

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1402 Session of 2002

INTRODUCED BY D. WHITE, CORMAN, ERICKSON, BELL, BOSCOLA, BRIGHTBILL, DENT, ORIE, HOLL, HUGHES, LAVALLE, LEMMOND, LOGAN, C. WILLIAMS, MUSTO, O'PAKE, RHOADES, TARTAGLIONE, TOMLINSON, WAUGH, CONTI AND STACK, APRIL 29, 2002

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, AS AMENDED, NOVEMBER 25, 2002

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for the offense of
3 forgery; AND PROVIDING FOR COMPUTER OFFENSES AND FOR
4 PENALTIES. <—

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Section 4101(b) of Title 18 of the Pennsylvania
8 Consolidated Statutes is amended to read:

9 § 4101. Forgery.

10 * * *

11 (b) Definition.--As used in this section, the word "writing"
12 includes printing or any other method of recording information,
13 money, coins, tokens, stamps, seals, credit cards, badges,
14 trademarks, electronic signatures and other symbols of value,
15 right, privilege, or identification.

16 * * *

17 SECTION 2. SECTIONS 3933 AND 7330 OF TITLE 18 ARE REPEALED. <—

1 SECTION 3. TITLE 18 IS AMENDED BY ADDING A CHAPTER TO READ:

2 CHAPTER 76

3 COMPUTER OFFENSES

4 SUBCHAPTER

5 A. GENERAL PROVISIONS

6 B. HACKING AND SIMILAR OFFENSES

7 C. INTERNET CHILD PORNOGRAPHY

8 E. ELECTRONIC MAIL

9 SUBCHAPTER A

10 GENERAL PROVISIONS

11 SEC.

12 7601. DEFINITIONS.

13 7602. JURISDICTION.

14 7603. RESTITUTION.

15 7604. CONCURRENT JURISDICTION.

16 7605. DEFENSE.

17 7606. CONSTRUCTION.

18 § 7601. DEFINITIONS.

19 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
20 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
21 CONTEXT CLEARLY INDICATES OTHERWISE:

22 "ACCESS." TO INTERCEPT, INSTRUCT, COMMUNICATE WITH, STORE
23 DATA IN, RETRIEVE DATA FROM OR OTHERWISE MAKE USE OF ANY
24 RESOURCES OF A COMPUTER, COMPUTER SYSTEM, COMPUTER NETWORK OR
25 DATABASE.

26 "COMPUTER." AN ELECTRONIC, MAGNETIC, OPTICAL, HYDRAULIC,
27 ORGANIC OR OTHER HIGH SPEED DATA PROCESSING DEVICE OR SYSTEM
28 WHICH PERFORMS LOGIC, ARITHMETIC OR MEMORY FUNCTIONS AND
29 INCLUDES ALL INPUT, OUTPUT, PROCESSING, STORAGE, SOFTWARE OR
30 COMMUNICATION FACILITIES WHICH ARE CONNECTED OR RELATED TO THE

1 DEVICE IN A SYSTEM OR NETWORK.

2 "COMPUTER DATA." A REPRESENTATION OF INFORMATION, KNOWLEDGE,
3 FACTS, CONCEPTS OR INSTRUCTIONS WHICH IS BEING PREPARED OR HAS
4 BEEN PREPARED AND IS INTENDED TO BE PROCESSED, IS BEING
5 PROCESSED OR HAS BEEN PROCESSED IN A COMPUTER OR COMPUTER
6 NETWORK, AND MAY BE IN ANY FORM, WHETHER READABLE ONLY BY A
7 COMPUTER OR ONLY BY A HUMAN OR BY EITHER, INCLUDING, BUT NOT
8 LIMITED TO, COMPUTER PRINTOUTS, MAGNETIC STORAGE MEDIA, PUNCHED
9 CARD OR STORED INTERNALLY IN THE MEMORY OF THE COMPUTER.

10 "COMPUTER NETWORK." THE INTERCONNECTION OF TWO OR MORE
11 COMPUTERS THROUGH THE USAGE OF SATELLITE, MICROWAVE, LINE OR
12 OTHER COMMUNICATION MEDIUM.

13 "COMPUTER OPERATION." ARITHMETIC, LOGICAL, MONITORING,
14 STORAGE OR RETRIEVAL FUNCTIONS AND ANY COMBINATION THEREOF,
15 INCLUDING, BUT NOT LIMITED TO, COMMUNICATION WITH, STORAGE OF
16 DATA TO, OR RETRIEVAL OF DATA FROM ANY DEVICE OR HUMAN HAND
17 MANIPULATION OF ELECTRONIC OR MAGNETIC IMPULSES. IN REFERENCE TO
18 A PARTICULAR COMPUTER THE TERM ALSO INCLUDES ANY FUNCTION FOR
19 WHICH THAT COMPUTER WAS GENERALLY DESIGNED.

20 "COMPUTER PROGRAM." AN ORDERED SET OF INSTRUCTIONS OR
21 STATEMENTS AND RELATED DATA THAT, WHEN AUTOMATICALLY EXECUTED IN
22 ACTUAL OR MODIFIED FORM IN A COMPUTER SYSTEM, CAUSES IT TO
23 PERFORM SPECIFIED FUNCTIONS.

24 "COMPUTER SOFTWARE." A SET OF COMPUTER PROGRAMS, PROCEDURES
25 OR ASSOCIATED DOCUMENTATION CONCERNED WITH THE OPERATION OF A
26 COMPUTER SYSTEM.

27 "COMPUTER SYSTEM." A SET OF RELATED, CONNECTED OR
28 UNCONNECTED COMPUTER EQUIPMENT, DEVICES AND SOFTWARE.

29 "COMPUTER VIRUS." A COMPUTER PROGRAM COPIED TO, CREATED ON
30 OR INSTALLED TO A COMPUTER, COMPUTER NETWORK, COMPUTER PROGRAM,

1 COMPUTER SOFTWARE OR COMPUTER SYSTEM WITHOUT THE INFORMED
2 CONSENT OF THE OWNER OF THE COMPUTER, COMPUTER NETWORK, COMPUTER
3 PROGRAM, COMPUTER SOFTWARE OR COMPUTER SYSTEM THAT MAY REPLICATE
4 ITSELF AND THAT CAUSES OR CAN CAUSE UNAUTHORIZED ACTIVITIES
5 WITHIN OR BY THE COMPUTER, COMPUTER NETWORK, COMPUTER PROGRAM,
6 COMPUTER SOFTWARE OR COMPUTER SYSTEM.

