

Vermont General Assembly
BILL AS INTRODUCED
AN ACT RELATING TO MODERNIZING VERMONT'S COMPUTER CRIME
STATUTES

Sec. 1. 13 V.S.A. § 4101 is amended to read:

§ 4101. Definitions

As used in this chapter:

- (1) "Access" means to instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resource of a computer, computer system, cloud service, or computer network.
- (2) "Cloud service" means a service that provides on-demand network access to shared computing resources, including storage, applications, or processing capacity.
- (3) "Computer" means an electronic, magnetic, optical, electrochemical, or other data processing device or group of devices performing logical, arithmetic, storage, or communication functions, including any data storage facility, communications facility, mobile device, embedded system, or Internet-connected device directly related to or operating in conjunction with such device.
- (4) "Computer network" means the interconnection of two or more computers, computer systems, or communication devices for the purpose of transmitting, receiving, storing, or processing data.
- (5) "Computer program" means a series of instructions, statements, or related data that, in actual or modified form, is capable of causing a computer or computer system to perform specified functions.
- (6) "Computer system" means a computer or group of interconnected computers, including associated hardware, software, firmware, data storage devices, or network resources.
- (7) "Data" means information, knowledge, facts, concepts, computer programs, software, instructions, databases, or other material stored, processed, transmitted, or interpreted by a computer, computer system, cloud service, or computer network.
- (8) "Malicious code" means a program, instruction, or code designed to infiltrate, damage, disrupt, monitor, encrypt, or impair the operation, security, or integrity of a computer, computer system, or computer network without the authorization of the owner or operator.
- (9) "Personal identifying information" means information that can be used to distinguish or trace an individual's identity, including name in combination with a Social Security number, driver's license number, financial account number, authentication credential, or biometric identifier.

(10) "Property" includes electronically produced data, computer software, and computer programs in either machine or human readable form, and any other tangible or intangible item of value.

(11) "Protected computer" means a computer, computer system, or computer network that:

(A) is used by a State or municipal governmental entity;

(B) is used in or affecting interstate or international commerce; or

(C) provides services related to critical infrastructure, including health care, financial services, public utilities, emergency services, or transportation.

(12) "Services" includes computer time, data processing, storage functions, and cloud services.

Sec. 2. 13 V.S.A. § 4102 is amended to read:

§ 4102. Unauthorized access

A person who knowingly and intentionally and without lawful authority accesses or causes to be accessed any computer, computer system, cloud service, computer network, computer program, or data contained in such computer, computer system, computer program, or computer network shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.

Sec. 3. 13 V.S.A. § 4103 is amended to read:

§ 4103. Access to computer for fraudulent purposes

(a) A person shall not knowingly and intentionally and without lawful authority access or cause to be accessed any computer, computer system, cloud service, or computer network for any of the following purposes:

(1) executing any scheme or artifice to defraud;

(2) obtaining money, property, or services by means of false or fraudulent pretenses, representations, or promises;

(3) in connection with any scheme or artifice to defraud, damaging, destroying, altering, deleting, copying, retrieving, interfering with, denial of access to, or removing any program or data contained therein; or

(4) obtaining or disclosing personal identifying information or confidential data.

(b) Penalties. A person convicted of the crime of access to computer for fraudulent purposes shall be:

(1) if the value of the matter involved does not exceed \$500.00, imprisoned not more than one year or fined not more than \$500.00, or both;

(2) if the value of the matter involved does not exceed \$500.00, for a second or subsequent offense, imprisoned not more than two years or fined not more than \$1,000.00, or both; or

(3) if the value of the matter involved exceeds \$500.00, imprisoned not more than 10 years or fined not more than \$10,000.00, or both.

Sec. 4. 13 V.S.A. § 4104 is amended to read:

§ 4104. Alteration, damage, or interference

(a) A person shall not knowingly and intentionally and without lawful authority alter, damage, disrupt, or interfere with the operation of any computer, computer system, cloud service, computer network, computer program, or data contained in such computer, computer system, computer program, or computer network, including through:

- (1) the introduction of malicious code;
- (2) a denial-of-service attack or similar method intended to impair the availability of computer services; or
- (3) the encryption or disabling of data, a computer program, or a computer system.

(b) Penalties. A person convicted of violating this section shall be:

- (1) if the damage or loss does not exceed \$500.00 for a first offense, imprisoned not more than one year or fined not more than \$5,000.00, or both;
- (2) if the damage or loss does not exceed \$500.00 for a second or subsequent offense, imprisoned not more than two years or fined not more than \$10,000.00, or both; or
- (3) if the damage or loss exceeds \$500.00, imprisoned not more than 10 years or fined not more than \$25,000.00, or both.

Sec. 5. 13 V.S.A. § 4105 is amended to read:

§ 4105. Theft or destruction

(a)(1) A person shall not knowingly and intentionally and without claim of right deprive the owner of possession, take, transfer, copy, conceal, or retain possession of, or knowingly and intentionally and without lawful authority destroy, any computer system, computer network, computer software, computer program, or data contained in such computer, computer system, computer program, or computer network.

(2) Copying a commercially available computer program or computer software is not a crime under this section, provided that the computer program or computer software has a retail value of \$500.00 or less and is not copied for resale.

(b) Penalties. A person convicted of violating this section shall be:

- (1) if the damage or loss does not exceed \$500.00 for a first offense, imprisoned not more than one year or fined not more than \$5,000.00, or both;
- (2) if the damage or loss does not exceed \$500.00 for a second or subsequent offense, imprisoned not more than two years or fined not more than \$10,000.00, or both; or
- (3) if the damage or loss exceeds \$500.00, imprisoned not more than 10 years or fined not more than \$25,000.00, or both.

Sec. 6. 13 V.S.A. § 4105a is added to read:

§ 4105a. Aggravated computer crime

(a) A person commits aggravated computer crime if the person violates section 4102, 4103, 4104, or 4105 of this title and the violation:

- (1) causes damage or loss exceeding \$5,000.00;
- (2) involves a protected computer;
- (3) results in the acquisition or exposure of personal identifying information of 50 or more individuals;
- (4) disrupts the operation of critical infrastructure or essential public services; or
- (5) involves ransomware or other malicious code intended to extort payment.

(b) A person who violates this section shall be imprisoned not more than 15 years or fined not more than \$50,000.00, or both.

(c) Prosecution under this section shall not preclude prosecution for any other offense arising from the same conduct.

Sec. 7. 13 V.S.A. § 4106 is amended to read:

§ 4106. Civil liability

A person damaged as a result of a violation of this chapter may bring a civil action against the violator for damages, costs, and fees, including reasonable attorney's fees, and such other relief as the court deems appropriate. The court may award treble damages where the violation was willful.

Sec. 8. 13 V.S.A. § 4107 is amended to read:

§ 4107. Venue

For the purposes of venue under this chapter, any violation of this chapter shall be considered to have been committed in the State of Vermont if the State of Vermont is the state from which or to which any use of a computer, computer system, cloud service, or computer network was made, whether by wires, electromagnetic waves, microwaves, or any other means of communication.

Sec. 9. Effective date

This act shall take effect on July 1 following passage.