

2C: 20-1 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA: 2C: 20-1 et al

(Computer related crimes-categories)

LAWS OF: 1984

CHAPTER: 184

Bill No: A1301

Sponsor(s): Flynn and Walker

Date Introduced: February 23, 1984

Committee: Assembly: Judiciary

Senate: Judiciary

Amended during passage: Yes

Substituted for S1807
~~since substituted, S1807~~
~~from the bill~~

Date of Passage: Assembly: Sept. 20, 1984

Senate: May 14, 1984

Date of Approval: November 14, 1984

Following statements are attached if available:

Sponsor statement:	Yes	Also attached: Senate amendments adopted 9-13-84 (with statement)
Committee statement:	Assembly	Yes
	Senate	Yes
Fiscal Note:	No	
Veto Message:	No	
Message on Signing:	No	
Following were printed:		
Reports:	No	
Hearings:	No	

See newspaper clipping, Star Ledger, 11-15-84--attached

CHAPTER 184 LAWS OF N. J. 1984
APPROVED 11-14-84

CORRECTED COPY

[OFFICIAL COPY REPRINT]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1301

STATE OF NEW JERSEY

ADOPTED APRIL 30, 1984

By Assemblyman FLYNN

AN ACT concerning computer-related crimes, amending N. J. S.
2C:20-1 and supplementing chapter 20 of Title 2C of the New
Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. N. J. S. 2C:20-1 is amended to read as follows:

2 2C:20-1. Definitions. In chapters 20 and 21 unless a different
3 meaning plainly is required:

4 a. "Deprive" means: (1) to withhold or cause to be withheld
5 property of another permanently or for so extended a period as to
6 appropriate a substantial portion of its economic value, or with
7 purpose to restore only upon payment of reward or other compen-
8 sation; or (2) to dispose or cause disposal of the property so as
9 to make it unlikely that the owner will recover it.

10 b. "Fiduciary" means an executor, general administrator of an
11 intestate, administrator with the will annexed, substituted admin-
12 istrator, guardian, substituted guardian, trustee under any trust
13 express, implied, resulting or constructive, substituted trustee,
14 executor, conservator, curator, receiver, trustee in bankruptcy,
15 assignee for the benefit of creditors, partner, agent or officer of a
16 corporation, public or private, temporary administrator, adminis-
17 trator, administrator pendente lite, administrator ad prosequen-
18 dum, administrator ad litem or other person acting in a similar
19 capacity.

20 c. "Financial institution" means a bank, insurance company,
21 credit union, savings and loan association, investment trust or
22 other organization held out to the public as a place of deposit of
23 funds or medium of savings or collective investment.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Senate committee amendment adopted June 25, 1984.

**—Senate amendments adopted September 13, 1984.

24 d. "Government" means the United States, any state, county,
25 municipality, or other political unit, or any department, agency or
26 subdivision of any of the foregoing, or any corporation or other
27 association carrying out the functions of government.

28 e. "Movable property" means property the location of which
29 can be changed, including things growing on, affixed to, or found
30 in land, and documents although the rights represented thereby
31 have no physical location. "Immovable property" is all other
32 property.

33 f. "Obtain" means: (1) in relation to property, to bring about
34 a transfer or purported transfer of a legal interest in the property,
35 whether to the obtainer or another; or (2) in relation to labor or
36 service, to secure performance thereof.

37 g. "Property" means anything of value, including real estate,
38 tangible and intangible personal property, trade secrets, contract
39 rights, choses-in-action and other interests in or claims to wealth,
40 admission or transportation tickets, captured or domestic animals,
41 food and drink, electric, gas, steam or other power, *financial instru-*
42 *ments, information, data, and computer software in either human*
43 *readable or computer readable form, copies or originals.*

44 h. "Property of another" includes property in which any person
45 other than the actor has an interest which the actor is not privileged
46 to infringe, regardless of the fact that the actor also has an interest
47 in the property and regardless of the fact that the other person
48 might be precluded from civil recovery because the property was
49 used in an unlawful transaction or was subject to forfeiture as
50 contraband. Property in possession of the actor shall not be deemed
51 property of another who has only a security interest therein, even
52 if legal title is in the creditor pursuant to a conditional sales
53 contract or other security agreement.

54 i. "Trade secret" means the whole or any portion or phase of
55 any scientific or technical information, design, process, procedure,
56 formula or improvement which is secret and of value. A trade
57 secret shall be presumed to be secret when the owner thereof takes
58 measure to prevent it from becoming available to persons other
59 than those selected by the owner to have access thereto for limited
60 purposes.

61 j. "Dealer in property" means a person who buys and sells prop-
62 erty as a business.

63 k. "Traffic" means:

64 (1) To sell, transfer, distribute, dispense or otherwise dispose of
65 property to another person: or

66 (2) To buy, receive, possess, or obtain control of or use property,
67 with intent to sell, transfer, distribute, dispense or otherwise dis-
68 pose of such property to another person.

69 l. "Broken succession of title" means lack of regular documents
70 of purchase and transfer by any seller except the manufacturer of
71 the subject property, or possession of documents of purchase and
72 transfer by any buyer without corresponding documents of sale and
73 transfer in possession of seller, or possession of documents of sale
74 and transfer by seller without corresponding documents of pur-
75 chase and transfer in possession of any buyer.

76 m. "Person" includes any individual or entity or enterprise as
77 defined herein holding or capable of holding a legal or beneficial
78 interest in property.

79 n. "Anything of value" means any direct or indirect gain or
80 advantage to any person.

81 o. "Interest in property which has been stolen" means title or
82 right of possession to such property.

83 p. "Stolen property" means property that has been the subject
84 of any unlawful taking.

85 q. "Enterprise" includes any individual, sole proprietorship,
86 partnership, corporation, business trust, association, or other legal
87 entity, and any union or group of individuals associated in fact
88 although not a legal entity, and it includes illicit as well as licit
89 enterprises and governmental as well as other entities.

90 r. "Attorney General" includes the Attorney General of New
91 Jersey, his assistants and deputies. The term shall also include a
92 county prosecutor or his designated assistant prosecutor if a county
93 prosecutor is expressly authorized in writing by the Attorney Gen-
94 eral to carry out the powers conferred on the Attorney General by
95 this chapter.

1 2. (New section) As used in this act:

2 a. "Access" means to instruct, communicate with, store data in,
3 retrieve data from, or otherwise make use of any resources of a
4 computer, computer system, or computer network.

5 b. "Computer" means an electronic device or another similar
6 device capable of executing a computer program, including arith-
7 metic, logic, memory or input-output operations, by the manipula-
8 tion of electronic or magnetic impulses and includes all computer
9 equipment connected to such a device in a computer system or
10 network.

11 c. "Computer equipment" means any equipment or devices in-
12 cluding all input, output, processing, storage, software, or communi-
13 cations facilities, intended to interface with the computer.

14 d. "Computer network" means the interconnection of communi-
 15 cation lines, including microwave or other means of electronic
 16 communications, with a computer through remote terminals, or a
 17 complex consisting of two or more interconnected computers.

18 e. "Computer program" means a series of instructions or state-
 19 ments executable on a computer which directs the computer system
 20 in a maner to produce a desired result.

21 f. "Computer software" means a set of computer programs, data,
 22 procedures, and associated documentation concerned with the
 23 operation of a computer system.

24 g. "Computer system" means a set of interconnected computer
 25 equipment intended to operate as a cohesive system.

26 h. "Data" means information, facts, concepts, or instructions
 27 prepared for use in a computer, computer system, or computer
 28 network.

29 i. "Data base" means a collection of data.

30 j. "Financial instrument" includes but is not limited to a check,
 31 draft, warrant, money order, note, certificate of deposit, letter of
 32 credit, bill of exchange, credit or debit card, transaction authoriza-
 33 tion mechanism, marketable security and any computer representa-
 34 tion of these items.

35 k. "Services" includes but is not limited to the use of a computer
 36 system, computer network, computer programs, data prepared for
 37 computer use and data contained within a computer system or
 38 computer network.

1 3. (New seection) For the purposes of this act, the value of any
 2 property or services, including the use of computer time, shall be
 3 their fair market value if it is determined that a willing buyer and
 4 willing seller exist. Alternatively, value shall include but not be
 5 limited to the cost of generating or obtaining data and storing it
 6 within a computer or computer system.