7 "DATABASE." A REPRESENTATION OF INFORMATION, KNOWLEDGE,
8 FACTS, CONCEPTS OR INSTRUCTIONS WHICH ARE BEING PREPARED OR
9 PROCESSED OR HAVE BEEN PREPARED OR PROCESSED IN A FORMALIZED
10 MANNER AND ARE INTENDED FOR USE IN A COMPUTER, COMPUTER SYSTEM
11 OR COMPUTER NETWORK, INCLUDING, BUT NOT LIMITED TO, COMPUTER
12 PRINTOUTS, MAGNETIC STORAGE MEDIA, PUNCHED CARDS OR DATA STORED
13 INTERNALLY IN THE MEMORY OF THE COMPUTER.

14 "DENIAL-OF-SERVICE ATTACK." AN EXPLICIT ATTEMPT TO PREVENT
15 LEGITIMATE USERS OF A SERVICE FROM USING THAT SERVICE,
16 INCLUDING, BUT NOT LIMITED TO:

17 (1) FLOODING A NETWORK, THEREBY PREVENTING LEGITIMATE
18 NETWORK TRAFFIC;

19 (2) DISRUPTING CONNECTIONS BETWEEN TWO COMPUTERS,
20 THEREBY PREVENTING ACCESS TO A SERVICE;

21 (3) PREVENTING A PARTICULAR PERSON FROM ACCESSING A
22 SERVICE; OR

23 (4) DISRUPTING SERVICE TO A SPECIFIC COMPUTER SYSTEM OR
24 PERSON.

25 "DEPRIVE." TO WITHHOLD PROPERTY OF ANOTHER PERMANENTLY OR
26 FOR SO EXTENDED A PERIOD AS TO APPROPRIATE A MAJOR PORTION OF
27 ITS ECONOMIC VALUE, OR WITH INTENT TO RESTORE ONLY UPON PAYMENT
28 OF REWARD OR OTHER COMPENSATION, OR TO DISPOSE OF THE PROPERTY
29 SO AS TO MAKE IT UNLIKELY THAT THE OWNER WILL RECOVER IT.

30 "ECONOMIC VALUE." THE MARKET VALUE OF PROPERTY OR AN

1 INSTRUMENT WHICH CREATES, RELEASES, DISCHARGES OR OTHERWISE
2 AFFECTS A VALUABLE LEGAL RIGHT, PRIVILEGE OR OBLIGATION AT THE
3 TIME AND PLACE OF THE CRIME, OR IF SUCH CANNOT BE SATISFACTORILY
4 ASCERTAINED, THE COST OF REPLACEMENT OF THE PROPERTY OR
5 INSTRUMENT WITHIN A REASONABLE TIME AFTER THE CRIME.

6 "ELECTRONIC MAIL SERVICE PROVIDER." A PERSON WHO IS AN
7 INTERMEDIARY IN SENDING OR RECEIVING ELECTRONIC MAIL OR WHO
8 PROVIDES TO END-USERS OF ELECTRONIC MAIL SERVICES THE ABILITY TO
9 SEND OR RECEIVE ELECTRONIC MAIL.

10 "ELECTRONIC MAIL TRANSMISSION INFORMATION." INFORMATION USED
11 TO IDENTIFY THE ORIGIN OR DESTINATION OF A TRANSMISSION OR TO
12 AID IN ITS ROUTING, INCLUDING INFORMATION RECORDED AS PART OF
13 ELECTRONIC MAIL, WHETHER OR NOT SUCH INFORMATION IS DISPLAYED
14 INITIALLY TO THE USER UPON RECEIPT OF ELECTRONIC MAIL, THAT
15 PURPORTS TO REPRESENT THE INFORMATION USED TO IDENTIFY THE
16 ORIGIN OR DESTINATION OF A TRANSMISSION OR TO AID IN ITS
17 ROUTING.

18 "ESTABLISHED BUSINESS RELATIONSHIP." A PRIOR OR EXISTING
19 RELATIONSHIP FORMED BY A VOLUNTARY TWO-WAY COMMUNICATION
20 INITIATED BY A PERSON OR ENTITY AND A RECIPIENT WITH OR WITHOUT
21 AN EXCHANGE OF CONSIDERATION, ON THE BASIS OF AN INQUIRY,
22 APPLICATION PURCHASE OR TRANSACTION BY THE RECIPIENT REGARDING
23 PRODUCTS OR SERVICES OFFERED BY SUCH PERSONS OR ENTITY. IN
24 REGARD TO AN INQUIRY, THE PERSON OR ENTITY SHALL OBTAIN THE
25 CONSENT OF A RECIPIENT BEYOND THE INITIAL INQUIRY. AN
26 ESTABLISHED BUSINESS RELATIONSHIP DOES NOT EXIST IF THE
27 RECIPIENT REQUESTS TO BE REMOVED FROM THE DISTRIBUTION LISTS OF
28 AN INITIATOR.

29 "FAX." THE TRANSMISSION OF THE FACSIMILE OF A DOCUMENT
30 THROUGH A CONNECTION WITH A TELEPHONE OR COMPUTER NETWORK.

1 "FINANCIAL INSTRUMENT." INCLUDES, BUT IS NOT LIMITED TO, ANY
2 CHECK, DRAFT, WARRANT, MONEY ORDER, NOTE, CERTIFICATE OF
3 DEPOSIT, LETTER OF CREDIT, BILL OF EXCHANGE, CREDIT OR DEBIT
4 CARD, TRANSACTION AUTHORIZATION MECHANISM, MARKETABLE SECURITY
5 OR ANY COMPUTER SYSTEM REPRESENTATION THEREOF.

6 "INTERNET SERVICE PROVIDER." A PERSON WHO FURNISHES A
7 SERVICE THAT ENABLES USERS TO ACCESS CONTENT, INFORMATION,
8 ELECTRONIC MAIL OR OTHER SERVICES OFFERED OVER THE INTERNET.

