

Computer Crimes.

Sections 18.2-152.1. Short title. - This article shall be known and may be cited as the "Virginia Computer Crimes Act." (1984, c. 751.)

Sections 18.2-152.2. Definitions. - For purposes of this article: "Computer" means an electronic, magnetic, optical, hydraulic or organic device which, pursuant to a computer program, to human instruction, or to permanent instructions contained in the device or group of devices, can automatically perform computer operations with or on computer data and can communicate the results to another computer or to a person. The term 'computer' includes any connected or directly related device, equipment, or facility which enables the computer to store, retrieve or communicate computer programs, computer data or the results of computer operations to or from a person, another computer or another device.

"Computer data" means any representation of information, knowledge, facts, concepts, or instructions which is being prepared or has been prepared and is intended to be processed, is being processed, or has been processed in a computer or computer network. "Computer data" may be in any form, whether readable only by a computer or only by a human or by either, including, but not limited to computer printouts, magnetic storage media, punched cards, or stored internally in the memory of the computer.

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

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

"Computer program" means an ordered set of data representing coded instructions or statements that, when executed by a computer, causes the computer to perform one or more computer operations.

"Computer services" includes computer time or services or data processing services or information or data stored in connection therewith.

"Computer software" means a set of computer programs, procedures and associated documentation concerned with computer data or with

the operation of a computer, computer program, or computer network.

"Financial instrument" includes, but is not limited to, any check, draft, warrant, money order, note, certificate of deposit, letter of credit, bill of exchange, credit or debit card, transaction authorization mechanism, marketable security, or any computerized representation thereof

"Owner" means an owner or lessee of a computer or a computer network or an owner, lessee, or licensee of computer data, computer programs, or computer software.

"Person" shall include any individual, partnership, association, corporation or joint venture.

"Property" shall include:

1. Real property;
2. Computers and computer networks;
3. Financial instruments, computer data, computer programs, computer software and all other personal property regardless of whether they are:
 - a. Tangible or intangible;
 - b. In a format readable by humans or by a computer;
 - c. In transit between computers or within a computer network or between any devices which comprise a computer; or
 - d. Located on any paper or in any device on which it is stored by a computer or by a human; and
4. Computer services.

A person "uses" a computer or computer network when he:

1. Attempts to cause or causes a computer or computer network to perform or to stop performing computer operations;
2. Attempts to cause or causes the withholding or denial of the use of a computer, computer network, computer program, computer data or computer software to another user; or
3. Attempts to cause or causes another person to put false information into a computer.

A person is "without authority" when he has no right or permission of the owner to use a computer, or he uses a computer in a manner exceeding such right or permission. (1984, c. 751.)

Sections 18.2-152.3. Computer fraud. - Any person who uses computer or computer network without authority and with the intent to:

1. Obtain property or services by false pretenses;
2. Embezzle or commit larceny; or
3. Convert the property of another shall be guilty of the crime of computer fraud. If the value of the property of services obtained is \$200 or more, the crime of computer fraud shall be punishable as a Class 5 felony. Where the value of the property or services obtained is less than \$200.00 or more, the crime of computer fraud shall be punishable as a Class 5 felony. Where the value of the property or services obtained is less than \$200.00, the crime of computer fraud shall be punishable as a Class 1 misdemeanor. (1984, c. 751; 1985, c.322)

Sections 18.2-152.4. Computer trespass. - Any person who uses a computer or computer network without authority and with the intent to :

1. Temporarily or permanently remove computer data, computer programs or computer software from a computer or computer network;
2. Cause a computer data, computer programs or computer software;
3. Alter or erase any computer data, computer programs or computer persists;
4. Effect the creation or alteration of a financial instrument or of an electronic transfer of funds;
5. Cause physical injury to the property of another; or
6. Make or cause to be made an unauthorized copy, in any form, including, but not limited to, any printed or electronic form or computer data, computer programs or computer software residing in, communicated by or produced by a computer or computer network shall be guilty of the crime of computer trespass, which shall be punishable as a Class 1 misdemeanor.