1 4. (New section) A person is guilty of theft if he purposely or
 2 knowingly and without authorization:

3 a. Alters, damages, takes or destroys any data, data base, com-
 4 puter program, computer software or computer equipment existing
 5 internally or externally to a computer, computer system or com-
 6 puter network;

7 b. Alters, damages, takes or destroys a computer, computer
 8 system or computer network;

9 c. Accesses or attempts to access any computer, computer system
 10 or computer network for the purpose of executing a scheme to
 11 defraud, or to obtain services, property, or money, from the owner
 12 of a computer or any third party: or

13 d. Alters, tampers with, obtains, intercepts, damages or destroys
14 a financial instrument.

1 5. (New section) a. Theft under section 4 of this act constitutes
2 a crime of the second degree if the offense results in the altering,
3 damaging, destruction or obtaining of property or services with a
4 value of \$75,000.00 or more. It shall also be a crime of the second
5 degree if the offense results in a substantial interruption or im-
6 pairment of public communication, transportation, supply of water,
7 gas or power, or other public service.

8 b. A person is guilty of a crime of the third degree if he purposely
9 or knowingly accesses and recklessly alters, damages, destroys or
10 obtains any data, data base, computer, computer program, computer
11 software, computer equipment, computer system or computer net-
12 work with a value of \$75,000.00 or more.

1 6. (New section) a. Theft under section 4 of this act constitutes
2 a crime of the third degree if the offense results in the altering,
3 damaging, destruction, or obtaining of property or services with a
4 value of at least \$500.00 but less than \$75,000.00.

5 b. A person is guilty of a crime of the fourth degree if he pur-
6 posely or knowingly accesses and recklessly alters, damages, de-
7 stroys or obtains any data, data base, computer, computer program,
8 computer software, computer equipment, computer system or
9 computer network with a value of at least \$500.00 but less than
10 \$75,000.00.

1 7. (New section) a. Theft under section 4 of this act constitutes a
2 crime of the fourth degree if the offense results in the altering,
3 damaging, destruction or obtaining of property or services with a
4 value of more than \$200.00 but less than \$500.00.

5 b. A person is guilty of a disorderly persons offense if he pur-
6 posely or knowingly accesses and recklessly alters, damages, de-
7 stroys or obtains any data, data base, computer, computer program,
8 computer software, computer equipment, computer system or com-
9 puter network with a value of more than \$200.00 but less than
10 \$500.00.

1 8. (New section) a. Theft under section 4 of this act constitutes a
2 disorderly persons offense when the offense results in the altering,
3 damaging, destruction or obtaining of property or services with a
4 value of \$200.00 or less.

5 b. A person is guilty of a petty disorderly persons offense if he
6 purposely or knowingly accesses and recklessly alters, damages,
7 destroys or obtains any data, data base, computer, computer pro-
8 gram, computer software, computer equipment, computer system
9 or computer network with a value of \$200.00 or less.

1 9. (New section) A person is guilty of a crime of the third degree
 2 if he purposely and without authorization accesses ***[and alters]*** ,
 3 *alters, damages or destroys* a computer system or any of its parts
 4 where the assessing and altering cannot be assessed a monetary
 5 value or loss.

1 10. (New section) A person is guilty of a crime of the third degree
 2 if he purposely and without authorization accesses a computer
 3 system or any of its parts and directly or indirectly discloses or
 4 causes to be disclosed data, data base, computer software or
 5 computer programs where the accessing and disclosing cannot be
 6 assessed a monetary value or loss.

1 11. (New section) A person is guilty of a disorderly persons
 2 offense if he purposely and without authorization accesses a com-
 3 puter or any of its parts and this action does not result in the
 4 altering, damaging or destruction of any property or services.

1 ****12.** (New section) *The copying or altering of a computer pro-*
 2 *gram or computer software shall not constitute theft for the pur-*
 3 *poses of chapters 20 and 21 of Title 2C of the New Jersey Statutes*
 4 *or any offense under this act if the computer program or computer*
 5 *software is of a retail value of \$1,000.00 or less and is not copied for*
 6 *resale.***

1 ****[12.]** **13.**** (New section) For the purpose of prosecution
 2 under this act, the situs of an offense of theft shall be the location
 3 of the computer which is assessed, or where the terminal used in the
 4 offense is situated, or where the actual damage occurs.

1 ****[13.]** **14.**** This act shall take effect on the 120th day after
 2 enactment, but shall remain inoperative until the enactment into
 3 law of Assembly Committee Substitute for Assembly Bill No. 245
 4 of 1984.

ASSEMBLY, No. 1301

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 23, 1984

By Assemblyman FLYNN and Assemblywoman WALKER

AN ACT concerning computer-related crimes and supplementing
Title 2C of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. As used in this act:

2 a. "Access" means to instruct, communicate with, store data in,
3 retrieve data from or otherwise make use of any resources of a
4 computer, computer system or computer network;

5 b. "Computer" means an electronic device capable of executing
6 a computer program, including arithmetic, logic, memory, input-
7 output operations, by the manipulation of electronic or magnetic
8 impulses and includes all computer equipment connected to such
9 a device in a system or network;

10 c. "Computer equipment" means any equipment or devices in-
11 cluding all input, output, processing, storage, software, or com-
12 munications facilities, intended to interface with the computer;

13 d. "Computer network" means the interconnection of communi-
14 cation lines, including microwave or other means of electronic
15 communications, with a computer through remote terminals, or a
16 complex consisting of two or more interconnected computers;

17 e. "Computer program" means a series of instructions or state-
18 ments executable on a computer which directs the computer system
19 in a manner to provide a desired result;

20 f. "Computer software" means a set of computer programs, data,
21 procedures and associated documentation concerned with the op-
22 eration of a computer system;

23 g. "Computer system" means the combination of computer

24 equipment, computer software and data bases intended to operate
25 together as a cohesive system;

26 h. "Data" means a representation of facts or information in a
27 formalized manner suitable for communication, interpretation or
28 processing by a computer;

29 i. "Data base" means a collection of data;

30 j. "Property" means financial instruments, information, data
31 and computer software in either machine or human readable form
32 and other tangible or intangible item of value;

33 k. "Services" means computer time and data storage functions.

1 2. Any person who knowingly and without authority, directly
2 or indirectly, accesses or causes to be accessed any computer,
3 computer equipment, computer system or computer network for
4 the purpose of the transfer of electrical impulses or the intro-
5 duction of fraudulent data, data base, records, computer software,
6 computer program or other computer related information with the
7 intent to devise or execute any scheme or artifice to defraud or
8 deceive or for monetary or financial gain for himself or another
9 by means of false or fraudulent pretenses, representation or prom-
10 ises is guilty of a crime of the third degree.

1 3. Any person who knowingly and without authorization, for the
2 purpose of causing injury, directly or indirectly, accesses, alters,
3 damages or destroys any computer, computer equipment, computer
4 network, computer system, computer program, data, database or
5 any other computer related item of value, either internal or ex-
6 ternal to the computer, tangible or intangible, is guilty of a crime
7 of the third degree.

1 4. Any person who knowingly and without authorization, directly
2 or indirectly, discloses, or causes to be disclosed data, data base,
3 computer software or computer programs of a proprietary nature
4 is guilty of a crime of the third degree.

1 5. Any person who knowingly and without authorization, in-
2 directly or directly, accesses or causes to be accessed any computer,
3 computer equipment, computer system or computer network for
4 the purpose of obtaining computer services for monetary or finan-
5 cial gain for himself or another is guilty of a crime of the third
6 degree.

1 6. For purposes of determining "gain or loss" pursuant to the
2 provisions of subsection e. of N. J. S. 2C:43-3 for a crime com-
3 mitted under this act, the value of intangible property shall be
4 determined separately from the media upon which it is recorded
5 and shall be based upon the price which a willing purchaser would
6 pay for the property of a willing seller.

1 7. This act shall take effect immediately.

A1301

Sponsor's

3

STATEMENT

Modern society is growing increasingly dependent upon the processing capabilities of the computer. Along with this increasing dependency on computers, there has been a growing concern over the constant increase in computer-related crime and in the inadequacy of present statutes to provide adequate protection against such crimes. The purpose of this bill is to establish criminal offenses specifically dealing with computer-related criminal activities. The bill would prohibit the accessing of computers for the purpose of either obtaining data or introducing fraudulent data; the damaging of computer equipment; the unauthorized disclosure of computer data and the unauthorized use of computer services. It is hoped that enactment of this proposed legislation will aid in prosecution of computer-related criminal activities.

