
THE INDONESIAN CYBERCRIME BILL

DIRECTORATE GENERAL FOR ICT APPLICATION
MINISTRY OF COMMUNICATION AND INFORMATION
TECHNOLOGY

BACKGROUND

ICT has potential use to law violation

- ❖ *Cybercrime has a specific characteristic. That's why we need a law in line with international standard law beside Law on Electronic Information and Transaction to deal with cybercrime*
- ❖ **International cooperation (multilateral) consists of many important components for handling cyber crime**

BASIC PHILOSOPHY

- ❑ Cyber crime has become one of global and national threat, and need international law standard to cope with.
- ❑ Indonesia is one of the countries that cannot freed from cyber crimes and in fact nowadays the ICT is an integrated part of regional and international ICT activities.
- ❑ The efforts to prevent Cyber crime must be based on a harmony legal base, whether in regional and global level.
- ❑ *Convention on Cybercrime, 2001* is one of an international law instrument in fighting against cyber crime containing law base and principles that can be implemented into national law instrument and also became a cooperation instrument between Indonesia and international world in the field of fighting against cybercrime.

BASIC PHILOSOPHY

- ❑ Nowadays, crime through the means of ICT has become threats not only to Indonesia but also to the world because ICT can be used interstate borderless, efficiently used, and has a broad impact;
- ❑ The approach of ICT cyber crime need another positive law having different today's characteristic of valid positive law, due to the ICT crime is virtually done but with a factual impact.
- ❑ With the ratification of The Bill On Accession Of The EU Convention On Cybercrime, 2001, it is need some national laws in cyber crime as a national law to implement the principles and norms containing in the Convention.

Law No.11 Year 2008 concerning Electronic Information & Transaction Act ("EIT")

- ❑ **Law protection for electronic-base activities from cyber crime and misuse**
- **Following**
 - ❑ **The principle of extra territorial jurisdiction**
 - ❑ **The principle of neutral technology (freedom to choose technology)**

CONTENTS OF EIT's LAW

- ❑ Recognition of Electronic Information and/or Documents as Legal evidence
- ❑ Recognition of Electronic Signature
- ❑ Trustmark Service Provider
- ❑ Electronic System Provider => Certification Service Provider
- ❑ Domain Name, Intellectual Property Rights and Protection of Private Rights
- ❑ Prohibited Actions => substantially accommodate CoC Dispute Settlement
- ❑ Dispute Settlement
- ❑ The Role of Government and Society
- ❑ Investigation & Criminal Sanctions

FOLLOW UP

- ❑ Accession of the *EU Convention on Cybercrime* (The Bill of Ratification of the *EU Convention on Cybercrime, 2001*)
- ❑ Implementation of transformation of convention provisions into national laws. (The Bill of Information Technology/Cyber Crime)

PROVISIONS ON *EU CONVENTION ON CYBERCRIME* THAT HAS BEEN REGULATED IN THE LAW ON EIT

- ❑ *Illegal access*
- ❑ *Illegal Interception*
- ❑ *Data Interference*
- ❑ *System Interference*
- ❑ *Misuse of Device*
- ❑ *Computer-related forgery*
- ❑ *computer-related fraud*
- ❑ *Offences related to infringements of copyright and related rights*
- ❑ *Interception of content data*
- ❑ *Jurisdiction*

CONTENTS HAS NOT COVERED BY LAW ON ELECTRONIC INFORMATION AND TRANSACTION AND SHOULD BE FOLLOWED UP ITS REGULATIONS (A COMPARATION WITH CONVENTION ON CYBER CRIME)

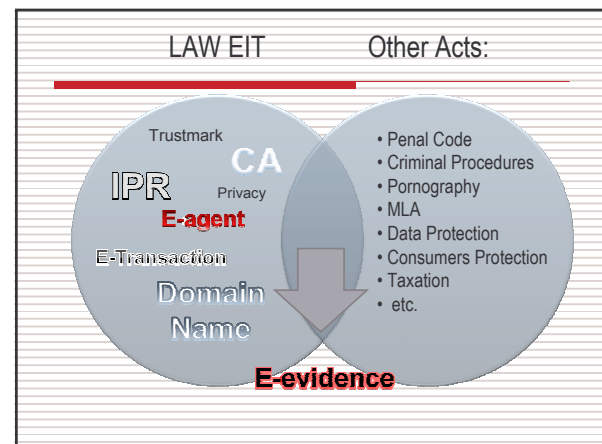
- ❖ Attempt and aiding or abetting
- ❖ Corporate liability
- ❖ Sanctions and measures
- ❖ Scope of procedural provisions
- ❖ Conditions and safeguards
- ❖ Expedited preservation of stored computer data
- ❖ Expedited preservation and partial disclosure of traffic data
- ❖ Production order
- ❖ Search and seizure of stored computer data
- ❖ Real-time collection of traffic data

CONTENTS HAS NOT COVERED BY LAW ON ELECTRONIC INFORMATION AND TRANSACTION AND SHOULD BE FOLLOWED UP ITS REGULATIONS (A COMPARATION WITH CONVENTION ON CYBER CRIME)

- ❖ General principles relating to international co-operation
- ❖ Extradition
- ❖ General principles relating to mutual assistance
- ❖ Spontaneous information
- ❖ Procedures pertaining to mutual assistance requests in the absence of applicable international agreements
- ❖ Confidentiality and limitation on use
- ❖ Expedited preservation of stored computer data
- ❖ Expedited disclosure of preserved traffic data
- ❖ Mutual assistance regarding accessing of stored computer data
- ❖ Trans-border access to stored computer data with consent or where publicly available
- ❖ Mutual assistance regarding the real-time collection of traffic data
- ❖ Mutual assistance regarding the interception of content data
- ❖ 24/7 Network

CONTENTS ON THE BILL ON CYBERCRIME

- ❑ Criminal Action Against Confidential, Integrity And Availability Of Data, System Of Computer
- ❑ IT Service Provider
- ❑ Obligation Of IT Service Provider
- ❑ Criminal Responsibility Of Legal Body Dan IT Service Provider
- ❑ JURISDICTION
- ❑ International Cooperation And Extradiction
- ❑ Investigation, Prosecution Dan Investigating In The Court
- ❑ Criminal Provisions





THANK YOU