
By: Delegates Harkins, Bissett, Montague, Perry, Petzold, E. Burns, T. Murphy, M. Burns, Genn, Turner, Hutchins, and O'Donnell

Introduced and read first time: January 31, 1997

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Unauthorized Use of Computers**

3 FOR the purpose of prohibiting a person from intentionally, willfully, and without
4 authorization accessing, attempting to access, or causing access to certain computer
5 devices or systems to devise or execute a scheme or artifice with the intent to
6 defraud or obtain money, property, or a service by a false or fraudulent pretense,
7 representation, or promise; prohibiting a person from intentionally using certain
8 computer devices or systems to commit certain crimes; establishing certain
9 penalties; establishing a certain presumption; providing for the prosecution of a
10 crime under this Act; and generally relating to the unauthorized use of computers.

11 BY repealing and reenacting, with amendments,
12 Article 27 - Crimes and Punishments
13 Section 146
14 Annotated Code of Maryland
15 (1996 Replacement Volume)

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

18 **Article 27 - Crimes and Punishments**

19 146.

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

21 (1) (i) "Computer" means an electronic, magnetic, optical, organic, or
22 other data processing device or system that performs logical, arithmetic, memory, or
23 storage functions.

24 (ii) "Computer" includes any property, data storage facility, or
25 communications facility that is directly related to or operated in conjunction with that
26 device or system.

27 (iii) "Computer" does not include an automated typewriter or
28 typesetter, or a portable calculator.

2

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

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

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

7 (ii) Are intended for use in a computer, computer system, or computer
8 network.

9 (4) "Computer network" means the interconnection of 1 or more computers
10 through:

11 (i) The use of satellite, microwave, line, or other communication
12 media; and

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

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

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

20 (7) "Computer software" means computer programs, instructions,
21 procedures, or associated documentation that is concerned with the operation of a
22 computer system.

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

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

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

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

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

3

1 (i) Cause the malfunction or interrupt the operation of a computer,
2 computer network, computer software, computer control language, computer system,
3 computer services, computer data base, or any part of these systems or services; [or]

4 (ii) Alter, damage, or destroy data or a computer program stored,
5 maintained, or produced by a computer, computer network, computer system, computer
6 services, computer data base, or any part of these systems or services; OR

7 (III) DEVISE OR EXECUTE A SCHEME OR ARTIFICE WITH THE
8 INTENT TO DEFRAUD OR OBTAIN PROPERTY OR A SERVICE BY A FALSE OR
9 FRAUDULENT PRETENSE, REPRESENTATION, OR PROMISE.

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

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

12 (ii) Distribute or publicize any valid access codes to any unauthorized
13 person.

14 (D) A PERSON MAY NOT INTENTIONALLY USE A COMPUTER, COMPUTER
15 NETWORK, COMPUTER SOFTWARE, COMPUTER CONTROL LANGUAGE, COMPUTER
16 SYSTEM, COMPUTER SERVICES, COMPUTER DATA BASE, OR ANY PART OF THESE
17 SYSTEMS OR SERVICES TO COMMIT A CRIME NOT PROVIDED IN THIS SECTION.

18 [(d)] (E) (1) Any person who violates any provision of subsection (c)(1) of this
19 section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding
20 \$1,000 or imprisonment not exceeding 3 years or both.

21 (2) Any person who violates any provision of subsection [(c)(2)] (C)(2)(I)
22 OR (II) or (c)(3) of this section is guilty of a misdemeanor and on conviction is subject to
23 a fine not exceeding \$5,000 or imprisonment not exceeding 5 years or both.

24 (3) (I) 1. A PERSON CONVICTED OF VIOLATING SUBSECTION
25 (C)(2)(III) OF THIS SECTION WHERE THE AGGREGATE VALUE OF THE PROPERTY OR
26 SERVICES OBTAINED WAS LESS THAN \$300 IS GUILTY OF A MISDEMEANOR AND
27 SHALL RESTORE THE PROPERTY OBTAINED TO THE OWNER OR PAY THE OWNER
28 THE VALUE OF THE PROPERTY OR SERVICES, AND BE FINED NOT MORE THAN \$500,
29 OR BE IMPRISONED FOR NOT MORE THAN 18 MONTHS OR BOTH.