ASSEMBLY JUDICIARY COMMITTEE
STATEMENT TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1301

STATE OF NEW JERSEY

DATED: MARCH 26, 1984

This committee substitute establishes criminal offenses specifically dealing with computer-related criminal activities. Under the bill, a person is guilty of theft if he purposely, knowingly and without authorization alters, damages, takes or destroys any data, computer system, computer software or financial instrument. It would also be theft to purposely, knowingly and without authorization access or attempt to access any computer system for the purpose of executing a scheme to defraud or to obtain services or property from another person.

In addition, the bill makes it a crime to purposely or knowingly access and recklessly alter, damage or obtain any data, computer system or computer software.

The degrees of crime under the bill are graded in accordance with the theft provisions of the New Jersey Code of Criminal Justice, Title 2C. Therefore, the degree of crime would depend on the value of the property altered, damaged or obtained. However, where the offense involves the element of recklessness as described in the bill, its severity is graded one degree lower than the penalty for theft of an equivalent value of property. This reflects the fact that a person should be held less culpable for a reckless action than for an action carried out with a full knowing and purposeful intent to commit a theft or to cause damage.

Where the property involved cannot be assessed a monetary value, the bill would make it a crime of the third degree.

A person would be guilty of a disorderly persons offense if he purposely and without authorization accesses a computer and no damage of property results.

The intent of this bill is to provide a comprehensive approach to prosecuting the increasing varieties of computer abuse. For example, in Connecticut an auxiliary policeman was suspected of using a police department computer to check records for his full-time employer. This bill would address this purposeful and unauthorized disclosure of computer data.

Another case involved persons who gained access to and altered patient files controlling radiation treatment at the Sloan-Kettering

Cancer Center in New York. This bill would permit prosecution under these circumstances.

In a third instance, Columbia University brought a civil action against a computer hobbyist alleging that he had destroyed data and caused \$25,000.00 in damage by accessing one of the university's computers without authorization. This situation is addressed under the bill.

Further, the provisions of the bill can be used to prosecute a person who accesses a bank system to effectuate illegal transfers of funds, or a person who accesses a college system to view or tamper with student records.

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1301

STATE OF NEW JERSEY

ADOPTED APRIL 30, 1984

By Assemblyman FLYNN

AN ACT concerning computer-related crimes, amending N. J. S. 2C:20-1 and supplementing chapter 20 of Title 2C of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. N. J. S. 2C:20-1 is amended to read as follows:

2 2C:20-1. Definitions. In chapters 20 and 21 unless a different
3 meaning plainly is required:

4 a. "Deprive" means: (1) to withhold or cause to be withheld
5 property of another permanently or for so extended a period as to
6 appropriate a substantial portion of its economic value, or with
7 purpose to restore only upon payment of reward or other compen-
8 sation; or (2) to dispose or cause disposal of the property so as
9 to make it unlikely that the owner will recover it.

10 b. "Fiduciary" means an executor, general administrator of an
11 intestate, administrator with the will annexed, substituted admin-
12 istrator, guardian, substituted guardian, trustee under any trust
13 express, implied, resulting or constructive, substituted trustee,
14 executor, conservator, curator, receiver, trustee in bankruptcy,
15 assignee for the benefit of creditors, partner, agent or officer of a
16 corporation, public or private, temporary administrator, adminis-
17 trator, administrator pendente lite, administrator ad prosequen-
18 dum, administrator ad litem or other person acting in a similar
19 capacity.

20 c. "Financial institution" means a bank, insurance company,
21 credit union, savings and loan association, investment trust or
22 other organization held out to the public as a place of deposit of
23 funds or medium of savings or collective investment.

Matter printed in italics thus is new matter.

24 d. "Government" means the United States, any state, county,
25 municipality, or other political unit, or any department, agency or
26 subdivision of any of the foregoing, or any corporation or other
27 association carrying out the functions of government.

28 e. "Movable property" means property the location of which
29 can be changed, including things growing on, affixed to, or found
30 in land, and documents although the rights represented thereby
31 have no physical location. "Immovable property" is all other
32 property.

33 f. "Obtain" means: (1) in relation to property, to bring about
34 a transfer or purported transfer of a legal interest in the property,
35 whether to the obtainer or another; or (2) in relation to labor or
36 service, to secure performance thereof.

37 g. "Property" means anything of value, including real estate,
38 tangible and intangible personal property, trade secrets, contract
39 rights, choses-in-action and other interests in or claims to wealth,
40 admission or transportation tickets, captured or domestic animals,
41 food and drink, electric, gas, steam or other power, *financial instru-*
42 *ments, information, data, and computer software in either human*
43 *readable or computer readable form, copies or originals.*

44 h. "Property of another" includes property in which any person
45 other than the actor has an interest which the actor is not privileged
46 to infringe, regardless of the fact that the actor also has an interest
47 in the property and regardless of the fact that the other person
48 might be precluded from civil recovery because the property was
49 used in an unlawful transaction or was subject to forfeiture as
50 contraband. Property in possession of the actor shall not be deemed
51 property of another who has only a security interest therein, even
52 if legal title is in the creditor pursuant to a conditional sales
53 contract or other security agreement.

54 i. "Trade secret" means the whole or any portion or phase of
55 any scientific or technical information, design, process, procedure,
56 formula or improvement which is secret and of value. A trade
57 secret shall be presumed to be secret when the owner thereof takes
58 measure to prevent it from becoming available to persons other
59 than those selected by the owner to have access thereto for limited
60 purposes.

61 j. "Dealer in property" means a person who buys and sells prop-
62 erty as a business.

63 k. "Traffic" means:

64 (1) To sell, transfer, distribute, dispense or otherwise dispose of
65 property to another person; or

66 (2) To buy, receive, possess, or obtain control of or use property,
67 with intent to sell, transfer, distribute, dispense or otherwise dis-
68 pose of such property to another person.

69 l. "Broken succession of title" means lack of regular documents
70 of purchase and transfer by any seller except the manufacturer of
71 the subject property, or possession of documents of purchase and
72 transfer by any buyer without corresponding documents of sale and
73 transfer in possession of seller, or possession of documents of sale
74 and transfer by seller without corresponding documents of pur-
75 chase and transfer in possession of any buyer.

76 m. "Person" includes any individual or entity or enterprise as
77 defined herein holding or capable of holding a legal or beneficial
78 interest in property.

79 n. "Anything of value" means any direct or indirect gain or
80 advantage to any person.

81 o. "Interest in property which has been stolen" means title or
82 right of possession to such property.

83 p. "Stolen property" means property that has been the subject
84 of any unlawful taking.

85 q. "Enterprise" includes any individual, sole proprietorship,
86 partnership, corporation, business trust, association, or other legal
87 entity, and any union or group of individuals associated in fact
88 although not a legal entity, and it includes illicit as well as licit
89 enterprises and governmental as well as other entities.

90 r. "Attorney General" includes the Attorney General of New
91 Jersey, his assistants and deputies. The term shall also include a
92 county prosecutor or his designated assistant prosecutor if a county
93 prosecutor is expressly authorized in writing by the Attorney Gen-
94 eral to carry out the powers conferred on the Attorney General by
95 this chapter.

1 2. (New section) As used in this act:

2 a. "Access" means to instruct, communicate with, store data in,
3 retrieve data from, or otherwise make use of any resources of a
4 computer, computer system, or computer network.

5 b. "Computer" means an electronic device or another similar
6 device capable of executing a computer program, including arith-
7 metic, logic, memory or input-output operations, by the manipula-
8 tion of electronic or magnetic impulses and includes all computer
9 equipment connected to such a device in a computer system or
10 network.

11 c. "Computer equipment" means any equipment or devices in-
12 cluding all input, output, processing, storage, software, or communi-
13 cations facilities, intended to interface with the computer.

14 d. "Computer network" means the interconnection of communi-
15 cation lines, including microwave or other means of electronic
16 communications, with a computer through remote terminals, or a
17 complex consisting of two or more interconnected computers.

