

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO CRIMINAL OFFENSES - COMPUTER CRIME

Introduced By: Senators Lombardi, McCaffrey, Archambault, Jabour, and Conley

Date Introduced: March 15, 2017

Referred To: Senate Judiciary

(Attorney General)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 11-52-1 of the General Laws in Chapter 11-52 entitled "Computer
2 Crime" is hereby amended to read as follows:

3 **11-52-1. Definitions.**

4 As used in this chapter:

5 (1) "Access" means to approach, instruct, communicate with, store data in, enter data in,
6 retrieve data from, or otherwise make use of any resources of, a computer, computer system, or
7 computer network.

8 (2) "Computer" means an electronic, magnetic, optical, hydraulic or organic device or
9 group of devices which, pursuant to a computer program, to human instruction, or to permanent
10 instructions contained in the device or group of devices, can automatically perform computer
11 operations with or on computer data and can communicate the results to another computer or to a
12 person. The term "computer" includes any connected or directly related device, equipment, or
13 facility which enables the computer to store, retrieve or communicate computer programs,
14 computer data or the results of computer operations to or from a person, another computer or
15 another device.

16 (3) "Computer data" means any representation of information, knowledge, facts,
17 concepts, or instructions which is being prepared or has been prepared and is intended to be
18 processed, is being processed, or has been processed in a computer or computer network.
19 "Computer data" may be in any form, whether readable only by a computer or only by a human

1 or by either, including, but not limited to, computer printouts, magnetic storage media, punched
2 cards, or data stored internally in the memory of the computer.

3 (4) "Computer network" means a set of related, remotely connected devices and any
4 communications facilities including more than one computer with the capability to transmit data
5 among them through the communications facilities.

6 (5) "Computer operation" means arithmetic, logical, monitoring, storage or retrieval
7 functions and any combination of them, and includes, but is not limited to, communication with,
8 storage of data to, or retrieval of data from any device or human hand manipulation of electronic
9 or magnetic impulses. A "computer operation" for a particular computer may also be any function
10 for which that computer was generally designed.

11 (6) "Computer program" means a series of instructions or statements or related data that,
12 in actual or modified form, is capable of causing a computer or a computer system to perform
13 specified functions in a form acceptable to a computer, which permits the functioning of a
14 computer system in a manner designed to provide appropriate products from the computer
15 systems.

16 (7) "Computer services" includes computer time or services, data processing services,
17 Internet service providers' networks and facilities located in the state or information or data stored
18 in connection with them.

19 (8) "Computer software" means a set of computer programs, procedures, and associated
20 documentation concerned with the operation of a computer, computer program or computer
21 network.

22 (9) "Computer system" means a set of related, connected or unconnected, computer
23 equipment, devices, and software.

24 (10) "Confidential information" means computer data of a business, nonprofit, or
25 government entity that is protected from disclosure on a computer, computer program, computer
26 system or computer network and that the computer, computer program, computer system or
27 computer network does not transmit or disclose unless initiated by, or with the permission of, the
28 owner of such computer, computer program, computer system or computer network.

29 ~~(10)~~(11) "Data" means any representation of information, knowledge, facts, concepts, or
30 instructions which are being prepared or have been prepared and are intended to be entered,
31 processed, or stored, are being entered, processed, or stored or have been entered, processed, or
32 stored in a computer, computer system, or computer network.

33 ~~(11)~~(12) "Electronic mail service provider" means any business or organization qualified
34 to do business in the state of Rhode Island that provides registered users the ability to send or

1 receive electronic mail through equipment located in this state and that is an intermediary in
2 sending or receiving electronic mail.

3 ~~(12)~~(13) "Financial instrument" includes, but is not limited to, any check, draft, warrant,
4 money order, note, certificate of deposit, letter of credit, bill of exchange, credit or debit card
5 transaction authorization mechanism, marketable security, or any computerized representation of
6 any of these.

7 ~~(13)~~(14) "Owner" means an owner or lessee of a computer or a computer network or an
8 owner, lessee, or licensee of computer data, computer programs, or computer software.