30 2. A PROSECUTION UNDER THIS SUBPARAGRAPH SHALL BE
31 COMMENCED WITHIN 2 YEARS AFTER THE COMMISSION OF THE OFFENSE.

32 (II) A PERSON CONVICTED OF VIOLATING SUBSECTION (C)(2)(III)
33 OF THIS SECTION WHERE THE AGGREGATE VALUE OF THE PROPERTY OR SERVICES
34 OBTAINED WAS \$300 OR MORE IS GUILTY OF A FELONY AND SHALL RESTORE THE
35 PROPERTY OBTAINED TO THE OWNER OR PAY THE OWNER THE VALUE OF THE
36 PROPERTY OR SERVICES, AND BE FINED NOT MORE THAN \$1,000, OR BE IMPRISONED
37 FOR NOT MORE THAN 15 YEARS OR BOTH.

38 (4) A PERSON WHO VIOLATES SUBSECTION (D) OF THIS SECTION IS
39 GUILTY OF A SEPARATE MISDEMEANOR AND ON CONVICTION BE SUBJECT TO, IN
40 ADDITION TO ANY OTHER SENTENCE IMPOSED BY VIRTUE OF COMMISSION OF THE

4

1 UNDERLYING CRIME, A FINE NOT EXCEEDING \$1,000 AND IMPRISONMENT NOT
2 EXCEEDING 3 YEARS OR BOTH.

3 (F) IT IS A REBUTTABLE PRESUMPTION THAT A PERSON WAS OPERATING
4 WITHOUT AUTHORIZATION UNLESS:

5 (1) WRITTEN OR ORAL PERMISSION WAS GRANTED BY THE OWNER,
6 SYSTEM OPERATOR, OR OTHER PERSON WHO HAS AUTHORITY FROM THE OWNER
7 OR SYSTEM OPERATOR TO GRANT PERMISSION TO THE ACCESSED COMPUTER,
8 COMPUTER NETWORK, COMPUTER SOFTWARE, COMPUTER CONTROL LANGUAGE,
9 COMPUTER SYSTEM, COMPUTER SERVICES, COMPUTER DATA BASE, OR OTHER PART
10 OF THE SYSTEM OR SERVICE;

11 (2) THE ACCESSED COMPUTER, COMPUTER NETWORK, COMPUTER
12 SOFTWARE, COMPUTER CONTROL LANGUAGE, COMPUTER SYSTEM, COMPUTER
13 SERVICES, OR COMPUTER DATA BASE, OR OTHER PART OF THE SYSTEM OR SERVICE
14 HAD A PREPROGRAMMED ACCESS PROCEDURE THAT WOULD DISPLAY A BULLETIN,
15 COMMAND, OR OTHER MESSAGE BEFORE ACCESS WAS ACHIEVED THAT A
16 REASONABLE PERSON WOULD BELIEVE IDENTIFIED THE COMPUTER, COMPUTER
17 NETWORK, COMPUTER SOFTWARE, COMPUTER CONTROL LANGUAGE, COMPUTER
18 SYSTEM, COMPUTER SERVICES, COMPUTER DATA BASE, OR OTHER PART OF THE
19 SYSTEM OR SERVICE AS WITHIN THE PUBLIC DOMAIN; OR

20 (3) ACCESS WAS ACHIEVED WITHOUT THE USE OF A SET OF
21 INSTRUCTIONS, CODE, OR COMPUTER PROGRAM THAT BYPASSES, DEFRAUDS, OR
22 OTHERWISE CIRCUMVENTS THE PREPROGRAMMED ACCESS PROCEDURE FOR THE
23 COMPUTER, COMPUTER NETWORK, COMPUTER SOFTWARE, COMPUTER CONTROL
24 LANGUAGE, COMPUTER SYSTEM, COMPUTER SERVICES, COMPUTER DATA BASE, OR
25 OTHER PART OF THE SYSTEM OR SERVICE.

26 [(e)] (G) (1) When illegal access to a computer, computer network, computer
27 control language, computer system, computer services, computer software, computer data
28 base, or any part of these systems or services is committed in violation of this section
29 pursuant to 1 scheme or continuing course of conduct, the conduct may be considered as
30 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 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
37 October 1, 1997.