9 "PERSON." ANY INDIVIDUAL, CORPORATION, PARTNERSHIP,
10 ASSOCIATION, ORGANIZATION OR ENTITY CAPABLE OF HOLDING A LEGAL
11 OR BENEFICIAL INTEREST IN PROPERTY.

12 "PROPERTY." INCLUDES, BUT IS NOT LIMITED TO, FINANCIAL
13 INSTRUMENTS, COMPUTER SOFTWARE AND PROGRAMS IN EITHER MACHINE OR
14 HUMAN READABLE FORM, AND ANYTHING OF VALUE, TANGIBLE OR
15 INTANGIBLE.

16 "TELECOMMUNICATION DEVICE." ANY TYPE OF INSTRUMENT, DEVICE,
17 MACHINE OR EQUIPMENT WHICH IS CAPABLE OF TRANSMITTING,
18 ACQUIRING, DECRYPTING OR RECEIVING ANY TELEPHONIC, ELECTRONIC,
19 DATA, INTERNET ACCESS, AUDIO, VIDEO, MICROWAVE OR RADIO
20 TRANSMISSIONS, SIGNALS, COMMUNICATIONS OR SERVICES, INCLUDING
21 THE RECEIPT, ACQUISITION, TRANSMISSION OR DECRYPTION OF ALL SUCH
22 COMMUNICATIONS, TRANSMISSIONS, SIGNALS OR SERVICES OVER ANY
23 CABLE TELEVISION, TELEPHONE, SATELLITE, MICROWAVE, RADIO OR
24 WIRELESS DISTRIBUTION SYSTEM OR FACILITY, OR ANY PART, ACCESSORY
25 OR COMPONENT THEREOF, INCLUDING ANY COMPUTER CIRCUIT, SECURITY
26 MODULE, SMART CARD, SOFTWARE, COMPUTER CHIP, ELECTRONIC
27 MECHANISM OR OTHER COMPONENT, ACCESSORY OR PART WHICH IS CAPABLE
28 OF FACILITATING THE TRANSMISSION, DECRYPTION, ACQUISITION OR
29 RECEPTION OF ALL SUCH COMMUNICATIONS TRANSMISSIONS, SIGNALS OR
30 SERVICES.

1 "WIRELESS ADVERTISEMENT." THE INITIATION OF A TELEPHONE CALL
2 OR A MESSAGE CAPABLE OF PROVIDING TEXT, GRAPHIC OR IMAGE
3 MESSAGES BY A COMMERCIAL MOBILE SERVICE PROVIDER, UNLICENSED
4 WIRELESS SERVICES PROVIDER OR COMMON CARRIER WIRELESS EXCHANGE
5 ACCESS SERVICE PROVIDER FOR THE PURPOSE OF MARKETING GOODS OR
6 SERVICES. THE TERM DOES NOT INCLUDE A CALL OR MESSAGE TO A
7 PERSON WITH THAT PERSON'S PRIOR EXPRESS INVITATION OR PERMISSION
8 OR TO A PERSON WITH WHOM THE CALLER HAS AN ESTABLISHED BUSINESS
9 RELATIONSHIP.

10 "WORLD WIDE WEB." INCLUDES, BUT IS NOT LIMITED TO, A
11 COMPUTER SERVER-BASED FILE ARCHIVE ACCESSIBLE, OVER THE
12 INTERNET, USING A HYPERTEXT TRANSFER PROTOCOL, FILE TRANSFER
13 PROTOCOL OR OTHER SIMILAR PROTOCOLS.

14 § 7602. JURISDICTION.

15 AN OFFENSE UNDER THIS CHAPTER MAY BE DEEMED TO HAVE BEEN
16 COMMITTED EITHER AT THE PLACE WHERE CONDUCT CONSTITUTING AN
17 ELEMENT OF THE OFFENSE OCCURRED OR AT THE PLACE WHERE THE RESULT
18 WHICH IS AN ELEMENT OF THE OFFENSE OCCURRED WITHIN THIS
19 COMMONWEALTH, IN ACCORDANCE WITH SECTION 102 (RELATING TO
20 TERRITORIAL APPLICABILITY). IT SHALL BE NO DEFENSE TO A
21 VIOLATION OF THIS CHAPTER THAT SOME OF THE ACTS CONSTITUTING THE
22 OFFENSE OCCURRED OUTSIDE OF THIS COMMONWEALTH.

23 § 7603. RESTITUTION.

24 UPON CONVICTION OF AN OFFENSE UNDER SECTION 7611 (RELATING TO
25 UNLAWFUL USE OF COMPUTER AND OTHER COMPUTER CRIMES), 7612
26 (RELATING TO DISRUPTION OF SERVICE) OR 7616 (RELATING TO
27 DISTRIBUTION OF COMPUTER VIRUS), THE SENTENCE SHALL INCLUDE AN
28 ORDER FOR RESTITUTION TO THE VICTIM FOR:

29 (1) THE COST OF REPAIRING OR REPLACING THE AFFECTED
30 COMPUTER, COMPUTER SYSTEM, COMPUTER NETWORK, COMPUTER

1 SOFTWARE, COMPUTER PROGRAM, COMPUTER DATABASE, WORLD WIDE WEB
2 SITE OR TELECOMMUNICATION DEVICE;

3 (2) LOST PROFITS FOR THE PERIOD THAT THE COMPUTER,
4 COMPUTER SYSTEM, COMPUTER NETWORK, COMPUTER SOFTWARE,
5 COMPUTER PROGRAM, COMPUTER DATABASE, WORLD WIDE WEB SITE OR
6 TELECOMMUNICATION DEVICE IS NOT USEABLE; OR

7 (3) THE COST OF REPLACING OR RESTORING THE DATA LOST OR
8 DAMAGED AS A RESULT OF A VIOLATION OF SECTION 7611, 7612 OR
9 7616.

10 § 7604. CONCURRENT JURISDICTION.

