
By: **Delegates Harkins, Comeau, Bonsack, Preis, E. Burns, M. Burns,
Jacobs, Rosenberg, Kopp, Petzold, Perry, Barve, Rudolph, and
Dembrow**

Introduced and read first time: February 13, 1998
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Computer Piracy**

3 FOR the purpose of revising provisions of law concerning computer-related crimes;
4 prohibiting a person from accessing or causing to be accessed certain
5 computer-related items with a certain intent or in a certain manner; prohibiting
6 the insertion, attachment or the opportunity for insertion or attachment of
7 certain instructions or computer programs into certain computer-related items
8 with a certain intent; prohibiting the use of certain computer-related items to
9 commit a crime; providing for a rebuttable presumption that a person did not
10 have authorization to access certain computer-related items under certain
11 circumstances; establishing certain penalties; providing for the venue of a court
12 over certain offenses; repealing provisions of law related to computer-related
13 crimes; allowing the interception of wire, oral, or electronic communications
14 concerning computer-related offenses under certain circumstances; defining
15 certain terms; and generally relating to computer-related crimes.

16 BY adding to
17 Article 27 - Crimes and Punishments
18 Section 144A to be under the new subheading "Computer Piracy"
19 Annotated Code of Maryland
20 (1996 Replacement Volume and 1997 Supplement)

21 BY repealing
22 Article 27 - Crimes and Punishments
23 Section 146
24 Annotated Code of Maryland
25 (1996 Replacement Volume and 1997 Supplement)

26 BY repealing and reenacting, with amendments,
27 Article - Courts and Judicial Proceedings
28 Section 10-402(c)(2) and 10-406
29 Annotated Code of Maryland

1 (1995 Replacement Volume and 1997 Supplement)

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

4 **Article 27 - Crimes and Punishments**

5 **COMPUTER PIRACY**

6 144A.

7 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
8 INDICATED.

9 (2) "ACCESS" MEANS TO INSTRUCT, COMMUNICATE WITH, STORE DATA
10 IN, RETRIEVE, INTERCEPT DATA FROM, OR OTHERWISE USE THE RESOURCES OF A
11 COMPUTER PROGRAM, COMPUTER SYSTEM, OR COMPUTER NETWORK.

12 (3) (I) "AGGREGATE AMOUNT" MEANS ANY DIRECT OR INDIRECT LOSS
13 INCURRED BY A VICTIM.

14 (II) "AGGREGATE AMOUNT" INCLUDES THE VALUE OF ANY MONEY,
15 PROPERTY, OR SERVICE LOST, STOLEN, OR RENDERED UNRECOVERABLE BY THE
16 OFFENSE, OR ANY ACTUAL EXPENDITURE INCURRED BY THE VICTIM TO VERIFY
17 THAT A COMPUTER PROGRAM, COMPUTER, COMPUTER SYSTEM, OR COMPUTER
18 NETWORK WAS NOT ALTERED, ACQUIRED, DAMAGED, DELETED, DISRUPTED, OR
19 DESTROYED BY THE ACCESS.

20 (4) "COMPUTER" MEANS ANY CONNECTED, DIRECTLY INTEROPERABLE,
21 OR INTERACTIVE DEVICE, EQUIPMENT, OR FACILITY THAT USES A COMPUTER
22 PROGRAM OR OTHER INSTRUCTIONS TO PERFORM SPECIFIC OPERATIONS
23 INCLUDING LOGICAL, ARITHMETIC, OR MEMORY FUNCTIONS WITH OR ON
24 COMPUTER DATA OR A COMPUTER PROGRAM THAT CAN STORE, RETRIEVE, ALTER, OR
25 COMMUNICATE THE RESULTS OF THE OPERATIONS TO A PERSON, COMPUTER
26 PROGRAM, COMPUTER, COMPUTER SYSTEM, OR COMPUTER NETWORK.

27 (5) "COMPUTER NETWORK" MEANS THE INTERCONNECTION OF
28 HARDWARE OR WIRELESS COMMUNICATION LINES WITH A COMPUTER, THROUGH
29 REMOTE TERMINALS, OR A COMPLEX CONSISTING OF TWO OR MORE
30 INTERCONNECTED COMPUTERS.

31 (6) "COMPUTER PROGRAM" MEANS A SERIES OF INTERNAL OR
32 EXTERNAL INSTRUCTIONS COMMUNICATED IN A FORM ACCEPTABLE TO A
33 COMPUTER THAT DIRECTS THE FUNCTION OF A COMPUTER, COMPUTER SYSTEM, OR
34 COMPUTER NETWORK IN A MANNER DESIGNED TO PROVIDE OR PRODUCE PRODUCTS
35 OR RESULTS FROM THE COMPUTER, COMPUTER SYSTEM, OR COMPUTER NETWORK.

36 (7) "COMPUTER SYSTEM" MEANS A SET OF RELATED, CONNECTED, OR
37 UNCONNECTED COMPUTER EQUIPMENT, DEVICES, SOFTWARE, OR HARDWARE.

