

A Bill for an Act Relating to Computer Crime.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Legislative intent. The legislature finds and declares that:

(1) Computer-related crime is a growing problem in government as well as in the private sector.

(2) Computer-related crime occurs at great cost to the public since losses for each incident of computer crime tend to be far greater than the losses associated with each incident of other white collar crime.

(3) The opportunities for computer-related crimes in financial institutions, government programs, government records, and other business enterprises through the introduction of fraudulent records into a computer system, the unauthorized use of computer facilities, the alteration or destruction of computerized information or files, and the stealing of financial information, data, and other assets are great.

(4) Computer-related crime operations have a direct effect on state commerce.

(5) While various forms of computer crime might be the subject of criminal charges based on other provisions of law, it is appropriate and desirable that a supplemental and additional statute be provided which proscribes various forms of computer abuse.

SECTION 2. Chapter 708, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . COMPUTER CRIMES

§708- Definition of terms in this part. In this part, unless a different meaning plainly is required:

“Access” means to make use of any resources of a computer, computer system, or computer network.

“Computer” means an electronic device which performs logical, arithmetic, and memory functions by the manipulation of electronic or magnetic impulses and includes all input, output, processing, storage, software, or communication facilities which are connected or related to such a device in a computer system or computer network.

“Computer network” means the interconnection of communication lines with a computer through remote terminals or a complex consisting of two or more computers and includes interconnected remote terminals.

“Computer program” means a series of instructions or statements, in a form acceptable to a computer, which permits the functioning of a computer system in a manner designed to provide appropriate products from a computer system.

“Computer software” means a set of computer programs, procedures, or associated documentation concerned with the operation and function of a computer system.

“Computer system” means a set of related or interconnected computer equipment, devices, and software.

“Data” means a representation of information, knowledge, facts, concepts, or instructions, which are being prepared or have been prepared, in a formalized manner, and are intended for use in a computer system or computer network.

“Financial instrument” includes, but is not limited to, any 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 other computer system representation.

“Property” includes, but is not limited to, financial instruments, data, computer software, computer programs, documents associated with computer systems and computer programs, or copies, whether tangible or intangible, and data while in transit.

“Service” includes, but is not limited to, the use of the computer system, computer network, computer programs, computer software, or data prepared for computer use, data contained within a computer system, or data contained within a computer network.

§708- Computer fraud in the first degree. (1) A person commits the offense of computer fraud in the first degree if:

- (a) He accesses or causes to be accessed any computer, computer system, computer network, or any of its parts with the intent to devise or execute any scheme or artifice to defraud;
- (b) He accesses or causes to be accessed any computer, computer system, computer network, or any of its parts with the intent to obtain money, property, or services by means of embezzlement or

false or fraudulent representations where the value of the money, property, or services exceeds \$2,500; or

- (c) He accesses or causes to be accessed any computer, computer system, computer network, or any of its parts with the intent to obtain unauthorized information concerning the credit information of another person or who introduces or causes to be introduced false information into that system or network with the intent to wrongfully damage or wrongfully enhance the credit rating of any person where the value of the damage or enhancement exceeds \$2,500.

(2) Computer fraud in the first degree is a class C felony. In lieu of the statutory fine which may be imposed, any person who violates this section may be fined a sum of not more than two times the amount of the fraud.

§708- Computer fraud in the second degree. (1) A person commits the offense of computer fraud in the second degree if:

- (a) He accesses or causes to be accessed any computer, computer system, computer network, or any of its parts with the intent to obtain money, property, or services by means of embezzlement or false or fraudulent representations, money, property, or services where the value of the money, property, or services exceeds \$100 but is not more than \$2,500; or
- (b) He accesses or causes to be accessed any computer, computer system, computer network, or any of its parts with the intent to obtain unauthorized information concerning the credit information of another person or who introduces or causes to be introduced false information into that system or network with the intent to wrongfully damage or wrongfully enhance the credit rating of any person where the value of the damage or enhancement exceeds \$100 but is not more than \$2,500.

(2) Computer fraud in the second degree is a misdemeanor.

§708- Computer fraud in the third degree. (1) A person commits the offense of computer fraud in the third degree if:

- (a) He accesses or causes to be accessed any computer, computer system, computer network, or any or its parts with the intent to obtain money, property, or services by means of embezzlement or false or fraudulent representations where the value of the money, property, or services is not more than \$100; or
- (b) He accesses or causes to be accessed any computer, computer system, computer network, or any of its parts with the intent to obtain unauthorized information concerning the credit information of another person or who introduces or causes to be introduced false information into that system or network with the intent to

wrongfully damage or wrongfully enhance the credit rating of any person where the value of the damage or enhancement is not more than \$100.

(2) Computer fraud in the third degree is a petty misdemeanor.

§708- Unauthorized computer use in the first degree. (1) A person commits the offense of unauthorized computer use in the first degree if he intentionally and without authorization accesses, alters, damages, or destroys any computer, computer system, computer network, computer program, or computer software, or any data stored therein, with a value exceeding \$10,000.

(2) Unauthorized computer use in the first degree is a class C felony.

§708- Unauthorized computer use in the second degree. (1) A person commits the offense of unauthorized computer use in the second degree if he intentionally and without authorization accesses, alters, damages, or destroys any computer, computer system, computer network, computer program, or computer software, or any data stored therein, with a value exceeding \$2,500 but not more than \$10,000.

(2) Unauthorized computer use in the second degree is a misdemeanor.

§708- Unauthorized computer use in the third degree. (1) A person commits the offense of unauthorized computer use in the third degree if he intentionally and without authorization accesses, alters, damages, or destroys any computer, computer system, computer network, computer program, or computer software, or any data stored therein, with a value of not more than \$2,500.

(2) Unauthorized computer use in the third degree is a petty misdemeanor.”

SECTION 3. This Act does not affect rights and duties which matured, penalties which were incurred, or proceedings which were begun prior to its effective date.

SECTION 4. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 5. This Act shall take effect July 1, 1984.

(Approved May 31, 1984.)