

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by changing  
5 Sections 17-51 and 17-55 as follows:

6 (720 ILCS 5/17-51) (was 720 ILCS 5/16D-3)

7 Sec. 17-51. Computer tampering.

8 (a) A person commits computer tampering when he or she  
9 knowingly and without the authorization of a computer's owner  
10 or in excess of the authority granted to him or her:

11 (1) Accesses or causes to be accessed a computer or any  
12 part thereof, a computer network, or a program or data;

13 (2) Accesses or causes to be accessed a computer or any  
14 part thereof, a computer network, or a program or data, and  
15 obtains data or services;

16 (3) Accesses or causes to be accessed a computer or any  
17 part thereof, a computer network, or a program or data, and  
18 damages or destroys the computer or alters, deletes, or  
19 removes a computer program or data;

20 (4) Inserts or attempts to insert a program into a  
21 computer or computer program knowing or having reason to  
22 know that such program contains information or commands  
23 that will or may:

1 (A) damage or destroy that computer, or any other  
2 computer subsequently accessing or being accessed by  
3 that computer;

4 (B) alter, delete, or remove a computer program or  
5 data from that computer, or any other computer program  
6 or data in a computer subsequently accessing or being  
7 accessed by that computer; or

8 (C) cause loss to the users of that computer or the  
9 users of a computer which accesses or which is accessed  
10 by such program; or

11 (5) Falsifies or forges electronic mail transmission  
12 information or other routing information in any manner in  
13 connection with the transmission of unsolicited bulk  
14 electronic mail through or into the computer network of an  
15 electronic mail service provider or its subscribers.

16 (a-1) A person commits computer tampering when he or she  
17 knowingly and without the authorization of an account holder or  
18 in excess of the authority granted to him or to her:

19 (1) accesses or causes to be accessed by any means an  
20 electronic mail (e-mail), instant messaging, or social  
21 networking website account;

22 (2) accesses or causes to be accessed by any means an  
23 electronic mail (e-mail), instant messaging, or social  
24 networking website account, and views the content of an  
25 electronic communication; or

26 (3) accesses or causes to be accessed by any means a

1 computer or any part thereof, a computer network,  
2 electronic mail (e-mail), instant messaging, or social  
3 networking website account, and:

4 (A) deletes an electronic communication;

5 (B) transmits an electronic communication  
6 purporting to be the account holder; or

7 (C) changes the password for the account;

8 (4) accesses or causes to be accessed by any means a  
9 social networking website account, and:

10 (A) alters the privacy settings for the account  
11 holder's account; or

12 (B) gives himself, herself, or another access to  
13 view private content on the account holder's social  
14 networking website account; or

15 (5) accesses or causes to be accessed by any means a  
16 computer or any part thereof, a computer network,  
17 electronic mail (e-mail) account, instant messaging  
18 account, social networking website account and adds,  
19 deletes, or alters content.

20 (a-5) Distributing software to falsify routing  
21 information. It is unlawful for any person knowingly to sell,  
22 give, or otherwise distribute or possess with the intent to  
23 sell, give, or distribute software which:

24 (1) is primarily designed or produced for the purpose  
25 of facilitating or enabling the falsification of  
26 electronic mail transmission information or other routing

1 information;

2 (2) has only a limited commercially significant  
3 purpose or use other than to facilitate or enable the  
4 falsification of electronic mail transmission information  
5 or other routing information; or

6 (3) is marketed by that person or another acting in  
7 concert with that person with that person's knowledge for  
8 use in facilitating or enabling the falsification of  
9 electronic mail transmission information or other routing  
10 information.

11 (a-10) For purposes of subsection (a), accessing a computer  
12 network is deemed to be with the authorization of a computer's  
13 owner if:

14 (1) the owner authorizes patrons, customers, or guests  
15 to access the computer network and the person accessing the  
16 computer network is an authorized patron, customer, or  
17 guest and complies with all terms or conditions for use of  
18 the computer network that are imposed by the owner; or

19 (2) the owner authorizes the public to access the  
20 computer network and the person accessing the computer  
21 network complies with all terms or conditions for use of  
22 the computer network that are imposed by the owner.

23 (b) Sentence.

24 (1) A person who commits computer tampering as set  
25 forth in subdivision (a)(1) or (a)(5) or subsection (a-5)  
26 of this Section is guilty of a Class B misdemeanor.

1           (2) A person who commits computer tampering as set  
2           forth in subdivision (a)(2) of this Section is guilty of a  
3           Class A misdemeanor and a Class 4 felony for the second or  
4           subsequent offense.

5           (3) A person who commits computer tampering as set  
6           forth in subdivision (a)(3) or (a)(4) of this Section is  
7           guilty of a Class 4 felony and a Class 3 felony for the  
8           second or subsequent offense.