11 THE ATTORNEY GENERAL SHALL HAVE CONCURRENT PROSECUTORIAL
12 JURISDICTION WITH THE COUNTY DISTRICT ATTORNEY FOR VIOLATIONS OF
13 THIS SECTION. NO PERSON CHARGED WITH A VIOLATION OF THIS SECTION
14 BY THE ATTORNEY GENERAL SHALL HAVE STANDING TO CHALLENGE THE
15 AUTHORITY OF THE ATTORNEY GENERAL TO PROSECUTE THE CASE, AND, IF
16 ANY SUCH CHALLENGE IS MADE, THE CHALLENGE SHALL BE DISMISSED AND
17 NO RELIEF SHALL BE AVAILABLE IN THE COURTS OF THIS COMMONWEALTH
18 TO THE PERSON MAKING THE CHALLENGE.

19 § 7605. DEFENSE.

20 IT IS A DEFENSE TO AN ACTION BROUGHT PURSUANT TO SUBCHAPTER B
21 (RELATING TO HACKING AND SIMILAR OFFENSES) THAT THE ACTOR:

22 (1) WAS ENTITLED BY LAW OR CONTRACT TO ENGAGE IN THE
23 CONDUCT CONSTITUTING THE OFFENSE; OR

24 (2) REASONABLY BELIEVED THAT HE HAD THE AUTHORIZATION OR
25 PERMISSION OF THE OWNER, LESSEE, LICENSEE, AUTHORIZED HOLDER,
26 AUTHORIZED POSSESSOR OR AGENT OF THE COMPUTER, COMPUTER
27 NETWORK, COMPUTER SOFTWARE, COMPUTER SYSTEM, DATABASE OR
28 TELECOMMUNICATION DEVICE OR THAT THE OWNER OR AUTHORIZED
29 HOLDER WOULD HAVE AUTHORIZED OR PROVIDED PERMISSION TO ENGAGE
30 IN THE CONDUCT CONSTITUTING THE OFFENSE. AS USED IN THIS

1 SECTION, THE TERM "AUTHORIZATION" INCLUDES EXPRESS OR IMPLIED
2 CONSENT, INCLUDING BY TRADE USAGE, COURSE OF DEALING, COURSE
3 OF PERFORMANCE OR COMMERCIAL PROGRAMMING PRACTICES.

4 § 7606. CONSTRUCTION.

5 NOTHING IN SUBCHAPTER B (RELATING TO HACKING AND SIMILAR
6 OFFENSES) SHALL BE CONSTRUED TO INTERFERE WITH OR PROHIBIT TERMS
7 OR CONDITIONS IN A CONTRACT OR LICENSE RELATED TO A COMPUTER,
8 COMPUTER NETWORK, COMPUTER SOFTWARE, COMPUTER SYSTEM, DATABASE
9 OR TELECOMMUNICATION DEVICE OR SOFTWARE OR HARDWARE DESIGNED TO
10 ALLOW A COMPUTER, COMPUTER NETWORK, COMPUTER SOFTWARE, COMPUTER
11 SYSTEM, DATABASE OR TELECOMMUNICATIONS DEVICE TO OPERATE IN THE
12 ORDINARY COURSE OF A LAWFUL BUSINESS OR THAT IS DESIGNED TO
13 ALLOW AN OWNER OR AUTHORIZED HOLDER OF INFORMATION TO PROTECT
14 DATA INFORMATION OR RIGHTS IN IT.

15 SUBCHAPTER B

16 HACKING AND SIMILAR OFFENSES

17 SEC.

18 7611. UNLAWFUL USE OF COMPUTER AND OTHER COMPUTER CRIMES.

19 7612. DISRUPTION OF SERVICE.

20 7613. COMPUTER THEFT.

21 7614. UNLAWFUL DUPLICATION.

22 7615. COMPUTER TRESPASS.

23 7616. DISTRIBUTION OF COMPUTER VIRUS.

24 § 7611. UNLAWFUL USE OF COMPUTER AND OTHER COMPUTER CRIMES.

25 (A) OFFENSE DEFINED.--A PERSON COMMITS THE OFFENSE OF
26 UNLAWFUL USE OF A COMPUTER IF HE:

27 (1) ACCESSES OR EXCEEDS AUTHORIZATION TO ACCESS, ALTERS,
28 DAMAGES OR DESTROYS ANY COMPUTER, COMPUTER SYSTEM, COMPUTER
29 NETWORK, COMPUTER SOFTWARE, COMPUTER PROGRAM, COMPUTER
30 DATABASE, WORLD WIDE WEB SITE OR TELECOMMUNICATION DEVICE OR

1 ANY PART THEREOF WITH THE INTENT TO INTERRUPT THE NORMAL
2 FUNCTIONING OF A PERSON OR TO DEVISE OR EXECUTE ANY SCHEME OR
3 ARTIFICE TO DEFRAUD OR DECEIVE OR CONTROL PROPERTY OR
4 SERVICES BY MEANS OF FALSE OR FRAUDULENT PRETENSES,
5 REPRESENTATIONS OR PROMISES;

6 (2) INTENTIONALLY AND WITHOUT AUTHORIZATION ACCESSES OR
7 EXCEEDS AUTHORIZATION TO ACCESS, ALTERS, INTERFERES WITH THE
8 OPERATION OF, DAMAGES OR DESTROYS ANY COMPUTER, COMPUTER
9 SYSTEM, COMPUTER NETWORK, COMPUTER SOFTWARE, COMPUTER
10 PROGRAM, COMPUTER DATABASE, WORLD WIDE WEB SITE OR
11 TELECOMMUNICATION DEVICE OR ANY PART THEREOF; OR

12 (3) INTENTIONALLY OR KNOWINGLY AND WITHOUT AUTHORIZATION
13 GIVES OR PUBLISHES A PASSWORD, IDENTIFYING CODE, PERSONAL
14 IDENTIFICATION NUMBER OR OTHER CONFIDENTIAL INFORMATION ABOUT
15 A COMPUTER, COMPUTER SYSTEM, COMPUTER NETWORK, COMPUTER
16 DATABASE, WORLD WIDE WEB SITE OR TELECOMMUNICATION DEVICE.

17 (B) GRADING.--AN OFFENSE UNDER THIS SECTION SHALL CONSTITUTE
18 A FELONY OF THE THIRD DEGREE.