18 e. "Computer program" means a series of instructions or state-
19 ments executable on a computer which directs the computer system
20 in a maner to produce a desired result.

21 f. "Computer software" means a set of computer programs, data,
22 procedures, and associated documentation concerned with the
23 operation of a computer system.

24 g. "Computer system" means a set of interconnected computer
25 equipment intended to operate as a cohesive system.

26 h. "Data" means information, facts, concepts, or instructions
27 prepared for use in a computer, computer system, or computer
28 network.

29 i. "Data base" means a collection of data.

30 j. "Financial instrument" includes but is not limited to a check,
31 draft, warrant, money order, note, certificate of deposit, letter of
32 credit, bill of exchange, credit or debit card, transaction authoriza-
33 tion mechanism, marketable security and any computer representa-
34 tion of these items.

35 k. "Services" includes but is not limited to the use of a computer
36 system, computer network, computer programs, data prepared for
37 computer use and data contained within a computer system or
38 computer network.

1 3. (New seection) For the purposes of this act, the value of any
2 property or services, including the use of computer time, shall be
3 their fair market value if it is determined that a willing buyer and
4 willing seller exist. Alternatively, value shall include but not be
5 limited to the cost of generating or obtaining data and storing it
6 within a computer or computer system.

1 4. (New section) A person is guilty of theft if he purposely or
2 knowingly and without authorization:

3 a. Alters, damages, takes or destroys any data, data base, com-
4 puter program, computer software or computer equipment existing
5 internally or externally to a computer, computer system or com-
6 puter network;

7 b. Alters, damages, takes or destroys a computer, computer
8 system or computer network;

9 c. Accesses or attempts to access any computer, computer system
10 or computer network for the purpose of executing a scheme to
11 defraud, or to obtain services, property, or money, from the owner
12 of a computer or any third party; or

13 d. Alters, tampers with, obtains, intercepts, damages or destroys
14 a financial instrument.

1 5. (New section) a. Theft under section 4 of this act constitutes
2 a crime of the second degree if the offense results in the altering,
3 damaging, destruction or obtaining of property or services with a
4 value of \$75,000.00 or more. It shall also be a crime of the second
5 degree if the offense results in a substantial interruption or im-
6 pairment of public communication, transportation, supply of water,
7 gas or power, or other public service.

8 b. A person is guilty of a crime of the third degree if he purposely
9 or knowingly accesses and recklessly alters, damages, destroys or
10 obtains any data, data base, computer, computer program, computer
11 software, computer equipment, computer system or computer net-
12 work with a value of \$75,000.00 or more.

1 6. (New section) a. Theft under section 4 of this act constitutes
2 a crime of the third degree if the offense results in the altering,
3 damaging, destruction, or obtaining of property or services with a
4 value of at least \$500.00 but less than \$75,000.00.

5 b. A person is guilty of a disorderly persons offense if he pur-
6 posely or knowingly accesses and recklessly alters, damages, de-
7 stroys or obtains any data, data base, computer, computer program,
8 computer software, computer equipment, computer system or
9 computer network with a value of at least \$500.00 but less than
10 \$75,000.00.

1 7. (New section) a. Theft under section 4 of this act constitutes a
2 crime of the fourth degree if the offense results in the altering,
3 damaging, destruction or obtaining of property or services with a
4 value of more than \$200.00 but less than \$500.00.

5 b. A person is guilty of a disorderly persons offense if he pur-
6 posely or knowingly accesses and recklessly alters, damages, de-
7 stroys or obtains any data, data base, computer, computer program,
8 computer software, computer equipment, computer system or com-
9 puter network with a value of more than \$200.00 but less than
10 \$500.00.

1 8. (New section) a. Theft under section 4 of this act constitutes a
2 disorderly persons offense when the offense results in the altering,
3 damaging, destruction or obtaining of property or services with a
4 value of \$200.00 or less.

5 b. A person is guilty of a disorderly persons offense if he pur-
6 purposely or knowingly accesses and recklessly alters, damages,
7 destroys or obtains any data, data base, computer, computer pro-
8 gram, computer software, computer equipment, computer system
9 or computer network with a value of \$200.00 or less.

1 9. (New section) A person is guilty of a crime of the third degree
2 if he purposely and without authorization accesses and alters a
3 computer system or any of its parts where the assessing and alter-
4 ing cannot be assessed a monetary value or loss.

1 10. (New section) A person is guilty of a crime of the third degree
2 if he purposely and without authorization accesses a computer
3 system or any of its parts and directly or indirectly discloses or
4 causes to be disclosed data, data base, computer software or
5 computer programs where the accessing and disclosing cannot be
6 assessed a monetary value or loss.

1 11. (New section) A person is guilty of a disorderly persons
2 offense if he purposely and without authorization accesses a com-
3 puter or any of its parts and this action does not result in the
4 altering, damaging or destruction of any property or services.

1 12. (New section) For the purpose of prosecution under this
2 act, the situs of an offense of theft shall be the location of the
3 computer which is assessed, or where the terminal used in the
4 offense is situated, or where the actual damage occurs.

1 13. This act shall take effect on the 120th day after enactment,
2 but shall remain inoperative until the enactment into law of
3 Assembly Committee Substitute for Assembly Bill No. 245 of 1984.

SENATE JUDICIARY COMMITTEE
STATEMENT TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1301

STATE OF NEW JERSEY

DATED: JUNE 25, 1984

This bill attempts to deal in a comprehensive manner with the issue of criminal, computer-related activities. Under both bills, a person is guilty of theft if the person alters, damages, takes or destroys any computer equipment, data or software. The unauthorized accessing of any computer for the purpose of executing a scheme to defraud or to obtain services or property would also be criminalized.

Grading of the criminal offenses defined by both bills is based on two factors: the value of the services or property stolen or the amount of resulting damages and whether the person acted intentionally or recklessly. The grading scheme is as follows:

Crimes of the Second Degree (five to 10 years imprisonment and/or a fine of up to \$100,000.)

The intentional acquisition or damaging of computer equipment or services with a value of \$75,000 or more.

Any intentional computer-related crime which results in a substantial interruption or impairment to any public service.

Crimes of the Third Degree (three to five years imprisonment and/or a fine of up to \$7,500)

The reckless acquisition or damaging of computer property or services with a value of \$75,000 or more.

The intentional acquisition or damaging of computer equipment or services with a value of at least \$500 but less than \$75,000. The intentional accessing and altering of a computer system when the monetary value or loss cannot be assessed.

The intentional disclosure of computer data, software or programs when the monetary value cannot be assessed.

Crimes of the Fourth Degree
(up to 18 months imprisonment
and/or a fine of up to \$7,500)

The reckless acquisition or damaging of computer equipment or services with a value of at least \$500 but less than \$75,000.

The intentional acquisition or damaging of computer equipment or services with a value of more than \$200 but less than \$500.

Disorderly Persons Offense (up to six months imprisonment and/or a fine of up to \$1,000)

The reckless acquisition or damaging of computer equipment or services with a value of more than \$200 but less than \$500.

The intentional acquisition or damaging of computer equipment or services with a value of \$200 or less.

The intentional accessing of a computer which does not result in the altering or damaging of equipment or service.

Petty Disorderly Persons Offense
(up to 30 days imprisonment
and/or a fine of up to \$500)

The reckless acquisition or damaging of computer equipment or services with a value of less than \$200.

Under both bills for purposes of prosecution a computer-related offense can occur where the computer accessed is located, where the terminal used in the offense is situated or where the damage occurs.

By amendment, the committee added language in section 9 of the bill to conform the phrasing of that section with the wording of other sections of the bill.

[SENATE REPRINT]
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1301

STATE OF NEW JERSEY

ADOPTED APRIL 30, 1984

By Assemblyman FLYNN

AN ACT concerning computer-related crimes, amending N. J. S. 2C:20-1 and supplementing chapter 20 of Title 2C of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. N. J. S. 2C:20-1 is amended to read as follows:

2 2C:20-1. Definitions. In chapters 20 and 21 unless a different
3 meaning plainly is required:

4 a. "Deprive" means: (1) to withhold or cause to be withheld
5 property of another permanently or for so extended a period as to
6 appropriate a substantial portion of its economic value, or with
7 purpose to restore only upon payment of reward or other compen-
8 sation; or (2) to dispose or cause disposal of the property so as
9 to make it unlikely that the owner will recover it.