1 (8) "DEVICE" INCLUDES AN ELECTRONIC, MAGNETIC,
2 ELECTROCHEMICAL, BIOCHEMICAL, HYDRAULIC, OPTICAL, OR ORGANIC OBJECT
3 THAT PERFORMS INPUT, OUTPUT, OR STORAGE FUNCTIONS BY THE MANIPULATION
4 OF ELECTRONIC, MAGNETIC OR OTHER IMPULSES.

5 (9) "PROPERTY" MEANS INTELLECTUAL PROPERTY, COMPUTER DATA,
6 INSTRUCTIONS OR PROGRAMS IN EITHER MACHINE OR HUMAN READABLE FORM,
7 FINANCIAL INSTRUMENTS OR INFORMATION, MEDICAL INFORMATION, RESTRICTED
8 PERSONAL INFORMATION, OR ANY OTHER TANGIBLE OR INTANGIBLE ITEM OF
9 VALUE.

10 (10) "SERVICES" INCLUDES COMPUTER TIME, DATA PROCESSING,
11 STORAGE FUNCTIONS, COMPUTER MEMORY, OR THE UNAUTHORIZED USE OF A
12 COMPUTER PROGRAM, COMPUTER, COMPUTER SYSTEM, OR COMPUTER NETWORK,
13 OR COMMUNICATIONS FACILITIES CONNECTED OR RELATED TO A COMPUTER,
14 COMPUTER SYSTEM, OR COMPUTER NETWORK.

15 (B) A PERSON MAY NOT INTENTIONALLY ACCESS OR CAUSE ACCESS TO BE
16 MADE TO A COMPUTER PROGRAM, COMPUTER, COMPUTER SYSTEM, OR COMPUTER
17 NETWORK TO DEVISE OR EXECUTE A SCHEME WITH THE INTENT TO DEFRAUD OR TO
18 OBTAIN MONEY, PROPERTY OR A SERVICE BY A FALSE OR FRAUDULENT PRETENSE,
19 REPRESENTATION, OR PROMISE.

20 (C) A PERSON MAY NOT INTENTIONALLY AND WITHOUT AUTHORIZATION OR
21 BY EXCEEDING VALID AUTHORIZATION DO ANY OF THE FOLLOWING:

22 (1) ACCESS OR CAUSE ACCESS TO BE MADE TO A COMPUTER PROGRAM,
23 COMPUTER, COMPUTER SYSTEM OR COMPUTER NETWORK TO ACQUIRE, ALTER,
24 DAMAGE, DELETE, OR DESTROY PROPERTY OR OTHERWISE USE THE SERVICE OF A
25 COMPUTER PROGRAM, COMPUTER, COMPUTER SYSTEM, OR COMPUTER NETWORK;
26 OR

27 (2) INSERT, ATTACH, OR KNOWINGLY CREATE THE OPPORTUNITY FOR
28 AN UNKNOWING OR UNWANTED INSERTION OR ATTACHMENT OF A SET OF
29 INSTRUCTIONS OR A COMPUTER PROGRAM INTO A COMPUTER PROGRAM,
30 COMPUTER, COMPUTER SYSTEM, OR COMPUTER NETWORK, THAT IS INTENDED TO
31 ACQUIRE, ALTER, DAMAGE, DELETE, DISRUPT, OR DESTROY PROPERTY OR
32 OTHERWISE USE THE SERVICES OF A COMPUTER PROGRAM, COMPUTER, COMPUTER
33 SYSTEM, OR COMPUTER NETWORK.

34 (D) A PERSON MAY NOT USE A COMPUTER PROGRAM, COMPUTER, COMPUTER
35 SYSTEM, OR COMPUTER NETWORK TO COMMIT A CRIME.

36 (E) IT IS A REBUTTABLE PRESUMPTION THAT A PERSON DID NOT HAVE
37 AUTHORIZATION FROM THE OWNER, SYSTEM OPERATOR, OR OTHER PERSON WHO
38 HAS AUTHORITY FROM THE OWNER OR SYSTEM OPERATOR TO GRANT PERMISSION
39 TO ACCESS THE COMPUTER PROGRAM, COMPUTER, COMPUTER SYSTEM, OR
40 COMPUTER NETWORK OR HAS EXCEEDED AUTHORIZATION UNLESS ONE OR MORE
41 OF THE FOLLOWING CIRCUMSTANCES EXISTED AT THE TIME OF ACCESS:

1 (1) WRITTEN OR ORAL PERMISSION WAS GRANTED BY THE OWNER,
2 SYSTEM OPERATOR, OR OTHER PERSON WHO HAS AUTHORITY FROM THE OWNER OR
3 SYSTEM OPERATOR TO GRANT PERMISSION OF THE ACCESSED COMPUTER
4 PROGRAM, COMPUTER, COMPUTER SYSTEM, OR COMPUTER NETWORK;

