

LD4210204

HOUSE BILL NO. 1649

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 3, 1995)

(Patron Prior to Substitute—Delegate Diamonstein)

*A BILL to amend and reenact § 18.2-152.2 and 18.2-152.4 of the Code of Virginia, relating to computer crimes; definitions.***Be it enacted by the General Assembly of Virginia:****1. That § 18.2-152.2 and 18.2-152.4 of the Code of Virginia are amended and reenacted as follows:**

§ 18.2-152.2. Definitions.

For purposes of this article:

"Computer" means an electronic, magnetic, optical, hydraulic or organic device or group of devices which, pursuant to a computer program, to human instruction, or to permanent instructions contained in the device or group of devices, can automatically perform computer operations with or on computer data and can communicate the results to another computer or to a person. The term "computer" includes any connected or directly related device, equipment, or facility which enables the computer to store, retrieve or communicate computer programs, computer data or the results of computer operations to or from a person, another computer or another device.

"Computer data" means any representation of information, knowledge, facts, concepts, or instructions which is being prepared or has been prepared and is intended to be processed, is being processed, or has been processed in a computer or computer network. "Computer data" may be in any form, whether readable only by a computer or only by a human or by either, including, but not limited to, computer printouts, magnetic storage media, punched cards, or stored internally in the memory of the computer.

"Computer network" means a set of related, remotely connected devices and any communications facilities including more than one computer with the capability to transmit data among them through the communications facilities.

"Computer operation" means arithmetic, logical, monitoring, storage or retrieval functions and any combination thereof, and includes, but is not limited to, communication with, storage of data to, or retrieval of data from any device or human hand manipulation of electronic or magnetic impulses. A "computer operation" for a particular computer may also be any function for which that computer was generally designed.

"Computer program" means an ordered set of data representing coded instructions or statements that, when executed by a computer, causes the computer to perform one or more computer operations.

"Computer services" includes computer time or services or data processing services or information or data stored in connection therewith.

"Computer software" means a set of computer programs, procedures and associated documentation concerned with computer data or with the operation of a computer, computer program, or computer network.

"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 computerized representation thereof.

"Owner" means an owner or lessee of a computer or a computer network or an owner, lessee, or licensee of computer data, computer programs, or computer software.

"Person" shall include any individual, partnership, association, corporation or joint venture.

"Property" shall include:

1. Real property;
2. Computers and computer networks;
3. Financial instruments, computer data, computer programs, computer software and all other personal property regardless of whether they are:
 - a. Tangible or intangible;
 - b. In a format readable by humans or by a computer;
 - c. In transit between computers or within a computer network or between any devices which comprise a computer; or
 - d. Located on any paper or in any device on which it is stored by a computer or by a human; and
4. Computer services.

A person "uses" a computer or computer network when he:

1. Attempts to cause or causes a computer or computer network to perform or to stop performing computer operations;
2. Attempts to cause or causes the withholding or denial of the use of a computer, computer

60 network, computer program, computer data or computer software to another user; or

61 3. Attempts to cause or causes another person to put false information into a computer.

62 A person is "without authority" when he (i) has no right or permission of the owner to use a
63 computer, ~~or, he~~ (ii) uses a computer in a manner exceeding such right or permission *or* (iii) *uses the*
64 *computer without providing written notice that he reserves the right to do so.*

65 § 18.2-152.4. Computer trespass; penalty.

66 Any person who uses a computer or computer network without authority and with the intent to:

67 1. Temporarily or permanently remove *or disable* computer data, computer programs, or computer
68 software from a computer or computer network;

69 2. Cause a computer to malfunction regardless of how long the malfunction persists;

70 3. Alter or erase any computer data, computer programs, or computer software;

71 4. Effect the creation or alteration of a financial instrument or of an electronic transfer of funds;

72 5. Cause physical injury to the property of another; or

73 6. Make or cause to be made an unauthorized copy, in any form, including, but not limited to, any
74 printed or electronic form of computer data, computer programs, or computer software residing in,
75 communicated by, or produced by a computer or computer network shall be guilty of the crime of
76 computer trespass, which shall be punishable as a Class 1 misdemeanor. If such act is done maliciously
77 and the value of the property damaged is \$2,500 or more, the offense shall be punishable as a Class 6
78 felony.