19 (C) PROSECUTION NOT PROHIBITED.--PROSECUTION FOR AN OFFENSE
20 UNDER THIS SECTION SHALL NOT PROHIBIT PROSECUTION UNDER ANY
21 OTHER SECTION OF THIS TITLE.

22 § 7612. DISRUPTION OF SERVICE.

23 (A) OFFENSE DEFINED.--A PERSON COMMITS AN OFFENSE IF HE
24 INTENTIONALLY OR KNOWINGLY ENGAGES IN A SCHEME OR ARTIFICE,
25 INCLUDING, BUT NOT LIMITED TO, A DENIAL OF SERVICE ATTACK UPON
26 ANY COMPUTER, COMPUTER SYSTEM, COMPUTER NETWORK, COMPUTER
27 SOFTWARE, COMPUTER PROGRAM, COMPUTER SERVER, COMPUTER DATABASE,
28 WORLD WIDE WEB SITE OR TELECOMMUNICATION DEVICE OR ANY PART
29 THEREOF THAT IS DESIGNED TO BLOCK, IMPEDE OR DENY THE ACCESS OF
30 INFORMATION OR INITIATION OR COMPLETION OF ANY SALE OR

1 TRANSACTION BY USERS OF THAT COMPUTER, COMPUTER SYSTEM, COMPUTER
2 NETWORK, COMPUTER SOFTWARE, COMPUTER PROGRAM, COMPUTER SERVER OR
3 DATABASE OR ANY PART THEREOF.

4 (B) GRADING.--AN OFFENSE UNDER THIS SECTION SHALL CONSTITUTE
5 A FELONY OF THE THIRD DEGREE.

6 § 7613. COMPUTER THEFT.

7 (A) OFFENSE DEFINED.--A PERSON COMMITS AN OFFENSE IF HE
8 UNLAWFULLY ACCESSES OR EXCEEDS HIS AUTHORIZATION TO ACCESS ANY
9 DATA FROM A COMPUTER, COMPUTER SYSTEM OR COMPUTER NETWORK OR
10 TAKES OR COPIES ANY SUPPORTING DOCUMENTATION WHETHER EXISTING OR
11 RESIDING INTERNAL OR EXTERNAL TO A COMPUTER, COMPUTER SYSTEM OR
12 COMPUTER NETWORK OF ANOTHER WITH THE INTENT TO DEPRIVE HIM
13 THEREOF.

14 (B) GRADING.--AN OFFENSE UNDER THIS SECTION SHALL CONSTITUTE
15 A FELONY OF THE THIRD DEGREE.

16 § 7614. UNLAWFUL DUPLICATION.

17 (A) OFFENSE DEFINED.--A PERSON COMMITS THE OFFENSE OF
18 UNLAWFUL DUPLICATION IF HE MAKES OR CAUSES TO BE MADE AN
19 UNAUTHORIZED COPY, IN ANY FORM, INCLUDING, BUT NOT LIMITED, TO,
20 ANY PRINTED OR ELECTRONIC FORM OF COMPUTER DATA, COMPUTER
21 PROGRAMS OR COMPUTER SOFTWARE RESIDING IN, COMMUNICATED BY OR
22 PRODUCED BY A COMPUTER OR COMPUTER NETWORK.

23 (B) GRADING.--AN OFFENSE UNDER SUBSECTION (A) SHALL BE
24 GRADED AS FOLLOWS:

25 (1) AN OFFENSE UNDER THIS SECTION SHALL CONSTITUTE A
26 FELONY OF THE THIRD DEGREE.

27 (2) IF THE ECONOMIC VALUE OF THE DUPLICATED MATERIAL IS
28 GREATER THAN \$2,500, THE GRADING OF THE OFFENSE SHALL BE ONE
29 GRADE HIGHER THAN SPECIFIED IN PARAGRAPH (1).

30 § 7615. COMPUTER TRESPASS.

1 (A) OFFENSE DEFINED.--A PERSON COMMITS THE OFFENSE OF
2 COMPUTER TRESPASS IF HE KNOWINGLY AND WITHOUT AUTHORITY, OR IN
3 EXCESS OF GIVEN AUTHORITY, USES A COMPUTER OR COMPUTER NETWORK
4 WITH THE INTENT TO:

5 (1) TEMPORARILY OR PERMANENTLY REMOVE COMPUTER DATA,
6 COMPUTER PROGRAMS OR COMPUTER SOFTWARE FROM A COMPUTER OR
7 COMPUTER NETWORK;

8 (2) CAUSE A COMPUTER TO MALFUNCTION, REGARDLESS OF THE
9 AMOUNT OF TIME THE MALFUNCTION PERSISTS;

10 (3) ALTER OR ERASE ANY COMPUTER DATA, COMPUTER PROGRAMS
11 OR COMPUTER SOFTWARE;

12 (4) EFFECT THE CREATION OR ALTERATION OF A FINANCIAL
13 INSTRUMENT OR OF AN ELECTRONIC TRANSFER OF FUNDS; OR

14 (5) CAUSE PHYSICAL INJURY TO THE PROPERTY OF ANOTHER.

15 (B) GRADING.--AN OFFENSE UNDER THIS SECTION SHALL CONSTITUTE
16 A FELONY OF THE THIRD DEGREE.

17 § 7616. DISTRIBUTION OF COMPUTER VIRUS.

18 (A) OFFENSE DEFINED.--A PERSON COMMITS AN OFFENSE IF THE
19 PERSON INTENTIONALLY OR KNOWINGLY SELLS, GIVES OR OTHERWISE
20 DISTRIBUTES OR POSSESSES WITH THE INTENT TO SELL, GIVE OR
21 DISTRIBUTE COMPUTER SOFTWARE OR A COMPUTER PROGRAM THAT IS
22 DESIGNED OR HAS THE CAPABILITY TO:

23 (1) PREVENT, IMPEDE, CONTROL, DELAY OR DISRUPT THE
24 NORMAL OPERATION OR USE OF A COMPUTER, COMPUTER PROGRAM,
25 COMPUTER SOFTWARE, COMPUTER SYSTEM, COMPUTER NETWORK,
26 COMPUTER DATABASE, WORLD WIDE WEB SITE OR TELECOMMUNICATION
27 DEVICE; OR

28 (2) DEGRADE, DISABLE, DAMAGE OR DESTROY THE PERFORMANCE
29 OF A COMPUTER, COMPUTER PROGRAM, COMPUTER SOFTWARE, COMPUTER
30 SYSTEM, COMPUTER NETWORK, COMPUTER DATABASE, WORLD WIDE WEB

1 SITE OR TELECOMMUNICATION DEVICE OR ANY COMBINATION THEREOF.

2 (B) GRADING.--AN OFFENSE UNDER THIS SECTION SHALL CONSTITUTE
3 A FELONY OF THE THIRD DEGREE.