9           (3.1) A person who commits computer tampering as set  
10          forth in subdivision (a-1)(1) of this Section is guilty of  
11          a Class B misdemeanor for which the court shall impose a  
12          minimum fine of \$500 or, if public or community service is  
13          established in the county in which the offender was  
14          convicted, 30 hours of public or community service.

15          (3.2) A person who commits computer tampering as set  
16          forth in subdivision (a-1)(2) or (a-1)(4) of this Section  
17          is guilty of a Class A misdemeanor for a first violation  
18          for which the court shall impose a minimum fine of \$1,000  
19          or, if public or community service is established in the  
20          county in which the offender was convicted, 80 hours of  
21          public or community service and a Class 4 felony for a  
22          second or subsequent violation.

23          (3.3) A person who commits computer tampering as set  
24          forth in subdivision (a-1)(3) or (a-1)(5) of this Section  
25          is guilty of a Class 4 felony.

26          (4) If an injury arises from the transmission of

1           unsolicited bulk electronic mail, the injured person,  
2           other than an electronic mail service provider, may also  
3           recover attorney's fees and costs, and may elect, in lieu  
4           of actual damages, to recover the lesser of \$10 for each  
5           unsolicited bulk electronic mail message transmitted in  
6           violation of this Section, or \$25,000 per day. The injured  
7           person shall not have a cause of action against the  
8           electronic mail service provider that merely transmits the  
9           unsolicited bulk electronic mail over its computer  
10          network.

11           (5) If an injury arises from the transmission of  
12          unsolicited bulk electronic mail, an injured electronic  
13          mail service provider may also recover attorney's fees and  
14          costs, and may elect, in lieu of actual damages, to recover  
15          the greater of \$10 for each unsolicited electronic mail  
16          advertisement transmitted in violation of this Section, or  
17          \$25,000 per day.

18           (6) The provisions of this Section shall not be  
19          construed to limit any person's right to pursue any  
20          additional civil remedy otherwise allowed by law.

21           (c) Whoever suffers loss by reason of a violation of  
22          subdivision (a)(4) of this Section may, in a civil action  
23          against the violator, obtain appropriate relief. In a civil  
24          action under this Section, the court may award to the  
25          prevailing party reasonable attorney's fees and other  
26          litigation expenses.

1 (Source: P.A. 95-326, eff. 1-1-08; 96-1000, eff. 7-2-10;  
2 96-1551, eff. 7-1-11.)

3 (720 ILCS 5/17-55)

4 Sec. 17-55. Definitions. For the purposes of Sections 17-50  
5 through 17-53:

6 In addition to its meaning as defined in Section 15-1 of  
7 this Code, "property" means: (1) electronic impulses; (2)  
8 electronically produced data; (3) confidential, copyrighted,  
9 or proprietary information; (4) private identification codes  
10 or numbers which permit access to a computer by authorized  
11 computer users or generate billings to consumers for purchase  
12 of goods and services, including but not limited to credit card  
13 transactions and telecommunications services or permit  
14 electronic fund transfers; (5) software or programs in either  
15 machine or human readable form; or (6) any other tangible or  
16 intangible item relating to a computer or any part thereof.

17 "Access" means to use, instruct, communicate with, store  
18 data in, retrieve or intercept data from, or otherwise utilize  
19 any services of, a computer, a network, or data.

20 "Account holder" means the person or entity to whom or to  
21 which an electronic mail or instant message service account,  
22 social networking website profile, or other virtual identity is  
23 registered.

24 "Services" includes but is not limited to computer time,  
25 data manipulation, or storage functions.

1 "Vital services or operations" means those services or  
2 operations required to provide, operate, maintain, and repair  
3 network cabling, transmission, distribution, or computer  
4 facilities necessary to ensure or protect the public health,  
5 safety, or welfare. Those services or operations include, but  
6 are not limited to, services provided by medical personnel or  
7 institutions, fire departments, emergency services agencies,  
8 national defense contractors, armed forces or militia  
9 personnel, private and public utility companies, or law  
10 enforcement agencies.

11 (Source: P.A. 96-1551, eff. 7-1-11.)

12 Section 10. The Harassing and Obscene Communications Act is  
13 amended by changing Sections 1-2 and 2 as follows:

14 (720 ILCS 135/1-2)

15 Sec. 1-2. Harassment through electronic communications.

16 (a) Harassment through electronic communications is the  
17 use of electronic communication for any of the following  
18 purposes:

19 (1) Transmitting ~~Making~~ any comment, request,  
20 suggestion or proposal which is obscene with an intent to  
21 offend;

22 (2) Interrupting, with the intent to harass, the  
23 telephone service or the electronic communication service  
24 of any person;

1           (3) Transmitting to any person, with the intent to  
2 harass and regardless of whether the communication is read  
3 in its entirety or at all, any file, document, or other  
4 communication which prevents that person from using his or  
5 her telephone service or electronic communications device;

