

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0740

HOUSE BILL NO. 1194

Introduced by: Representatives Smidt and Hansen (Tom) and Senators Bogue and Greenfield

1 FOR AN ACT ENTITLED, An Act to increase certain penalties for unlawful use of computers
2 and computer networks.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 43-43B-1 be amended to read as follows:

5 43-43B-1. A person is guilty of unlawful use of a computer, computer network, computer
6 system, computer program, or computer data if he the person:

7 (1) Knowingly obtains the use of, or accesses, a computer system, or any part thereof,
8 without the consent of the owner;

9 (2) Knowingly ~~alters or destroys computer programs or data without the consent of the~~
10 ~~owner; or~~

11 ~~—(3)— Knowingly obtains use of, alters, accesses or destroys a computer system, or any part~~
12 ~~thereof, as part of a deception for the purpose of obtaining money, property or~~
13 ~~services from the owner of a computer system or any third party; or~~

14 ~~—(4)— Knowingly uses or discloses to another or attempts to use or disclose to another the~~
15 ~~numbers, codes, passwords or other means of access to a computer, computer~~

1 ~~program or computer system without the consent of the owner~~ obtains the use of, or
2 accesses, a computer system, or any part thereof, without the consent of the owner,
3 and such access or use includes access to confidential data or material;

4 (3) Knowingly copies or steals items or materials from a computer network, system,
5 program, or steals data or documentation, or compromises any security controls for
6 such computer network, system or program, or uses or discloses to another, or
7 attempts to use or disclose to another the numbers, codes, passwords or other means
8 of access to a computer, computer program, or computer system without the consent
9 of the owner;

10 (4) Knowingly disrupts, alters, denies, or inhibits access to computer programs or data
11 without the consent of the owner

12 (5) Knowingly disrupts, alters, denies, or inhibits access to computer networks or
13 computer systems;

14 (6) Knowingly modifies or changes computer programs or computer data, without the
15 consent of the owner;

16 (7) Knowingly commits fraud or obtains use of alters, accesses, destroys, or inhibits
17 access to a computer system, computer network, or any part thereof, as part of a
18 deception for the purpose of obtaining money, property, or services from the owner
19 of a computer system, computer network, or any third party;

20 (8) Knowingly destroys or disables computer networks or computer systems; or

21 (9) Knowingly destroys or disables computer programs or computer data.

22 Section 2. That § 43-43B-2 be amended to read as follows:

23 43-43B-2. Terms used in this chapter, ~~unless the context requires otherwise,~~ mean:

24 (1) "Access," to instruct, communicate with, store data in, retrieve data from a computer,

1 computer system or computer network;

2 (2) "Computer," an internally programmed, general purpose digital device capable of
3 automatically accepting data, processing data and supplying the results of the
4 operation;

5 (3) "Computer program," a series of coded instructions or statements in a form
6 acceptable to a computer, which causes the computer to process data in order to
7 achieve a certain result;

8 (4) "Computer system," a set of related, connected devices, including a computer and
9 other devices, including but not limited to data input and output and storage devices,
10 data communications links, and computer programs and data, that make the system
11 capable of performing the special purpose data processing tasks for which it is
12 specified;

13 (5) "Computer network," a set of related, connected network electronics and
14 communications links that allow computer systems, computer programs, and
15 computers to communicate amongst themselves;

16 (6) "Destroy," to make unusable, computers unable to be programmed, accept data,
17 process data, supply results or computer programs unable to be executed by
18 computers or computer systems or computer systems unable to perform data
19 processing tasks or computer networks unable to transfer data between computer
20 systems, computer programs and computers.

21 Section 3. That § 43-43B-3 be amended to read as follows:

22 43-43B-3. ~~A person convicted of a violation of subdivision 43-43B-1 (1), (2), or (4) where~~
23 ~~the value of the use, alteration, destruction, access or disclosure is one thousand dollars or less~~
24 ~~is guilty.~~ Violations of the provisions of § 43-43B-1 are punishable as follows:

- 1 (1) For a violation of subdivision (1), a Class 1 misdemeanor;
- 2 (2) For a violation of subdivision (2) or (3), a Class 6 felony;
- 3 (3) For a violation of subdivision (4), a Class 5 felony;
- 4 (4) For a violation of subdivision (5) or (6), a Class 4 felony;
- 5 (5) For a violation of subdivision (7) or (8), a Class 3 felony;
- 6 (6) For a violation of subdivision (9), a Class 2 felony.

7 Section 4. That § 43-43B-4 be repealed.

8 ~~43-43B-4. A person convicted of a violation of subdivision 43-43B-1 (1), (2), or (4) where~~
9 ~~the value of the use, alteration, destruction, access or disclosure is more than one thousand~~
10 ~~dollars is guilty of a Class 6 felony.~~

11 Section 5. That § 43-43B-5 be repealed.

12 ~~43-43B-5. A person convicted of a violation of subdivision 43-43B-1 (3) where the value of~~
13 ~~the money, property or services obtained is one thousand dollars or less is guilty of a Class 1~~
14 ~~misdemeanor.~~

15 Section 6. That § 43-43B-6 be repealed.

16 ~~43-43B-6. A person convicted of a violation of subdivision 43-43B-1 (3) where the value of~~
17 ~~the money, property or services obtained is more than one thousand dollars shall be guilty of a~~
18 ~~Class 4 felony.~~

19 Section 7. That chapter 43-43B be amended by adding thereto a NEW SECTION to read
20 as follows:

21 For any person convicted of a violation of § 43-43B-1, except subdivision (1), the court shall
22 impose a mandatory sentence of not less than one-half of the maximum imprisonment time
23 specified. Any sentence imposed by the court is subject to reduction only by a finding of time
24 served by the defendant and no other reason. The sentence imposed shall be the sentence actually

1 served.