4 SUBCHAPTER C

5 INTERNET CHILD PORNOGRAPHY

6 SEC.

7 7621. DEFINITIONS.

8 7622. DUTY OF INTERNET SERVICE PROVIDER.

9 7623. PROTECTION OF PRIVACY.

10 7624. PENALTY.

11 7625. JURISDICTION FOR PROSECUTION.

12 7626. APPLICATION FOR ORDER TO REMOVE OR DISABLE ITEMS.

13 7627. ORDER TO REMOVE OR DISABLE CERTAIN ITEMS FROM INTERNET
14 SERVICE PROVIDER'S SERVICE.

15 7628. NOTIFICATION PROCEDURE.

16 7629. DESIGNATED AGENT.

17 7630. REPORT TO GENERAL ASSEMBLY.

18 § 7621. DEFINITIONS.

19 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS SUBCHAPTER
20 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
21 CONTEXT CLEARLY INDICATES OTHERWISE:

22 "CHILD PORNOGRAPHY." AS DESCRIBED IN SECTION 6312 (RELATING
23 TO SEXUAL ABUSE OF CHILDREN).

24 "INTERNET." THE MYRIAD OF COMPUTER AND TELECOMMUNICATIONS
25 FACILITIES, INCLUDING EQUIPMENT AND OPERATING SOFTWARE, WHICH
26 COMPRISE THE INTERCONNECTED WORLDWIDE NETWORK OF NETWORKS THAT
27 EMPLOY THE TRANSMISSION CONTROL PROTOCOL/INTERNET PROTOCOL OR
28 ANY PREDECESSOR OR SUCCESSOR PROTOCOLS TO SUCH PROTOCOL TO
29 COMMUNICATE INFORMATION OF ALL KINDS BY WIRE OR RADIO.

30 "INTERNET SERVICE PROVIDER." A PERSON WHO PROVIDES A SERVICE

1 THAT ENABLES USERS TO ACCESS CONTENT, INFORMATION, ELECTRONIC
2 MAIL OR OTHER SERVICES OFFERED OVER THE INTERNET.

3 § 7622. DUTY OF INTERNET SERVICE PROVIDER.

4 AN INTERNET SERVICE PROVIDER SHALL REMOVE OR DISABLE ACCESS
5 TO CHILD PORNOGRAPHY ITEMS RESIDING ON OR ACCESSIBLE THROUGH ITS
6 SERVICE IN A MANNER ACCESSIBLE TO PERSONS LOCATED WITHIN THIS
7 COMMONWEALTH WITHIN FIVE BUSINESS DAYS OF WHEN THE INTERNET
8 SERVICE PROVIDER IS NOTIFIED BY THE ATTORNEY GENERAL PURSUANT TO
9 SECTION 7628 (RELATING TO NOTIFICATION PROCEDURE) THAT CHILD
10 PORNOGRAPHY ITEMS RESIDE ON OR ARE ACCESSIBLE THROUGH ITS
11 SERVICE.

12 § 7623. PROTECTION OF PRIVACY.

13 NOTHING IN THIS SUBCHAPTER MAY BE CONSTRUED AS IMPOSING A
14 DUTY ON AN INTERNET SERVICE PROVIDER TO ACTIVELY MONITOR ITS
15 SERVICE OR AFFIRMATIVELY SEEK EVIDENCE OF ILLEGAL ACTIVITY ON
16 ITS SERVICE.

17 § 7624. PENALTY.

18 NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY,
19 ANY INTERNET SERVICE PROVIDER WHO VIOLATES SECTION 7622
20 (RELATING TO DUTY OF INTERNET SERVICE PROVIDER) COMMITS:

21 (1) A MISDEMEANOR OF THE THIRD DEGREE FOR A FIRST
22 OFFENSE PUNISHABLE BY A FINE OF \$5,000.

23 (2) A MISDEMEANOR OF THE SECOND DEGREE FOR A SECOND
24 OFFENSE PUNISHABLE BY A FINE OF \$20,000.

25 (3) A FELONY OF THE THIRD DEGREE FOR A THIRD OR
26 SUBSEQUENT OFFENSE PUNISHABLE BY A FINE OF \$30,000 AND
27 IMPRISONMENT FOR A MAXIMUM OF SEVEN YEARS.

28 § 7625. JURISDICTION FOR PROSECUTION.

29 THE ATTORNEY GENERAL SHALL HAVE CONCURRENT PROSECUTORIAL
30 JURISDICTION WITH THE COUNTY DISTRICT ATTORNEY FOR VIOLATIONS OF

1 THIS SUBCHAPTER. NO PERSON CHARGED WITH A VIOLATION OF THIS
2 SUBCHAPTER BY THE ATTORNEY GENERAL SHALL HAVE STANDING TO
3 CHALLENGE THE AUTHORITY OF THE ATTORNEY GENERAL TO PROSECUTE THE
4 CASE. IF A CHALLENGE IS MADE, THE CHALLENGE SHALL BE DISMISSED
5 AND NO RELIEF SHALL BE AVAILABLE IN THE COURTS OF THIS
6 COMMONWEALTH TO THE PERSON MAKING THE CHALLENGE.

7 § 7626. APPLICATION FOR ORDER TO REMOVE OR DISABLE ITEMS.