10 b. "Fiduciary" means an executor, general administrator of an
11 intestate, administrator with the will annexed, substituted admin-
12 istrator, guardian, substituted guardian, trustee under any trust
13 express, implied, resulting or constructive, substituted trustee,
14 executor, conservator, curator, receiver, trustee in bankruptcy,
15 assignee for the benefit of creditors, partner, agent or officer of a
16 corporation, public or private, temporary administrator, adminis-
17 trator, administrator pendente lite, administrator ad prosequen-
18 dum, administrator ad litem or other person acting in a similar
19 capacity.

20 c. "Financial institution" means a bank, insurance company,
21 credit union, savings and loan association, investment trust or
22 other organization held out to the public as a place of deposit of
23 funds or medium of savings or collective investment.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:
***—Senate committee amendment adopted June 25, 1984.**

24 d. "Government" means the United States, any state, county,
25 municipality, or other political unit, or any department, agency or
26 subdivision of any of the foregoing, or any corporation or other
27 association carrying out the functions of government.

28 e. "Movable property" means property the location of which
29 can be changed, including things growing on, affixed to, or found
30 in land, and documents although the rights represented thereby
31 have no physical location. "Immovable property" is all other
32 property.

33 f. "Obtain" means: (1) in relation to property, to bring about
34 a transfer or purported transfer of a legal interest in the property,
35 whether to the obtainer or another; or (2) in relation to labor or
36 service, to secure performance thereof.

37 g. "Property" means anything of value, including real estate,
38 tangible and intangible personal property, trade secrets, contract
39 rights, choses-in-action and other interests in or claims to wealth,
40 admission or transportation tickets, captured or domestic animals,
41 food and drink, electric, gas, steam or other power, *financial instru-*
42 *ments, information, data, and computer software in either human*
43 *readable or computer readable form, copies or originals.*

44 h. "Property of another" includes property in which any person
45 other than the actor has an interest which the actor is not privileged
46 to infringe, regardless of the fact that the actor also has an interest
47 in the property and regardless of the fact that the other person
48 might be precluded from civil recovery because the property was
49 used in an unlawful transaction or was subject to forfeiture as
50 contraband. Property in possession of the actor shall not be deemed
51 property of another who has only a security interest therein, even
52 if legal title is in the creditor pursuant to a conditional sales
53 contract or other security agreement.

54 i. "Trade secret" means the whole or any portion or phase of
55 any scientific or technical information, design, process, procedure,
56 formula or improvement which is secret and of value. A trade
57 secret shall be presumed to be secret when the owner thereof takes
58 measure to prevent it from becoming available to persons other
59 than those selected by the owner to have access thereto for limited
60 purposes.

61 j. "Dealer in property" means a person who buys and sells prop-
62 erty as a business.

63 k. "Traffic" means:

64 (1) To sell, transfer, distribute, dispense or otherwise dispose of
65 property to another person; or

66 (2) To buy, receive, possess, or obtain control of or use property,
67 with intent to sell, transfer, distribute, dispense or otherwise dis-
68 pose of such property to another person.

69 l. "Broken succession of title" means lack of regular documents
70 of purchase and transfer by any seller except the manufacturer of
71 the subject property, or possession of documents of purchase and
72 transfer by any buyer without corresponding documents of sale and
73 transfer in possession of seller, or possession of documents of sale
74 and transfer by seller without corresponding documents of pur-
75 chase and transfer in possession of any buyer.

76 m. "Person" includes any individual or entity or enterprise as
77 defined herein holding or capable of holding a legal or beneficial
78 interest in property.

79 n. "Anything of value" means any direct or indirect gain or
80 advantage to any person.

81 o. "Interest in property which has been stolen" means title or
82 right of possession to such property.

83 p. "Stolen property" means property that has been the subject
84 of any unlawful taking.

85 q. "Enterprise" includes any individual, sole proprietorship,
86 partnership, corporation, business trust, association, or other legal
87 entity, and any union or group of individuals associated in fact
88 although not a legal entity, and it includes illicit as well as licit
89 enterprises and governmental as well as other entities.

90 r. "Attorney General" includes the Attorney General of New
91 Jersey, his assistants and deputies. The term shall also include a
92 county prosecutor or his designated assistant prosecutor if a county
93 prosecutor is expressly authorized in writing by the Attorney Gen-
94 eral to carry out the powers conferred on the Attorney General by
95 this chapter.

1 2. (New section) As used in this act:

2 a. "Access" means to instruct, communicate with, store data in,
3 retrieve data from, or otherwise make use of any resources of a
4 computer, computer system, or computer network.

5 b. "Computer" means an electronic device or another similar
6 device capable of executing a computer program, including arith-
7 metic, logic, memory or input-output operations, by the manipula-
8 tion of electronic or magnetic impulses and includes all computer
9 equipment connected to such a device in a computer system or
10 network.

11 c. "Computer equipment" means any equipment or devices in-
12 cluding all input, output, processing, storage, software, or communi-
13 cations facilities, intended to interface with the computer.

14 d. "Computer network" means the interconnection of communi-
15 cation lines, including microwave or other means of electronic
16 communications, with a computer through remote terminals, or a
17 complex consisting of two or more interconnected computers.

18 e. "Computer program" means a series of instructions or state-
19 ments executable on a computer which directs the computer system
20 in a maner to produce a desired result.

21 f. "Computer software" means a set of computer programs, data,
22 procedures, and associated documentation concerned with the
23 operation of a computer system.

24 g. "Computer system" means a set of interconnected computer
25 equipment intended to operate as a cohesive system.

26 h. "Data" means information, facts, concepts, or instructions
27 prepared for use in a computer, computer system, or computer
28 network.

29 i. "Data base" means a collection of data.

30 j. "Financial instrument" includes but is not limited to a check,
31 draft, warrant, money order, note, certificate of deposit, letter of
32 credit, bill of exchange, credit or debit card, transaction authoriza-
33 tion mechanism, marketable security and any computer representa-
34 tion of these items.

35 k. "Services" includes but is not limited to the use of a computer
36 system, computer network, computer programs, data prepared for
37 computer use and data contained within a computer system or
38 computer network.

1 3. (New seection) For the purposes of this act, the value of any
2 property or services, including the use of computer time, shall be
3 their fair market value if it is determined that a willing buyer and
4 willing seller exist. Alternatively, value shall include but not be
5 limited to the cost of generating or obtaining data and storing it
6 within a computer or computer system.

1 4. (New section) A person is guilty of theft if he purposely or
2 knowingly and without authorization :

3 a. Alters, damages, takes or destroys any data, data base, com-
4 puter program, computer software or computer equipment existing
5 internally or externally to a computer, computer system or com-
6 puter network ;

7 b. Alters, damages, takes or destroys a computer, computer
8 system or computer network ;

9 c. Accesses or attempts to access any computer, computer system
10 or computer network for the purpose of executing a scheme to
11 defraud, or to obtain services, property, or money, from the owner
12 of a computer or any third party ; or

13 d. Alters, tampers with, obtains, intercepts, damages or destroys
14 a financial instrument.

1 5. (New section) a. Theft under section 4 of this act constitutes
2 a crime of the second degree if the offense results in the altering,
3 damaging, destruction or obtaining of property or services with a
4 value of \$75,000.00 or more. It shall also be a crime of the second
5 degree if the offense results in a substantial interruption or im-
6 pairment of public communication, transportation, supply of water,
7 gas or power, or other public service.

8 b. A person is guilty of a crime of the third degree if he purposely
9 or knowingly accesses and recklessly alters, damages, destroys or
10 obtains any data, data base, computer, computer program, computer
11 software, computer equipment, computer system or computer net-
12 work with a value of \$75,000.00 or more.

1 6. (New section) a. Theft under section 4 of this act constitutes
2 a crime of the third degree if the offense results in the altering,
3 damaging, destruction, or obtaining of property or services with a
4 value of at least \$500.00 but less than \$75,000.00.

5 b. A person is guilty of a disorderly persons offense if he pur-
6 posely or knowingly accesses and recklessly alters, damages, de-
7 stroys or obtains any data, data base, computer, computer program,
8 computer software, computer equipment, computer system or
9 computer network with a value of at least \$500.00 but less than
10 \$75,000.00.

