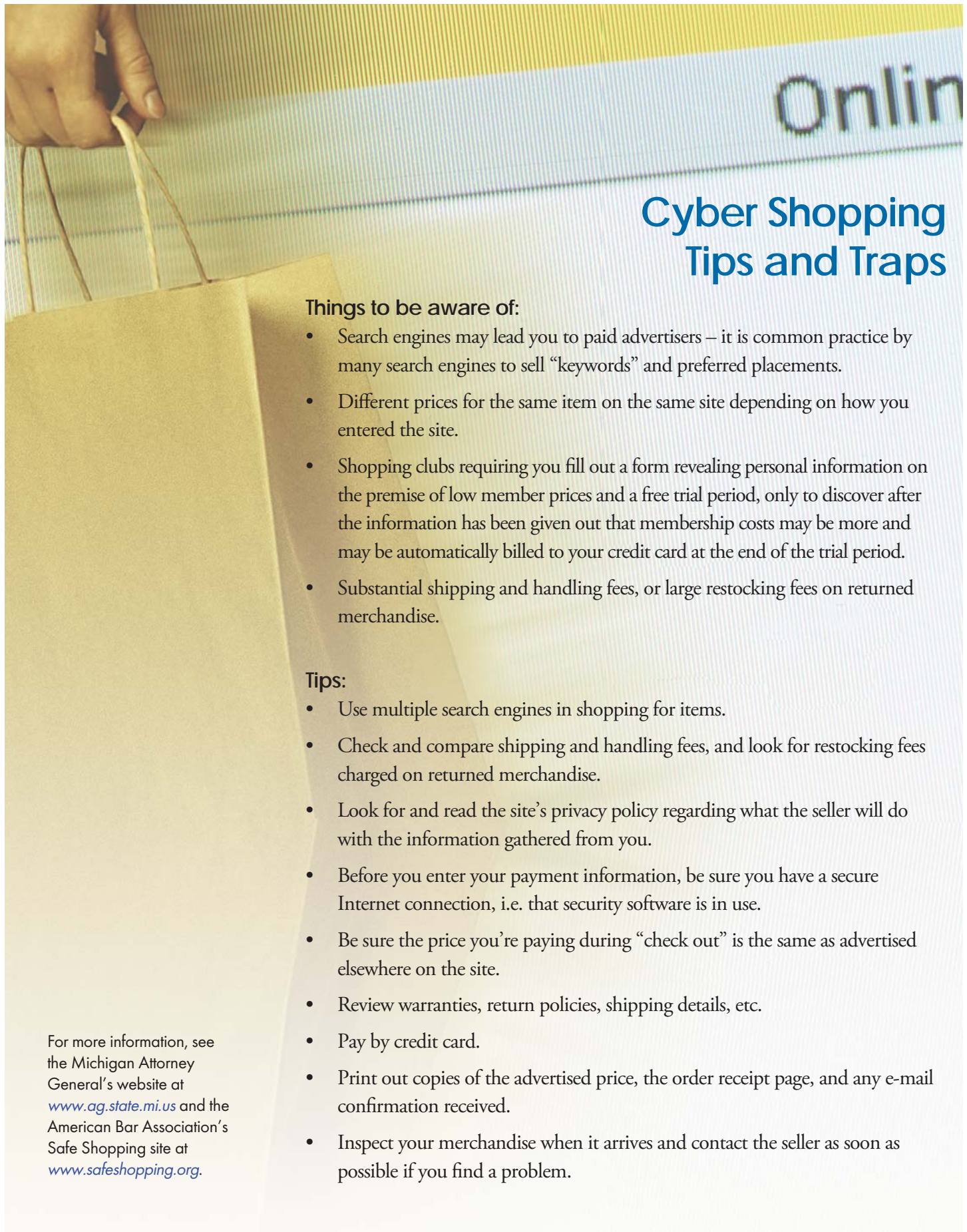
1. Teach your child his or her full name, address and telephone number and how to use the phone. Keep emergency numbers written down near the phone and include your address so a child can let authorities know where they are.
2. Discuss personal security with the child and define what a "stranger" is and tell the child no one has the authority to touch them in any way that makes them uncomfortable and they can tell an adult "no."
3. Know where your children are and who they are with--particularly, the names of their friends and where their friends live, whether a responsible adult is present while your child is there, and the phone number.
4. Tell the child that when they are home alone, they are never to open the door to a stranger or give personal information to a stranger.
5. Tell the child to never say my mother or father is not home, but to say they are in the shower and can't come to the phone and the child can take a message.