8 AN APPLICATION FOR AN ORDER OF AUTHORIZATION TO REMOVE OR
9 DISABLE ITEMS RESIDING ON OR ACCESSIBLE THROUGH AN INTERNET
10 SERVICE PROVIDER'S SERVICE SHALL BE MADE TO THE COURT OF COMMON
11 PLEAS HAVING JURISDICTION IN WRITING UPON THE PERSONAL OATH OR
12 AFFIRMATION OF THE ATTORNEY GENERAL OR A DISTRICT ATTORNEY OF
13 THE COUNTY WHEREIN THE ITEMS HAVE BEEN DISCOVERED AND, IF
14 AVAILABLE, SHALL CONTAIN ALL OF THE FOLLOWING INFORMATION:

15 (1) A STATEMENT OF THE AUTHORITY OF THE APPLICANT TO
16 MAKE THE APPLICATION.

17 (2) A STATEMENT OF THE IDENTITY OF THE INVESTIGATIVE OR
18 LAW ENFORCEMENT OFFICER THAT HAS, IN THE OFFICIAL SCOPE OF
19 THAT OFFICER'S DUTIES, DISCOVERED THE CHILD PORNOGRAPHY
20 ITEMS.

21 (3) A STATEMENT BY THE INVESTIGATIVE OR LAW ENFORCEMENT
22 OFFICER WHO HAS KNOWLEDGE OF RELEVANT INFORMATION JUSTIFYING
23 THE APPLICATION.

24 (4) THE UNIFORM RESOURCE LOCATOR PROVIDING ACCESS TO THE
25 ITEMS.

26 (5) THE IDENTITY OF THE INTERNET SERVICE PROVIDER USED
27 BY THE LAW ENFORCEMENT OFFICER.

28 (6) A SHOWING THAT THERE IS PROBABLE CAUSE TO BELIEVE
29 THAT THE ITEMS CONSTITUTE A VIOLATION OF SECTION 6312
30 (RELATING TO SEXUAL ABUSE OF CHILDREN).

1 (7) A PROPOSED ORDER OF AUTHORIZATION FOR CONSIDERATION
2 BY THE JUDGE.

3 (8) CONTACT INFORMATION FOR THE OFFICE OF ATTORNEY
4 GENERAL, INCLUDING THE NAME, ADDRESS AND TELEPHONE NUMBER OF
5 ANY DEPUTY OR AGENT AUTHORIZED BY THE ATTORNEY GENERAL TO
6 SUBMIT NOTIFICATION.

7 (9) ADDITIONAL TESTIMONY OR DOCUMENTARY EVIDENCE IN
8 SUPPORT OF THE APPLICATION AS THE JUDGE MAY REQUIRE.

9 § 7627. ORDER TO REMOVE OR DISABLE CERTAIN ITEMS FROM INTERNET
10 SERVICE PROVIDER'S SERVICE.

11 UPON CONSIDERATION OF AN APPLICATION, THE COURT MAY ENTER AN
12 ORDER, INCLUDING AN EX PARTE ORDER, AS REQUESTED, ADVISING THE
13 ATTORNEY GENERAL OR A DISTRICT ATTORNEY THAT THE ITEMS
14 CONSTITUTE PROBABLE CAUSE EVIDENCE OF A VIOLATION OF SECTION
15 6312 (RELATING TO SEXUAL ABUSE OF CHILDREN) AND THAT SUCH ITEMS
16 SHALL BE REMOVED OR DISABLED FROM THE INTERNET SERVICE
17 PROVIDER'S SERVICE. THE COURT MAY INCLUDE SUCH OTHER INFORMATION
18 IN THE ORDER AS THE COURT DEEMS RELEVANT AND NECESSARY.

19 § 7628. NOTIFICATION PROCEDURE.

20 (A) DUTY OF ATTORNEY GENERAL.--THE ATTORNEY GENERAL SHALL
21 HAVE EXCLUSIVE JURISDICTION TO NOTIFY INTERNET SERVICE PROVIDERS
22 UNDER THIS SUBCHAPTER. THE ATTORNEY GENERAL SHALL INITIATE
23 NOTIFICATION UNDER THIS SUBCHAPTER IF REQUESTED IN WRITING BY A
24 DISTRICT ATTORNEY WHO HAS PROVIDED THE ATTORNEY GENERAL WITH A
25 COPY OF AN APPLICATION MADE UNDER SECTION 7626 (RELATING TO
26 APPLICATION TO REMOVE OR DISABLE ITEMS) AND A COPY OF THE ORDER
27 ISSUED UNDER SECTION 7627 (RELATING TO ORDER TO REMOVE OR
28 DISABLE CERTAIN ITEMS FROM INTERNET SERVICE PROVIDER'S SERVICE)
29 OR UPON THE ISSUANCE OF AN ORDER BASED UPON AN APPLICATION FILED
30 BY THE ATTORNEY GENERAL.

1 (B) TIMELY NOTIFICATION.--FOR PURPOSES OF THIS SECTION, AN
2 INTERNET SERVICE PROVIDER OR THE PERSON DESIGNATED BY THE
3 INTERNET SERVICE PROVIDER AS PROVIDED FOR IN SECTION 7629
4 (RELATING TO DESIGNATED AGENT) SHALL BE NOTIFIED IN WRITING BY
5 THE ATTORNEY GENERAL WITHIN THREE BUSINESS DAYS OF THE ATTORNEY
6 GENERAL'S RECEIPT OF AN ORDER.

7 (C) CONTENTS.--THE NOTICE SHALL INCLUDE THE FOLLOWING
8 INFORMATION:

9 (1) A COPY OF THE APPLICATION MADE UNDER SECTION 7626.

10 (2) A COPY OF THE COURT ORDER ISSUED UNDER SECTION 7627.

11 (3) NOTIFICATION THAT THE INTERNET SERVICE PROVIDER MUST
12 REMOVE OR DISABLE THE ITEMS RESIDING ON OR ACCESSIBLE THROUGH
13 ITS SERVICE WITHIN FIVE BUSINESS DAYS OF THE DATE OF RECEIPT
14 OF THE NOTIFICATION.

15 (4) CONTACT INFORMATION FOR THE OFFICE OF ATTORNEY
16 GENERAL, INCLUDING THE NAME, ADDRESS AND TELEPHONE NUMBER OF
17 ANY DEPUTY OR AGENT AUTHORIZED BY THE ATTORNEY GENERAL TO
18 SUBMIT NOTIFICATION PURSUANT TO THIS SUBSECTION.

19 § 7629. DESIGNATED AGENT.