1 7. (New section) a. Theft under section 4 of this act constitutes a
2 crime of the fourth degree if the offense results in the altering,
3 damaging, destruction or obtaining of property or services with a
4 value of more than \$200.00 but less than \$500.00.

5 b. A person is guilty of a disorderly persons offense if he pur-
6 posely or knowingly accesses and recklessly alters, damages, de-
7 stroys or obtains any data, data base, computer, computer program,
8 computer software, computer equipment, computer system or com-
9 puter network with a value of more than \$200.00 but less than
10 \$500.00.

1 8. (New section) a. Theft under section 4 of this act constitutes a
2 disorderly persons offense when the offense results in the altering,
3 damaging, destruction or obtaining of property or services with a
4 value of \$200.00 or less.

5 b. A person is guilty of a disorderly persons offense if he pur-
6 purposely or knowingly accesses and recklessly alters, damages,
7 destroys or obtains any data, data base, computer, computer pro-
8 gram, computer software, computer equipment, computer system
9 or computer network with a value of \$200.00 or less.

1 9. (New section) A person is guilty of a crime of the third degree
2 if he purposely and without authorization accesses *~~and alters~~* *,
3 *alters, damages or destroys** a computer system or any of its parts
4 where the assessing and altering cannot be assessed a monetary
5 value or loss.

1 10. (New section) A person is guilty of a crime of the third degree
2 if he purposely and without authorization accesses a computer
3 system or any of its parts and directly or indirectly discloses or
4 causes to be disclosed data, data base, computer software or
5 computer programs where the accessing and disclosing cannot be
6 assessed a monetary value or loss.

1 11. (New section) A person is guilty of a disorderly persons
2 offense if he purposely and without authorization accesses a com-
3 puter or any of its parts and this action does not result in the
4 altering, damaging or destruction of any property or services.

1 12. (New section) For the purpose of prosecution under this
2 act, the situs of an offense of theft shall be the location of the
3 computer which is assessed, or where the terminal used in the
4 offense is situated, or where the actual damage occurs.

1 13. This act shall take effect on the 120th day after enactment,
2 but shall remain inoperative until the enactment into law of
3 Assembly Committee Substitute for Assembly Bill No. 245 of 1984.

ADOPTED

SEP 13 1984

XIV-5

9/13/84

Senate Amendments

OK
P.N.

JM

(Senate Reprint) to
Assembly Committee Substitute for
Assembly Bill No. 1301

Amend:

Page Sec. Line

Proposed by Senator Graves 9/13/84

After

6

11

4

Insert a new section 12 as follows:

"12. (New section) The copying or altering of a computer program or computer software shall not constitute theft for the purposes of chapters 20 and 21 of Title 2C of the New Jersey Statutes or any offense under this act if the computer program or computer software is of a retail value of \$1,000.00 or less and is not copied for resale."

6

12

1

Omit "12." insert "13."

6

13

1

Omit "13." insert "14."

STATEMENT

The purpose of this amendment is to exempt the copying or altering of computer software, of a value of \$1,000.00 or less and not for resale, from the theft offenses set forth in this act.

[SECOND SENATE REPRINT]
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1301

STATE OF NEW JERSEY

ADOPTED APRIL 30, 1984

By Assemblyman FLYNN

AN ACT concerning computer-related crimes, amending N. J. S. 2C:20-1 and supplementing chapter 20 of Title 2C of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. N. J. S. 2C:20-1 is amended to read as follows:

2 2C:20-1. Definitions. In chapters 20 and 21 unless a different
3 meaning plainly is required:

4 a. "Deprive" means: (1) to withhold or cause to be withheld
5 property of another permanently or for so extended a period as to
6 appropriate a substantial portion of its economic value, or with
7 purpose to restore only upon payment of reward or other compen-
8 sation; or (2) to dispose or cause disposal of the property so as
9 to make it unlikely that the owner will recover it.

10 b. "Fiduciary" means an executor, general administrator of an
11 intestate, administrator with the will annexed, substituted admin-
12 istrator, guardian, substituted guardian, trustee under any trust
13 express, implied, resulting or constructive, substituted trustee,
14 executor, conservator, curator, receiver, trustee in bankruptcy,
15 assignee for the benefit of creditors, partner, agent or officer of a
16 corporation, public or private, temporary administrator, adminis-
17 trator, administrator pendente lite, administrator ad prosequen-
18 dum, administrator ad litem or other person acting in a similar
19 capacity.

20 c. "Financial institution" means a bank, insurance company,
21 credit union, savings and loan association, investment trust or
22 other organization held out to the public as a place of deposit of
23 funds or medium of savings or collective investment.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Senate committee amendment adopted June 25, 1984.

**—Senate amendments adopted September 13, 1984.

24 d. "Government" means the United States, any state, county,
25 municipality, or other political unit, or any department, agency or
26 subdivision of any of the foregoing, or any corporation or other
27 association carrying out the functions of government.

28 e. "Movable property" means property the location of which
29 can be changed, including things growing on, affixed to, or found
30 in land, and documents although the rights represented thereby
31 have no physical location. "Immovable property" is all other
32 property.

33 f. "Obtain" means: (1) in relation to property, to bring about
34 a transfer or purported transfer of a legal interest in the property,
35 whether to the obtainer or another; or (2) in relation to labor or
36 service, to secure performance thereof.

37 g. "Property" means anything of value, including real estate,
38 tangible and intangible personal property, trade secrets, contract
39 rights, choses-in-action and other interests in or claims to wealth,
40 admission or transportation tickets, captured or domestic animals,
41 food and drink, electric, gas, steam or other power, *financial instru-*
42 *ments, information, data, and computer software in either human*
43 *readable or computer readable form, copies or originals.*

44 h. "Property of another" includes property in which any person
45 other than the actor has an interest which the actor is not privileged
46 to infringe, regardless of the fact that the actor also has an interest
47 in the property and regardless of the fact that the other person
48 might be precluded from civil recovery because the property was
49 used in an unlawful transaction or was subject to forfeiture as
50 contraband. Property in possession of the actor shall not be deemed
51 property of another who has only a security interest therein, even
52 if legal title is in the creditor pursuant to a conditional sales
53 contract or other security agreement.

54 i. "Trade secret" means the whole or any portion or phase of
55 any scientific or technical information, design, process, procedure,
56 formula or improvement which is secret and of value. A trade
57 secret shall be presumed to be secret when the owner thereof takes
58 measure to prevent it from becoming available to persons other
59 than those selected by the owner to have access thereto for limited
60 purposes.

61 j. "Dealer in property" means a person who buys and sells prop-
62 erty as a business.

63 k. "Traffic" means:

64 (1) To sell, transfer, distribute, dispense or otherwise dispose of
65 property to another person; or

66 (2) To buy, receive, possess, or obtain control of or use property,
67 with intent to sell, transfer, distribute, dispense or otherwise dis-
68 pose of such property to another person.

69 1. "Broken succession of title" means lack of regular documents
70 of purchase and transfer by any seller except the manufacturer of
71 the subject property, or possession of documents of purchase and
72 transfer by any buyer without corresponding documents of sale and
73 transfer in possession of seller, or possession of documents of sale
74 and transfer by seller without corresponding documents of pur-
75 chase and transfer in possession of any buyer.

76 m. "Person" includes any individual or entity or enterprise as
77 defined herein holding or capable of holding a legal or beneficial
78 interest in property.

79 n. "Anything of value" means any direct or indirect gain or
80 advantage to any person.

81 o. "Interest in property which has ben stolen" means title or
82 right of possession to such property.

83 p. "Stolen property" means property that has been the subject
84 of any unlawful taking.

85 q. "Enterprise" includes any individual, sole proprietorship,
86 partnership, corporation, business trust, association, or other legal
87 entity, and any union or group of individuals associated in fact
88 although not a legal entity, and it includes illicit as well as licit
89 enterprises and governmental as well as other entities.

90 r. "Attorney General" includes the Attorney General of New
91 Jersey, his assistants and deputies. The term shall also include a
92 county prosecutor or his designated assistant prosecutor if a county
93 prosecutor is expressly authorized in writing by the Attorney Gen-
94 eral to carry out the powers conferred on the Attorney General by
95 this chapter.

1 2. (New section) As used in this act:

2 a. "Access" means to instruct, communicate with, store data in,
3 retrieve data from, or otherwise make use of any resources of a
4 computer, computer system, or computer network.