6           (3.1) Transmitting an electronic communication or  
7 knowingly inducing a person to transmit an electronic  
8 communication for the purpose of harassing another person  
9 who is under 13 years of age, regardless of whether the  
10 person under 13 years of age consents to the harassment, if  
11 the defendant is at least 16 years of age at the time of  
12 the commission of the offense;

13           (4) Threatening injury to the person or to the property  
14 of the person to whom an electronic communication is  
15 directed or to any of his or her family or household  
16 members; ~~or~~

17           (4.1) Knowingly and by any means making repeated,  
18 unwanted, and harassing communication to another person  
19 within one week by transmitting any comment, request,  
20 suggestion, or proposal which is obscene with an intent to  
21 offend; or

22           (5) Knowingly permitting any electronic communications  
23 device to be used for any of the purposes mentioned in this  
24 subsection (a).

25           (b) As used in this Act:

26           (1) "Electronic communication" means any transfer of

1 signs, signals, writings, images, sounds, data or  
2 intelligence of any nature transmitted in whole or in part  
3 by a wire, radio, electromagnetic, photoelectric or  
4 photo-optical system. "Electronic communication" includes  
5 transmissions through an electronic device including, but  
6 not limited to, a telephone, cellular phone, computer, or  
7 pager, which communication includes, but is not limited to,  
8 e-mail, instant message, text message, or voice mail.

9 (2) "Family or household member" includes spouses,  
10 former spouses, parents, children, stepchildren and other  
11 persons related by blood or by present or prior marriage,  
12 persons who share or formerly shared a common dwelling,  
13 persons who have or allegedly share a blood relationship  
14 through a child, persons who have or have had a dating or  
15 engagement relationship, and persons with disabilities and  
16 their personal assistants. For purposes of this Act,  
17 neither a casual acquaintanceship nor ordinary  
18 fraternization between 2 individuals in business or social  
19 contexts shall be deemed to constitute a dating  
20 relationship.

21 (c) Telecommunications carriers, commercial mobile service  
22 providers, and providers of information services, including,  
23 but not limited to, Internet service providers and hosting  
24 service providers, are not liable under this Section, except  
25 for willful and wanton misconduct, by virtue of the  
26 transmission, storage, or caching of electronic communications

1 or messages of others or by virtue of the provision of other  
2 related telecommunications, commercial mobile services, or  
3 information services used by others in violation of this  
4 Section.

5 (Source: P.A. 96-328, eff. 8-11-09; 97-303, eff. 8-11-11.)

6 (720 ILCS 135/2) (from Ch. 134, par. 16.5)

7 Sec. 2. Sentence.

8 (a) Except as provided in subsection (b), a person who  
9 violates any of the provisions of Section 1, 1-1, or 1-2, other  
10 than paragraph (4.1) of subsection (a) of Section 1-2, of this  
11 Act is guilty of a Class B misdemeanor. Except as provided in  
12 subsection (b), a violation of paragraph (4.1) of subsection  
13 (a) of Section 1-2 is a Class A misdemeanor. Except as provided  
14 in subsection (b), a second or subsequent violation of Section  
15 1, 1-1, or 1-2 of this Act is a Class A misdemeanor, for which  
16 the court shall impose a minimum of 14 days in jail or, if  
17 public or community service is established in the county in  
18 which the offender was convicted, 240 hours of public or  
19 community service.

20 (b) In any of the following circumstances, a person who  
21 violates Section 1, 1-1, or 1-2 of this Act shall be guilty of  
22 a Class 4 felony:

23 (1) The person has 3 or more prior violations in the  
24 last 10 years of harassment by telephone under Section 1-1  
25 of this Act, harassment through electronic communications

1 under Section 1-2 of this Act, or any similar offense of  
2 any state;

3 (2) The person has previously violated the harassment  
4 by telephone provisions of Section 1-1 of this Act or the  
5 harassment through electronic communications provisions of  
6 Section 1-2 of this Act or committed any similar offense in  
7 any state with the same victim or a member of the victim's  
8 family or household;

9 (3) At the time of the offense, the offender was under  
10 conditions of bail, probation, mandatory supervised  
11 release or was the subject of an order of protection, in  
12 this or any other state, prohibiting contact with the  
13 victim or any member of the victim's family or household;

14 (4) In the course of the offense, the offender  
15 threatened to kill the victim or any member of the victim's  
16 family or household;

17 (5) The person has been convicted in the last 10 years  
18 of a forcible felony as defined in Section 2-8 of the  
19 Criminal Code of 1961;

20 (6) The person violates paragraph (4.1) of Section 1-1  
21 or paragraph (3.1) of subsection (a) of Section 1-2; or

22 (7) The person was at least 18 years of age at the time  
23 of the commission of the offense and the victim was under  
24 18 years of age at the time of the commission of the  
25 offense.

26 (Source: P.A. 95-984, eff. 6-1-09.)