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(PRE-FILED)

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By: Chairman, Judicial Proceedings Committee (Departmental - State Police, Dept. of)
Requested: October 17, 1995
Introduced and read first time: January 10, 1996
Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: January 24, 1996

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CHAPTER ____

1 AN ACT concerning

2 **State Police - Computer Crimes - Jurisdiction of the Department**

3 FOR the purpose of ~~providing an exemption to certain prohibitions that preclude the~~
4   ~~Department of State Police from acting within certain municipalities and other~~
5   ~~subdivisions under certain circumstances;~~ authorizing the Department of State
6   Police to act within certain municipalities ~~and subdivisions~~ under circumstances
7   involving certain computer related crimes; and generally relating to the
8   jurisdictional authority of the Department of State Police.

9 ~~BY repealing and reenacting, with amendments,~~
10   ~~Article 27 - Crimes and Punishments~~
11   ~~Section 146~~
12   ~~Annotated Code of Maryland~~
13   ~~(1992 Replacement Volume and 1995 Supplement)~~
14   [TAG byrep]BY repealing and reenacting, ~~without~~ <u>with</u> amendments,
15   Article 88B - Department of State Police
16   Section 4
17   Annotated Code of Maryland
18   (1995 Replacement Volume)

19   SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

2

1   **Article 27 - Crimes and Punishments**

2 ~~146.~~

3   ~~(a) In this section the following words have the meanings indicated.~~

4   ~~(1) (i) "Computer" means an electronic, magnetic, optical, organic, or~~
5 ~~other data processing device or system that performs logical, arithmetic, memory, or~~
6 ~~storage functions.~~

7   ~~(ii) "Computer" includes any property, data storage facility, or~~
8 ~~communications facility that is directly related to or operated in conjunction with that~~
9 ~~device or system.~~

10   ~~(iii) "Computer" does not include an automated typewriter or~~
11 ~~typesetter, or a portable calculator.~~

12   ~~(2) "Computer control language" means any ordered statements that direct~~
13 ~~a computer to perform specific functions.~~

14   ~~(3) "Computer data base" means a representation of information,~~
15 ~~knowledge, facts, concepts, or instructions that:~~

16   ~~(i) Are being prepared or have been prepared in a formalized manner~~
17 ~~or are or have been produced by a computer, computer system, or computer network; and~~

18   ~~(ii) Are intended for use in a computer, computer system, or computer~~
19 ~~network.~~

20   ~~(4) "Computer network" means the interconnection of 1 or more computers~~
21 ~~through:~~

22   ~~(i) The use of satellite, microwave, line, or other communication~~
23 ~~media; and~~

24   ~~(ii) Terminals or a complex consisting of 2 or more interconnected~~
25 ~~computers whether or not the interconnection is continuously maintained.~~

26   ~~(5) "Computer program" means an ordered set of instructions or statements~~
27 ~~that may interact with related data that, when executed in a computer system, causes the~~
28 ~~computer to perform specified functions.~~

29   ~~(6) "Computer services" includes, but is not limited to, computer time, data~~
30 ~~processing, and storage functions.~~

31   ~~(7) "Computer software" means computer programs, instructions,~~
32 ~~procedures, or associated documentation that is concerned with the operation of a~~
33 ~~computer system.~~

34   ~~(8) "Computer system" means 1 or more connected or unconnected~~
35 ~~computers, peripheral devices, software, data, or programs.~~

36   ~~(9) "Access" means to instruct, communicate with, store data in, retrieve~~
37 ~~data from, or otherwise make use of equipment including, but not limited to, computers~~
38 ~~and other data processing equipment or resources connected therewith.~~

1   (b) This section does not preclude the applicability of any other provision of this
2 Code.

3   (c) (1) A person may not intentionally, willfully, and without authorization
4 access, attempt to access, or cause access to a computer, computer network, computer
5 software, computer control language, computer system, computer services, computer data
6 base, or any part of these systems or services.

7   (2) A person may not intentionally, willfully, and without authorization
8 access, attempt to access, or cause access to a computer, computer network, computer
9 software, computer control language, computer system, computer services, computer data
10 base, or any part of these systems or services to:

11   (i) Cause the malfunction or interrupt the operation of a computer,
12 computer network, computer software, computer control language, computer system,
13 computer services, computer data base, or any part of these systems or services; or

14   (ii) Alter, damage, or destroy data or a computer program stored,
15 maintained, or produced by a computer, computer network, computer system, computer
16 services, computer data base, or any part of these systems or services.