20 AN INTERNET SERVICE PROVIDER MAY DESIGNATE AN AGENT TO
21 RECEIVE NOTIFICATION PROVIDED UNDER SECTION 7628 (RELATING TO
22 NOTIFICATION PROCEDURE).

23 § 7630. REPORT TO GENERAL ASSEMBLY.

24 THE ATTORNEY GENERAL SHALL MAKE AN ANNUAL REPORT TO THE
25 CHAIRMAN AND MINORITY CHAIRMAN OF THE JUDICIARY COMMITTEE OF THE
26 SENATE AND TO THE CHAIRMAN AND MINORITY CHAIRMAN OF THE
27 JUDICIARY COMMITTEE OF THE HOUSE OF REPRESENTATIVES PROVIDING
28 INFORMATION ON THE NUMBER OF NOTIFICATIONS ISSUED AND THE
29 PROSECUTIONS MADE UNDER THIS SUBCHAPTER AND MAKING ANY
30 RECOMMENDATIONS FOR AMENDATORY LANGUAGE.

1 SUBCHAPTER E

2 ELECTRONIC MAIL

3 SEC.

4 7661. UNLAWFUL TRANSMISSION OF ELECTRONIC MAIL.

5 § 7661. UNLAWFUL TRANSMISSION OF ELECTRONIC MAIL.

6 (A) OFFENSE DEFINED.--A PERSON COMMITS THE OFFENSE OF
7 UNLAWFUL TRANSMISSION OF ELECTRONIC MAIL IF HE:

8 (1) USES A COMPUTER OR COMPUTER NETWORK WITHOUT
9 AUTHORITY AND WITH THE INTENT TO FALSIFY OR FORGE ELECTRONIC
10 MAIL TRANSMISSION INFORMATION OR OTHER ROUTINE INFORMATION IN
11 ANY MANNER IN CONNECTION WITH THE TRANSMISSION OF UNSOLICITED
12 ELECTRONIC MAIL THROUGH OR INTO THE COMPUTER NETWORK OF AN
13 ELECTRONIC MAIL SERVICE PROVIDER, INTERNET SERVICE PROVIDER
14 OR ITS SUBSCRIBERS.

15 (2) SELLS, GIVES OR OTHERWISE DISTRIBUTES OR POSSESSES
16 WITH THE INTENT TO SELL, GIVE OR DISTRIBUTE COMPUTER SOFTWARE
17 WHICH:

18 (I) IS PRIMARILY DESIGNED OR PRODUCED FOR THE
19 PURPOSE OF FACILITATING OR ENABLING THE FALSIFICATION OF
20 ELECTRONIC MAIL TRANSMISSION INFORMATION OR OTHER ROUTING
21 INFORMATION;

22 (II) HAS ONLY LIMITED COMMERCIALY SIGNIFICANT
23 PURPOSE OR USE OTHER THAN TO FACILITATE OR TO ENABLE THE
24 FALSIFICATION OF ELECTRONIC MAIL TRANSMISSION INFORMATION
25 OR OTHER ROUTING INFORMATION; OR

26 (III) IS MARKETED BY THAT PERSON OR ANOTHER PERSON
27 ACTING IN CONCERT WITH THAT PERSON WITH THAT PERSON'S
28 KNOWLEDGE FOR THE USE IN FACILITATING OR ENABLING THE
29 FALSIFICATION OF ELECTRONIC MAIL TRANSMISSION INFORMATION
30 OR OTHER ROUTING INFORMATION.

1 (B) GRADING.--

2 (1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3),
3 UNLAWFUL TRANSMISSION OF ELECTRONIC MAIL IS A MISDEMEANOR OF
4 THE THIRD DEGREE PUNISHABLE BY A FINE OF NOT MORE THAN
5 \$2,500.

6 (2) IF THERE IS DAMAGE TO THE PROPERTY OF ANOTHER VALUED
7 AT \$2,500 OR MORE CAUSED BY THAT PERSON'S RECKLESS DISREGARD
8 FOR THE CONSEQUENCES OF HIS ACT IN VIOLATION OF THIS SECTION,
9 UNLAWFUL TRANSMISSION OF ELECTRONIC MAIL IS A MISDEMEANOR OF
10 THE FIRST DEGREE PUNISHABLE BY A FINE OF NOT MORE THAN
11 \$10,000.

12 (3) IF THERE IS DAMAGE TO THE PROPERTY OF ANOTHER VALUED
13 AT \$2,500 OR MORE CAUSED BY THAT PERSON'S MALICIOUS ACT IN
14 VIOLATION OF THIS SECTION, UNLAWFUL TRANSMISSION OF
15 ELECTRONIC MAIL IS A FELONY OF THE THIRD DEGREE PUNISHABLE BY
16 A FINE OF NOT MORE THAN \$15,000.

17 (C) RIGHTS PRESERVED.--NOTHING IN THIS SECTION SHALL BE
18 CONSTRUED TO:

19 (1) ESTABLISH ANY LIABILITY BY REASON OF TERMS OR
20 CONDITIONS ADOPTED BY, OR TECHNICAL MEASURES IMPLEMENTED BY,
21 AN ELECTRONIC MAIL SERVICE PROVIDER OR INTERNET SERVICE
22 PROVIDER DOING BUSINESS IN THIS COMMONWEALTH TO PREVENT THE
23 TRANSMISSION OF UNSOLICITED ELECTRONIC MAIL IN VIOLATION OF
24 THIS SECTION.

25 (2) INTERFERE WITH OR PROHIBIT TERMS OR CONDITIONS IN A
26 CONTRACT OR LICENSE RELATED TO COMPUTERS, COMPUTER DATA,
27 COMPUTER NETWORKS, COMPUTER OPERATIONS, COMPUTER PROGRAMS,
28 COMPUTER SERVICES OR COMPUTER SOFTWARE.

29 (D) DEFINITIONS.--AS USED IN THIS SECTION, THE TERM
30 "ELECTRONIC MAIL" SHALL INCLUDE FACSIMILES AND WIRELESS

1 ADVERTISEMENTS IN ADDITION TO OTHER ELECTRONIC MAIL.

2 Section ~~2~~ 4. This act shall take effect in 60 days.

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