9 ~~(14)~~(15) "Person" shall include any individual, partnership, association, corporation or
10 joint venture.

11 ~~(15)~~(16) "Property" includes, but is not limited to:

12 (i) Real property;

13 (ii) Computers and computer networks;

14 (iii) Financial instruments, computer data, computer programs, computer software and all
15 other personal property regardless of whether they are:

16 (A) Tangible or intangible;

17 (B) In a format readable by humans or by a computer;

18 (C) In transit between computers or within a computer network or between any devices
19 which comprise a computer; or

20 (D) Located on any paper or in any device on which it is stored by a computer or by a
21 human; and

22 (E) Computer services.

23 (iv) A person "uses" a computer or computer network when he or she:

24 (A) Attempts to cause or causes a computer or computer network to perform or to stop
25 performing computer operations;

26 (B) Attempts to cause or causes the withholding or denial of the use of a computer,
27 computer network, computer program, computer data or computer software to another user; or

28 (C) Attempts to cause or causes another person to put false information into a computer.

29 (v) A person is "without authority" when: (A) he or she has no right or permission of the
30 owner to use a computer, or, he or she uses a computer in a manner exceeding his or her right or
31 permission or (B) he or she uses an Internet service e-mail system offered by a Rhode Island
32 based Internet service provider in contravention of the authority granted by or in violation of the
33 policies set by the Internet service provider.

34 (vi) Transmission of electronic mail from an organization to its members shall not be

1 deemed to be unsolicited bulk electronic mail.

2 ~~(16)~~(17) "Services" includes, but is not limited to, computer time, data processing, and
3 storage functions.

4 ~~(17)~~(18) "Source document" means an original document or record which forms the basis
5 of every electronic entry put into a computer, computer system, or computer network.

6 (19) "White hat security research" means accessing a computer, computer system,
7 computer network, computer software, computer program or data contained in a computer,
8 computer system, computer program, or computer network, solely for purposes of good faith
9 testing, investigation, identification, and/or correction of a security flaw or vulnerability, where
10 such activity is carried out, and where the information derived from the activity is used, primarily
11 to promote security or safety.

12 SECTION 2. Chapter 11-52 of the General Laws entitled "Computer Crime" is hereby
13 amended by adding the following section thereto:

14 **11-52-3.1. Unauthorized access to confidential information.**

15 (a) Whoever intentionally, without authority, directly or indirectly accesses a computer,
16 computer program, computer system, or computer network with the intent to either view, obtain,
17 copy, or download any confidential information contained in or stored on such computer,
18 computer program, computer system, or computer network, shall be guilty of a felony and shall
19 be subject to the penalties set forth in §11-52-5.

20 (b) Nothing in this section shall apply to any monitoring of, or interaction with, a user or
21 subscriber's Internet or other network connection or service, or a computer, computer program,
22 computer system, or computer network or computer data, by a telecommunications carrier, cable
23 operator, white hat security researcher, computer hardware or software provider, or provider of
24 information service or interactive computer service for purposes related to: network or computer
25 security, diagnostics, technical support, repair, advertising, authorized updates of software or
26 system firmware, authorized remote system management, providing, operating, or improving a
27 service used, requested, or authorized by an individual, or detection or prevention of the
28 unauthorized use of or fraudulent or other illegal activities in connection with a network, service,
29 or computer software.

30 SECTION 3. Nothing in this act may be construed to provide a basis for a private right
31 of action against an interactive computer service, as defined in 47 U.S.C. §230, or a
32 telecommunications carrier as used by another person to violate this act, for content provided by
33 such person or by another information content provider.

1 SECTION 4. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO CRIMINAL OFFENSES - COMPUTER CRIME

- 1 This act would prohibit unauthorized access to confidential information from a computer,
- 2 computer program, computer system, or computer network with the intent to either view, obtain,
- 3 copy, or download any confidential information. Violations would be a felony.
- 4 This act would take effect upon passage.

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