

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0740

HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **HB 1194** - 02/07/2001

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 system, software, or data if he
6 the person:

7 (1) Knowingly obtains the use of, ~~or~~ accesses (or exceeds authorized access), a computer
8 system, or any part thereof, 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~~

1 ~~numbers, codes, passwords or other means of access to a computer, computer~~
2 ~~program or computer system without the consent of the owner~~ obtains the use of,
3 accesses (or exceeds authorized access), a computer system, or any part thereof,
4 without the consent of the owner, and such access or use includes access to
5 confidential data or material;

6 (3) Knowingly copies or obtains information from a computer system, or compromises
7 any security controls for such computer system, or uses or discloses to another, or
8 attempts to use or disclose to another, the numbers, codes, passwords, or other means
9 of access to a computer system without the consent of the owner;

10 (4) Knowingly disrupts, denies, or inhibits access to software or data without the consent
11 of the owner;

12 (5) Knowingly disrupts, denies, or inhibits access to a computer system, without consent
13 of the owner;

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

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

20 (8) Knowingly destroys or disables a computer system, without consent of the owner; or

21 (9) Knowingly destroys or disables software or computer data, without consent of the
22 owner.

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

24 43-43B-2. Terms used in this chapter, ~~unless the context requires otherwise,~~ mean:

- 1 (1) "Access," to instruct, communicate with, store data in, retrieve data from a ~~computer,~~
2 ~~computer system or computer network;~~
- 3 (2) "Computer," an internally programmed, general purpose digital device capable of
4 automatically accepting data, processing data and supplying the results of the
5 operation;
- 6 (3) "~~Computer program~~ Software," a series of coded instructions or statements in a form
7 acceptable to a computer system, which causes the computer system to process data
8 in order to achieve a certain result;
- 9 (4) "Computer system," ~~a set of related, connected devices, including a computer and~~
10 ~~other devices, including but not limited to~~ shall include any one or more computers,
11 computer networks, other related devices, data input and output and storage devices,
12 data communications links, ~~and computer programs and data, that make the system~~
13 ~~capable of performing the special purpose data processing tasks for which it is~~
14 ~~specified;~~
- 15 (5) "Computer network," a set of related, connected network electronics and
16 communications links that allows any one or more computer system to communicate
17 amongst or between themselves;
- 18 (5A) "Data," digitized information in any form that may be accessed by a computer system,
19 regardless of whether the information is in transmission or stored on a computer
20 system, diskette, compact diskette, cd-rom, tape, or in any other medium;
- 21 (6) "Destroy," to make unusable, render inoperable, render unable to accept or process
22 data, or supply results, render unable to perform data processing tasks or cause
23 computer networks to be unable to transfer data between computer systems for any
24 amount of time.

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

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

5 (1) For a violation of subdivision (1), a Class 1 misdemeanor;

6 (2) For a violation of subdivision (2) or (3), a Class 6 felony;

7 (3) For a violation of subdivision (4), a Class 5 felony;

8 (4) For a violation of subdivision (5) or (6), a Class 4 felony;

9 (5) For a violation of subdivision (8) or (9), a Class 3 felony;

10 (6) For a violation of subdivision (7), a Class 2 felony.

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

12 ~~—43-43B-4. A person convicted of a violation of subdivision 43-43B-1 (1), (2), or (4) where~~
13 ~~the value of the use, alteration, destruction, access or disclosure is more than one thousand~~
14 ~~dollars is guilty of a Class 6 felony.~~

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

16 ~~—43-43B-5. A person convicted of a violation of subdivision 43-43B-1 (3) where the value of~~
17 ~~the money, property or services obtained is one thousand dollars or less is guilty of a Class 1~~
18 ~~misdemeanor.~~

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

20 ~~—43-43B-6. A person convicted of a violation of subdivision 43-43B-1 (3) where the value of~~
21 ~~the money, property or services obtained is more than one thousand dollars shall be guilty of a~~
22 ~~Class 4 felony.~~