5 b. "Computer" means an electronic device or another similar
6 device capable of executing a computer program, including arith-
7 metic, logic, memory or input-output operations, by the manipula-
8 tion of electronic or magnetic impulses and includes all computer
9 equipment connected to such a device in a computer system or
10 network.

11 c. "Computer equipment" means any equipment or devices in-
12 cluding all input, output, processing, storage, software, or communi-
13 cations facilities, intended to interface with the computer.

14 d. "Computer network" means the interconnection of communi-
15 cation lines, including microwave or other means of electronic
16 communications, with a computer through remote terminals, or a
17 complex consisting of two or more interconnected computers.

18 e. "Computer program" means a series of instructions or state-
19 ments executable on a computer which directs the computer system
20 in a maner to produce a desired result.

21 f. "Computer software" means a set of computer programs, data,
22 procedures, and associated documentation concerned with the
23 operation of a computer system.

24 g. "Computer system" means a set of interconnected computer
25 equipment intended to operate as a cohesive system.

26 h. "Data" means information, facts, concepts, or instructions
27 prepared for use in a computer, computer system, or computer
28 network.

29 i. "Data base" means a collection of data.

30 j. "Financial instrument" includes but is not limited to a check,
31 draft, warrant, money order, note, certificate of deposit, letter of
32 credit, bill of exchange, credit or debit card, transaction authoriza-
33 tion mechanism, marketable security and any computer representa-
34 tion of these items.

35 k. "Services" includes but is not limited to the use of a computer
36 system, computer network, computer programs, data prepared for
37 computer use and data contained within a computer system or
38 computer network.

1 3. (New section) For the purposes of this act, the value of any
2 property or services, including the use of computer time, shall be
3 their fair market value if it is determined that a willing buyer and
4 willing seller exist. Alternatively, value shall include but not be
5 limited to the cost of generating or obtaining data and storing it
6 within a computer or computer system.

1 4. (New section) A person is guilty of theft if he purposely or
2 knowingly and without authorization:

3 a. Alters, damages, takes or destroys any data, data base, com-
4 puter program, computer software or computer equipment existing
5 internally or externally to a computer, computer system or com-
6 puter network;

7 b. Alters, damages, takes or destroys a computer, computer
8 system or computer network;

9 c. Accesses or attempts to access any computer, computer system
10 or computer network for the purpose of executing a scheme to
11 defraud, or to obtain services, property, or money, from the owner
12 of a computer or any third party: or

13 d. Alters, tampers with, obtains, intercepts, damages or destroys
14 a financial instrument.

1 5. (New section) a. Theft under section 4 of this act constitutes
2 a crime of the second degree if the offense results in the altering,
3 damaging, destruction or obtaining of property or services with a
4 value of \$75,000.00 or more. It shall also be a crime of the second
5 degree if the offense results in a substantial interruption or im-
6 pairment of public communication, transportation, supply of water,
7 gas or power, or other public service.

8 b. A person is guilty of a crime of the third degree if he purposely
9 or knowingly accesses and recklessly alters, damages, destroys or
10 obtains any data, data base, computer, computer program, computer
11 software, computer equipment, computer system or computer net-
12 work with a value of \$75,000.00 or more.

1 6. (New section) a. Theft under section 4 of this act constitutes
2 a crime of the third degree if the offense results in the altering,
3 damaging, destruction, or obtaining of property or services with a
4 value of at least \$500.00 but less than \$75,000.00.

5 b. A person is guilty of a disorderly persons offense if he pur-
6 posely or knowingly accesses and recklessly alters, damages, de-
7 stroys or obtains any data, data base, computer, computer program,
8 computer software, computer equipment, computer system or
9 computer network with a value of at least \$500.00 but less than
10 \$75,000.00.

1 7. (New section) a. Theft under section 4 of this act constitutes a
2 crime of the fourth degree if the offense results in the altering,
3 damaging, destruction or obtaining of property or services with a
4 value of more than \$200.00 but less than \$500.00.

5 b. A person is guilty of a disorderly persons offense if he pur-
6 posely or knowingly accesses and recklessly alters, damages, de-
7 stroys or obtains any data, data base, computer, computer program,
8 computer software, computer equipment, computer system or com-
9 puter network with a value of more than \$200.00 but less than
10 \$500.00.

1 8. (New section) a. Theft under section 4 of this act constitutes a
2 disorderly persons offense when the offense results in the altering,
3 damaging, destruction or obtaining of property or services with a
4 value of \$200.00 or less.

5 b. A person is guilty of a disorderly persons offense if he pur-
6 purposely or knowingly accesses and recklessly alters, damages,
7 destroys or obtains any data, data base, computer, computer pro-
8 gram, computer software, computer equipment, computer system
9 or computer network with a value of \$200.00 or less.

1 9. (New section) A person is guilty of a crime of the third degree
 2 if he purposely and without authorization accesses ~~*[and alters]~~*,
 3 *alters, damages or destroys* a computer system or any of its parts
 4 where the assessing and altering cannot be assessed a monetary
 5 value or loss.

1 10. (New section) A person is guilty of a crime of the third degree
 2 if he purposely and without authorization accesses a computer
 3 system or any of its parts and directly or indirectly discloses or
 4 causes to be disclosed data, data base, computer software or
 5 computer programs where the accessing and disclosing cannot be
 6 assessed a monetary value or loss.

1 11. (New section) A person is guilty of a disorderly persons
 2 offense if he purposely and without authorization accesses a com-
 3 puter or any of its parts and this action does not result in the
 4 altering, damaging or destruction of any property or services.

1 ***12. (New section) The copying or altering of a computer pro-*
 2 *gram or computer software shall not constitute theft for the pur-*
 3 *poses of chapters 20 and 21 of Title 2C of the New Jersey Statutes*
 4 *or any offense under this act if the computer program or computer*
 5 *software is of a retail value of \$1,000.00 or less and is not copied for*
 6 *resale.***

1 ~~**[12.]**~~ ***13.*** (New section) For the purpose of prosecution
 2 under this act, the situs of an offense of theft shall be the location
 3 of the computer which is assessed, or where the terminal used in the
 4 offense is situated, or where the actual damage occurs.

1 ~~**[13.]**~~ ***14.*** This act shall take effect on the 120th day after
 2 enactment, but shall remain inoperative until the enactment into
 3 law of Assembly Committee Substitute for Assembly Bill No. 245
 4 of 1984.

SENATE, No. 1807

STATE OF NEW JERSEY

INTRODUCED MAY 14, 1984

By Senator GRAVES

Referred to Committee on Judiciary

AN ACT concerning computer-related crimes, amending N. J. S.
2C:20-1 and supplementing chapter 20 of Title 2C of the New
Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. N. J. S. 2C:20-1 is amended to read as follows:

2 2C:20-1. Definitions. In chapters 20 and 21 unless a different
3 meaning plainly is required:

4 a. "Deprive" means: (1) to withhold or cause to be withheld
5 property of another permanently or for so extended a period as to
6 appropriate a substantial portion of its economic value, or with
7 purpose to restore only upon payment of reward or other compen-
8 sation; or (2) to dispose or cause disposal of the property so as
9 to make it unlikely that the owner will recover it.

10 b. "Fiduciary" means an executor, general administrator of an
11 intestate, administrator with the will annexed, substituted admin-
12 istrator, guardian, substituted guardian, trustee under any trust
13 express, implied, resulting or constructive, substituted trustee,
14 executor, conservator, curator, receiver, trustee in bankruptcy,
15 assignee for the benefit of creditors, partner, agent or officer of a
16 corporation, public or private, temporary administrator, adminis-
17 trator, administrator pendente lite, administrator ad prosequen-
18 dum, administrator ad litem or other person acting in a similar
19 capacity.

20 c. "Financial institution" means a bank, insurance company,
21 credit union, savings and loan association, investment trust or

Matter printed in italics thus is new matter.

22 other organization held out to the public as a place of deposit of
23 funds or medium of savings or collective investment.

24 d. "Government" means the United States, any state, county,
25 municipality, or other political unit, or any department, agency or
26 subdivision of any of the foregoing, or any corporation or other
27 association carrying out the functions of government.