5 (2) THE ACCESSED COMPUTER PROGRAM, COMPUTER, COMPUTER
6 SYSTEM, OR COMPUTER NETWORK HAD A PRE-PROGRAMMED ACCESS PROCEDURE
7 THAT WOULD DISPLAY A WARNING BANNER, BULLETIN OR COMMAND OR OTHER
8 MESSAGE BEFORE ACCESS WAS ACHIEVED THAT A REASONABLE PERSON WOULD
9 BELIEVE IDENTIFIED THE COMPUTER PROGRAM, COMPUTER, COMPUTER SYSTEM,
10 OR COMPUTER NETWORK AS WITHIN THE PUBLIC DOMAIN; OR

11 (3) ACCESS WAS ACHIEVED WITHOUT THE USE OF A SET OF
12 INSTRUCTIONS, CODE, OR COMPUTER PROGRAM THAT BYPASSES, DEFRAUDS, OR
13 OTHERWISE CIRCUMVENTS THE PRE-PROGRAMMED ACCESS PROCEDURE FOR THE
14 COMPUTER PROGRAM, COMPUTER, COMPUTER SYSTEM, OR COMPUTER NETWORK.

15 (F) (1) A PERSON WHO VIOLATES SUBSECTION (B) OR (C) OF THIS SECTION
16 WHERE THE AGGREGATE AMOUNT OF THE LOSS IS LESS THAN \$300 IS GUILTY OF A
17 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF NOT MORE THAN \$500
18 OR IMPRISONMENT FOR NOT MORE THAN 18 MONTHS OR BOTH.

19 (2) A PERSON WHO VIOLATES SUBSECTION (B) OR (C) OF THIS SECTION
20 WHERE THE AGGREGATE AMOUNT OF THE LOSS IS \$300 OR GREATER IS GUILTY OF A
21 FELONY AND ON CONVICTION IS SUBJECT TO A FINE OF NOT MORE THAN \$1,000 OR
22 IMPRISONMENT FOR NOT MORE THAN 15 YEARS OR BOTH.

23 (3) A PERSON WHO VIOLATES SUBSECTION (D) OF THIS SECTION IS
24 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF NOT
25 MORE THAN \$1,000 OR IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR BOTH.

26 (G) A COURT OF COMPETENT JURISDICTION MAY TRY A PERSON WHO
27 ALLEGEDLY VIOLATES ANY PROVISION OF THIS SECTION IN ANY COUNTY IN THE
28 STATE WHERE:

29 (1) THE PERSON PERFORMS THE ACT; OR

30 (2) THE COMPUTER PROGRAM, COMPUTER, COMPUTER SYSTEM, OR
31 COMPUTER NETWORK IS LOCATED.

32 [146.

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

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

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

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

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

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

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

13 (ii) Are intended for use in a computer, computer system, or
14 computer network.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (ii) Distribute or publicize any valid access codes to any
18 unauthorized person.

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

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

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

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

33 (i) The person performs the act; or

34 (ii) The accessed computer is located.]

1 **Article - Courts and Judicial Proceedings**

2 10-402.

3 (c) (2) It is lawful under this subtitle for an investigative or law enforcement
4 officer acting in a criminal investigation or any other person acting at the prior
5 direction and under the supervision of an investigative or law enforcement officer to
6 intercept a wire, oral, or electronic communication in order to provide evidence of the
7 commission of the offenses of murder, kidnapping, rape, a sexual offense in the first or
8 second degree, child abuse, gambling, robbery, any felony punishable under the
9 "Arson and Burning" subheading of Article 27, bribery, extortion, or dealing in
10 controlled dangerous substances, including violations of Article 27, § 286B or § 287A,
11 fraudulent insurance acts, as defined in Title 27, Subtitle 4 of the Insurance Article,
12 offenses relating to destructive devices under Article 27, § 139C of the Code,
13 OFFENSES RELATING TO COMPUTER PIRACY UNDER ARTICLE 27, § 144A OF THE CODE,
14 or any conspiracy or solicitation to commit any of these offenses, or where any person
15 has created a barricade situation and probable cause exists for the investigative or
16 law enforcement officer to believe a hostage or hostages may be involved, where the
17 person is a party to the communication or one of the parties to the communication has
18 given prior consent to the interception.

19 10-406.

20 The Attorney General, State Prosecutor, or any State's Attorney may apply to a
21 judge of competent jurisdiction, and the judge, in accordance with the provisions of §
22 10-408 of this subtitle, may grant an order authorizing the interception of wire, oral,
23 or electronic communications by investigative or law enforcement officers when the
24 interception may provide or has provided evidence of the commission of the offense of
25 murder, kidnapping, gambling, robbery, any felony punishable under the "Arson and
26 Burning" subheading of Article 27 of this Code, bribery, extortion, or dealing in
27 controlled dangerous substances, offenses relating to destructive devices under
28 Article 27, § 139C of the Code, OFFENSES RELATING TO COMPUTER PIRACY UNDER
29 ARTICLE 27, § 144A OF THE CODE, or any conspiracy or solicitation to commit any of
30 the foregoing offenses. No application or order shall be required if the interception is
31 lawful under the provisions of § 10-402(c) of this subtitle.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 1998.