Sections 18.2-152.5. Computer invasion of privacy. - A. A person is guilty of the crime of computer invasion of privacy when he uses a computer or computer network and intentionally examines without authority any employment, salary, credit or any other financial or personal information relating to any other person. "Examination" under this section requires the offender to review the information relating to any other person after the time at which the offender knows or should know that he is without authority to view the information displayed.

B. The crime of computer invasion of privacy shall be punishable as a Class 3 misdemeanor. (1984, c. 751; 1985, c. 398.)

Sections 18.2-152.6. Theft of computer services. - Any person who willfully uses a computer or computer network, with intent to obtain computer services without authority, shall be guilty of the crime of theft of computer services, which shall be punishable as a Class 1 misdemeanor.

Sections 18.2-152.7. Personal trespass by computer. - A. A person is guilty of the crime of personal trespass by computer when he uses a computer or computer network without authority and with the intent to cause physical injury to an individual.

B. If committed maliciously, the crime of personal trespass by computer shall be punishable as a Class 3 felony. If such act be done unlawfully but not maliciously, the crime of personal trespass by computer shall be punishable as a Class 1 misdemeanor.

Sections 18.2-152.8. Property capable of embezzlement. - For purposes of Section 18.2-111, personal property subject to embezzlement shall include:

1. Computers and computer networks;
2. Financial instruments, computer data, computer programs, computer software and all other personal property regardless of

whether they are:

- a. Tangible or intangible;
 - b. In a format readable by humans or by a computer;
 - c. In transit between computers or within a computer network or between any devices which comprise a computer; or
 - d. Located on any paper or in any device on which it is stored by a computer or by a human; and
3. Computer services.

Sections 18.2-152.9. Limitation of prosecution. -

Notwithstanding the provisions of Section 19.2-8, prosecution of a crime which is punishable as a misdemeanor pursuant to this article must be commenced before the earlier of (i) five years after the commission of the last act in the course of conduct constituting a violation of this article or (ii) one year after the existence of the illegal act and the identity of the offender are discovered by the Commonwealth, by the owner, or by anyone else who is damaged by such violation.

Section 18.2-152.10. Venue for prosecution. - For the purpose of venue under this article, any violation of this article shall be considered to have been committed in any county or city:

1. In which any act was performed in furtherance of any course of conduct which violated this article;
2. In which the owner has his principal place of business in the Commonwealth;
3. In which any offender had control or possession of any proceeds of the violation or of any books, records, documents, property, financial instrument, computer software, computer program, computer data, or other material or objects which were used in furtherance of the violation;
4. From which, to which, or through which any access to a computer or computer network was made whether by wires, electromagnetic waves, microwaves, or any other means of communication;
5. In which the offender resides; or
6. In which any computer which is an object or an instrument of the violation is located at the time of the alleged offense.

Section 18.2-152.11. Article not exclusive. - The provisions of this article shall not be construed to preclude the applicability of any other provision of the criminal law of this Commonwealth which presently applies or may in the future apply to any transaction or course of conduct which violates this article, unless such provision is clearly inconsistent with the terms of this article.

Section 18.2-152.12. Civil relief; damages. - A. Any person whose property or person is injured by reason of a violation of any provision of this article may sue therefor and recover for any damages sustained, and the costs of suit. Without limiting the generality of the term, "damages" shall include loss of profits.

B. At the request of any party to an action brought pursuant to

this section, the court may, in its discretion, conduct all legal proceedings in such a way as to protect the secrecy and security of the computer, computer network, computer data, computer program and computer software involved in order to prevent possible recurrence of the same or similar act by another person and to protect any trade secrets of any party.

C. The provisions of this article shall not be construed to limit any person's right to pursue any additional civil remedy otherwise allowed by law.

D. A civil action under this section must be commenced before expiration of the time period prescribed in Section 8.01-40.1.