Source: Michigan Department of Attorney General  
([www.ag.state.mi.us](http://www.ag.state.mi.us))

6. Be careful when choosing babysitters and daycare facilities by always checking references.
7. Tell your child's school or day care facility that the child is never to leave with anyone but you, unless you have notified the facility that someone other than you will pick up the child.
8. Keep track of your child in a store or mall so that they are always in your sight.
9. Do not leave your child alone in a vehicle and tell your child to never approach a car when they are asked for directions, to help find a lost animal, or they are offered candy.

Disclaimer: This newsletter is for general information only and focuses on broad legal principles and issues. It does not constitute legal advice, and it should not be acted on without legal advice. Legal advice may be given only on the basis of specific facts relayed by a client to an attorney. Contact an attorney regarding the specific facts of your situation. © copyright State Bar of Michigan all rights reserved. Redistribution or reproduction by any means is strictly prohibited. Reprints by permission only.



## Cyber Shopping Tips and Traps

**Things to be aware of:**

- Search engines may lead you to paid advertisers – it is common practice by many search engines to sell “keywords” and preferred placements.
- Different prices for the same item on the same site depending on how you entered the site.
- Shopping clubs requiring you fill out a form revealing personal information on the premise of low member prices and a free trial period, only to discover after the information has been given out that membership costs may be more and may be automatically billed to your credit card at the end of the trial period.
- Substantial shipping and handling fees, or large restocking fees on returned merchandise.

**Tips:**

- Use multiple search engines in shopping for items.
- Check and compare shipping and handling fees, and look for restocking fees charged on returned merchandise.
- Look for and read the site’s privacy policy regarding what the seller will do with the information gathered from you.
- Before you enter your payment information, be sure you have a secure Internet connection, i.e. that security software is in use.
- Be sure the price you’re paying during “check out” is the same as advertised elsewhere on the site.
- Review warranties, return policies, shipping details, etc.
- Pay by credit card.
- Print out copies of the advertised price, the order receipt page, and any e-mail confirmation received.
- Inspect your merchandise when it arrives and contact the seller as soon as possible if you find a problem.

For more information, see the Michigan Attorney General’s website at [www.ag.state.mi.us](http://www.ag.state.mi.us) and the American Bar Association’s Safe Shopping site at [www.safeshopping.org](http://www.safeshopping.org).



*banc (bangk)* — Bench; the place where a court sits permanently or regularly; a court “sitting in banc” is a session of all the judges of a court, as distinguished from the sitting of a single judge.

*contributory negligence* — A doctrine which prohibits recovery of damages by a plaintiff whose own behavior contributed even slightly to the event which caused the plaintiff’s injuries — as distinguished from comparative negligence.

*court of record* — A court whose proceedings are permanently recorded; they have the power to fine or imprison for contempt. Courts not of record have less authority and their proceedings are not permanently recorded. The only courts not of record in Michigan are municipal courts.

*estoppel (es-to´pel)* — A prohibition against a claim which is inconsistent with the claimant’s prior conduct, *i.e.*, one who sells land representing that he is authorized to do so may not claim in a later lawsuit against him or her for failure to consummate the transaction that he or she had no authority to sell.

*petit jury* — The ordinary jury of 12 (or fewer) persons selected to hear the trial of a civil or criminal case and to determine issues of fact; so called to distinguish it from the grand jury.

*nominal party* — One with no real interest in the outcome who is joined as a party or defendant merely because the technical rules of pleading require his or her presence on the record.

“*A Laypersons Guide To Legal Terms*” is available from the State Bar of Michigan’s Member Services and Communications Division at 517-346-6322. The publication is available for \$2.25 including shipping.

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