

"AN ACT TO ESTABLISH AS VIOLATIONS OF THE LAW CERTAIN CONDUCT INVOLVING THE USE OF A COMPUTER; SET VENUE FOR PROSECUTION OF VIOLATIONS; PROVIDE CIVIL RELIEF TO PERSONS INJURED BY VIOLATIONS; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. It is hereby found and determined that computer-related crime poses a major problem for business and government; that losses for each incident of computer-related crime are potentially astronomical; that the opportunities for computer-related crime in business and government through the introduction of fraudulent records into a computer system, the unauthorized use of computers, the alteration or destruction of computerized information or files, and the stealing of financial instruments, data, and other assets are great; that computer-related crime has a direct effect on state commerce, and that, while various forms of computer crime might possibly be the subject of criminal charges based on other provisions of law, it is appropriate and desirable that a statute be enacted which deals directly with computer crime.

SECTION 2. For purposes of this Act, the term: (a) "Access" means to instruct, communicate with, store data in or retrieve data from a computer, computer system, or computer network;

(b) "Computer" means an electronic device that performs logical, arithmetic, and memory functions by manipulating electronic or magnetic impulses, and includes all input, output, processing, storage, computer software, and communication facilities that are connected or related to such a device in a system or a network;

(c) "Computer network" means the interconnection of communications lines with a computer through remote terminals or a complex consisting of two (2) or more interconnected computers;

(d) "Computer program" means a set of instructions, statements, or related data that, in actual or modified form, is capable of causing a computer or a computer system to perform specified functions;

(e) "Computer software" means one (1) or more computer programs, existing in any form, or any associated operational procedures, manuals, or other documentation;

(f) "Computer system" means a set of related, connected or unconnected, computers, other devices, and software;

(g) "Data" means any representation of information, knowledge, facts, concepts, or instructions which are being prepared or have been prepared and are intended to be processed or stored, are being processed or stored, or have been processed or stored in a computer, computer network, or computer system.

(h) "Financial instrument" includes, but is not limited to, any check, draft, warrant, money order, note, certificate of deposit, letter of credit, bill of exchange, credit or debit card, transaction authorization mechanism, marketable security, or any computer system representation thereof;

(i) "Property" includes, but is not limited to, financial instruments, data, computer programs, documents associated with computers and computer programs, or copies thereof, whether tangible or intangible, including both human and computer readable data, and data while in transit;

(j) "Services" includes, but is not limited to, the use of a computer, a computer system, a computer network, computer software, a computer program, or data.

SECTION 3. Computer fraud. (a) Any person who intentionally accesses or causes to be accessed any computer, computer system, computer network, or any part thereof for the purpose of (1) devising or executing any scheme or artifice to defraud or extort, or (2) obtaining money, property, or services with false or fraudulent intent, representations, or promises, commits computer fraud.

(b) Computer fraud is a Class D felony.

SECTION 4. Computer trespass. (a) Any person who intentionally and without authorization accesses, alters, deletes, damages, destroys, or disrupts any computer, computer system, computer network, computer program, or data commits computer trespass.

(b) Computer trespass is a Class C misdemeanor if it is a first violation which does not cause any loss or damage;

(c) Computer trespass is a Class B misdemeanor if:

(i) it is a second or subsequent violation which does not cause any loss or damage; or

(ii) it is a violation which causes loss or damage and the value of the loss or damage is less than five hundred dollars (\$500.00).

(d) Computer trespass is a class A misdemeanor if it is a violation which causes loss or damage and the value of the loss or damage is five hundred dollars

(\$500.00) or more, but less than twenty-five hundred dollars (\$2,500.00).

(e) Computer trespass is a Class D felony if it is a violation which causes loss or damage and the value of the loss or damage is twenty-five hundred dollars (\$2,500.00) or more.

SECTION 5. Venue. For the purpose of venue under this Act, any violation of this Act shall be considered to have been committed in any county:

(a) in which any act was performed in furtherance of any course of conduct which violated this Act;

(b) in which any violator had control or possession of any proceeds of the violation or of any books, records, documents, property, financial instrument, computer software, computer program, data, or other material or objects which were used in furtherance of the violation;

(c) From which, to which, or through which any access to a computer or computer network was made whether by wires, electromagnetic waves, microwaves, or any other means of communication;

(d) in which any computer, computer system, or computer network is an object or an instrument of the violation is located at the time of the alleged violation.

SECTION 6. Civil Relief. (a) Any person whose property or person is injured by reason of a violation of any provision of this Act may sue therefor and recover for any damages sustained and the costs of suit. Without limiting the generality of the term, "damages" shall include loss of profits.

(b) At the request of any party to an action brought pursuant to this section, the court may, in its discretion, conduct all legal proceedings in such a way as to protect the secrecy and security of the computer, computer system, computer network, computer program, computer software, and data involved in order to prevent possible recurrence of the same or a similar act by another person and to protect any trade secrets of any party.

(c) No civil action under this section may be brought but within three (3) years from the date the alleged violation of this Act is discovered or should have been discovered by the exercise of reasonable diligence.

SECTION 7. Assistance by Attorney General. The Attorney General, if requested to do so by a prosecuting attorney, may assist the prosecuting attorney in the investigation or prosecution of an offense under this Act or any other offense involving the use of a computer.

APPROVED: April 13, 1987