17   (3) A person may not intentionally, willfully, and without authorization:

18   (i) Identify or attempt to identify any valid access codes; or

19   (ii) Distribute or publicize any valid access codes to anyunauthorized
20 person.

21   (d) (1) Any person who violates any provision of subsection (c)(1) of this section
22 is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or
23 imprisonment not exceeding 3 years or both.

24   (2) Any person who violates any provision of subsection (c)(2) or (c)(3) of
25 this section is guilty of a misdemeanor and on conviction is subject toa fine not exceeding
26 $5,000 or imprisonment not exceeding 5 years or both.

27   (e) (1) When illegal access to a computer, computer network, computer control
28 language, computer system, computer services, computer software, computer data base,
29 or any part of these systems or services is committed in violation of this section pursuant
30 to 1 scheme or continuing course of conduct, the conduct may be considered as 1 offense.

31   (2) A court of competent jurisdiction in this State may try a person who
32 allegedly violates any provision of subsection (c) of this section in any county in this State
33 where:

34   (i) The person performs the act; or

35   (ii) The accessed computer is located.

36   (F) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE
37 DEPARTMENT OF STATE POLICE MAY INITIATE INVESTIGATIONS AND OTHERWISE
38 ENFORCE THE PROVISIONS OF § 146 OF THIS ARTICLE THROUGHOUT THE STATE

4

1 ~~WITHOUT ANY LIMITATION AS TO ACTIVITIES WITHIN MUNICIPAL CORPORATIONS~~
2 ~~OR OTHER SUBDIVISIONS.~~

3 **Article 88B - Department of State Police**

4 4.

5   (a) In this section, "emergency" means a sudden or unexpected happening or an
6 unforeseen combination of circumstances that calls for immediate actionto protect the
7 health, safety, welfare, or property of an individual from actual or threatened harm or
8 from an unlawful act.

9   (b) The Secretary, the deputy secretary, and employees designated bythe
10 Secretary as police employees shall have throughout the State the same powers,
11 privileges, immunities, and defenses as sheriffs, constables, police officers, and other
12 peace officers possessed at common law and may now or hereafter exercise within their
13 respective jurisdictions. Any warrant of arrest may be executed by a police employee in
14 any part of the State without further endorsement.

15   (c) Police employees shall not act within the limits of any incorporated
16 municipality which maintains a police force except: (1) when in pursuitof an offender or
17 suspected offender; (2) when in search of an offender or suspected offender wanted for a
18 crime committed outside of the limits of the municipality, or when interviewing or seeking
19 to interview a witness or supposed witness to such a crime; (3) when a crime is committed
20 in the presence of the police employee, the arrested party shall be immediately
21 transferred to the custody of the local law enforcement agency; (4) when requested to act
22 by the chief executive officer or the chief police officer of the municipality; (5) when
23 ordered by the Governor to act within the municipality; (6) except in Baltimore City,
24 when enforcing the motor vehicle laws of this State; (7) in Baltimore City, only when
25 enforcing Title 23 (Vehicle Laws - Inspection of Used Vehicles and Warnings for
26 Defective Equipment) of the Transportation Article; (8) in any buildingor place when
27 ordered by the President of the Senate and the Speaker of the House of Delegates, or
28 either of them, to guard the safety of legislators or the integrity of the legislative process;
29 (9) to protect the safety of an elected State official; (10) in the municipalities of Somerset
30 County; ~~or~~ (11) (i) 1. when participating in a joint investigation withofficials from any
31 other State, federal, or local law enforcement agency at least one of which shall have local
32 jurisdiction; 2. when rendering assistance to a police officer; 3. whenacting at the request
33 of a local police officer; or 4. when an emergency exists; and (ii) when acting in
34 accordance with regulations adopted by the Secretary to implement this paragraph; OR
35 (12) WHEN CONDUCTING INVESTIGATIONS RELATING TO OR OTHERWISE
36 ENFORCING THE PROVISIONS OF ARTICLE 27, § 146 OF THE CODE.

37   (d) No police employee shall be placed on detached service and act for any
38 federal department, agency or committee outside of the State of Maryland without the
39 written approval of the Governor or as otherwise provided by law.

40   (e) The term "incorporated municipality" as used in subsection (b) of this section
41 shall mean the territory within the limits of an incorporated city or town within any county
42 of this State or of Baltimore City. However, this term shall not be construed to include
43 any other territory within the limits of any county.

5

1   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 1996.