28 e. "Movable property" means property the location of which
29 can be changed, including things growing on, affixed to, or found
30 in land, and documents although the rights represented thereby
31 have no physical location. "Immovable property" is all other
32 property.

33 f. "Obtain" means: (1) in relation to property, to bring about
34 a transfer or purported transfer of a legal interest in the property,
35 whether to the obtainer or another; or (2) in relation to labor or
36 service, to secure performance thereof.

37 g. "Property" means anything of value, including real estate,
38 tangible and intangible personal property, trade secrets, contract
39 rights, choses-in-action and other interests in or claims to wealth,
40 admission or transportation tickets, captured or domestic animals,
41 food and drink, electric, gas, steam or other power, *financial*
42 *instruments, information, data, and computer software in either*
43 *human readable or computer readable form, copies or originals.*

44 h. "Property of another" includes property in which any person
45 other than the actor has an interest which the actor is not privileged
46 to infringe, regardless of the fact that the actor also has an interest
47 in the property and regardless of the fact that the other person
48 might be precluded from civil recovery because the property was
49 used in an unlawful transaction or was subject to forfeiture as
50 contraband. Property in possession of the actor shall not be deemed
51 property of another who has only a security interest therein, even
52 if legal title is in the creditor pursuant to a conditional sales
53 contract or other security agreement.

54 i. "Trade secret" means the whole or any portion or phase of
55 any scientific or technical information, design, process, procedure,
56 formula or improvement which is secret and of value. A trade
57 secret shall be presumed to be secret when the owner thereof takes
58 measures to prevent it from becoming available to persons other
59 than those selected by the owner to have access thereto for limited
60 purposes.

61 j. "Dealer in property" means a person who buys and sells prop-
62 erty as a business.

63 k. "Traffic" means:

64 (1) To sell, transfer, distribute, dispense or otherwise dispose of
65 property to another person; or

66 (2) To buy, receive, possess, or obtain control of or use property,
67 with intent to sell, transfer, distribute, dispense or otherwise dis-
68 pose of such property to another person.

69 l. "Broken succession of title" means lack of regular documents
70 of purchase and transfer by any seller except the manufacturer of
71 the subject property, or possession of documents of purchase and
72 transfer by any buyer without corresponding documents of sale and
73 transfer in possession of seller, or possession of documents of sale
74 and transfer by seller without corresponding documents of pur-
75 chase and transfer in possession of any buyer.

76 m. "Person" includes any individual or entity or enterprise as
77 defined herein holding or capable of holding a legal or beneficial
78 interest in property.

79 n. "Anything of value" means any direct or indirect gain or
80 advantage to any person.

81 o. "Interest in property which has been stolen" mean title or
82 right of possession to such property.

83 p. "Stolen property" means property that has been the subject
84 of any unlawful taking.

85 q. "Enterprise" includes any individual, sole proprietorship,
86 partnership, corporation, business trust, association, or other legal
87 entity, and any union or group of individuals associated in fact
88 although not a legal entity, and it includes illicit as well as licit
89 enterprises and governmental as well as other entities.

90 r. "Attorney General" includes the Attorney General of New
91 Jersey, his assistants and deputies. The term shall also include a
92 county prosecutor or his designated assistant prosecutor if a county
93 prosecutor is expressly authorized in writing by the Attorney Gen-
94 eral to carry out the powers conferred on the Attorney General by
95 this chapter.

1 2. (New section) As used in this act:

2 a. "Access" means to instruct, communicate with, store data in,
3 retrieve data from, or otherwise make use of any resources of a
4 computer, computer system, or computer network.

5 b. "Computer" means an electronic device or another similar
6 device capable of executing a computer program, including arith-
7 metic, logic, memory or input-output operations, by the manipula-
8 tion of electronic or magnetic impulses and includes all computer
9 equipment connected to such a device in a computer system or
10 network.

11 c. "Computer equipment" means any equipment or devices

12 including all input, output, processing, storage, software, or
13 communications facilities, intended to interface with the computer.

14 d. "Computer network" means the interconnection of communi-
15 cation lines, including microwave or other means of electronic
16 communications, with a computer through remote terminals, or a
17 complex consisting of two or more inter-connected computers.

18 e. "Computer program" means a series of instructions or
19 statements executable on a computer which directs the computer
20 system in a manner to produce a desired result.

21 f. "Computer software" means a set of computer programs,
22 data, procedures, and associated documentation concerned with the
23 operation of a computer system.

24 g. "Computer system" means a set of interconnected computer
25 equipment intended to operate as a cohesive system.

26 h. "Data" means information, facts, concepts, or instructions
27 prepared for use in a computer, computer system, or computer
28 network.

29 i. "Data base" means a collection of data.

30 j. "Financial instrument" includes but is not limited to a check,
31 draft, warrant, money order, note, certificate of deposit, letter of
32 credit, bill of exchange, credit or debit card, transaction authoriza-
33 tion mechanism, marketable security and any computer representa-
34 tion of these items.

35 k. "Services" includes but is not limited to the use of a computer
36 system, computer network, computer programs, data prepared
37 for computer use and data contained within a computer system or
38 computer network.

1 3. (New section) For the purposes of this act, the value of any
2 property or services, including the use of computer time, shall be
3 their fair market value if it is determined that a willing buyer and
4 willing seller exist. Alternatively, value shall include but not be
5 limited to the cost of generating or obtaining data and storing it
6 within a computer or computer system.

1 4. (New section) A person is guilty of theft if he purposely or
2 knowingly and without authorization:

3 a. Alters, damages, takes or destroys any data, data base,
4 computer program, computer software or computer equipment
5 existing internally or externally to a computer, computer system
6 or computer network;

7 b. Alters, damages, takes or destroys a computer, computer
8 system or computer network;

9 c. Accesses or attempts to access any computer, computer system
10 or computer network for the purpose of executing a scheme to

11 defraud, or to obtain services, property, or money, from the owner
12 of a computer or any third party; or

13 d. Alters, tampers with, obtains, intercepts, damages or destroys
14 a financial instrument.

1 5. (New section) a. Theft under section 4 of this act constitutes
2 a crime of the second degree if the offense results in the altering,
3 damaging, destruction or obtaining of property or services with a
4 value of \$75,000.00 or more. It shall also be a crime of the second
5 degree if the offense results in a substantial interruption or
6 impairment of public communication, transportation, supply of
7 water, gas or power, or other public service.

8 b. A person is guilty of a crime of the third degree if he purposely
9 or knowingly accesses and recklessly alters, damages, destroys or
10 obtains any data, data base, computer, computer program, computer
11 software, computer equipment, computer system or computer
12 network with a value of \$75,000.00 or more.

1 6. (New section) a. Theft under section 4 of this act constitutes
2 a crime of the third degree if the offense results in the altering,
3 damaging, destruction, or obtaining of property or services with a
4 value of at least \$500.00 but less than \$75,000.00.

5 b. A person is guilty of a crime of the fourth degree if he
6 purposely or knowingly accesses and recklessly alters, damages,
7 destroys or obtains any data, data base, computer, computer
8 program, computer software, computer equipment, computer
9 system or computer network with a value of at least \$500.00 but
10 less than \$75,000.00.

1 7. (New section) a. Theft under section 4 of this act constitutes
2 a crime of the fourth degree if the offense results in the altering,
3 damaging, destruction or obtaining of property or services with a
4 value of more than \$200.00 but less than \$500.00.

5 b. A person is guilty of a disorderly persons offense if he
6 purposely or knowingly accesses and recklessly alters, damages,
7 destroys or obtains any data, data base, computer, computer
8 program, computer software, computer equipment, computer
9 system or computer network with a value of more than \$200.00 but
10 less than \$500.00.

1 8. (New section) a. Theft under section 4 of this act constitutes
2 a disorderly persons offense when the offense results in the altering,
3 damaging, destruction or obtaining of property or services with a
4 value of \$200.00 or less.

5 b. A person is guilty of a petty disorderly persons offense if he
6 purposely or knowingly accesses and recklessly alters, damages,
7 destroys or obtains any data, data base, computer, computer pro-

8 gram, computer software, computer equipment, computer system
9 or computer network with a value of \$200.00 or less.

1 9. (New section) A person is guilty of a crime of the third degree
2 if he purposely and without authorization accesses and alters a
3 computer system or any of its parts where the accessing and
4 altering cannot be assessed a monetary value or loss.

1 10. (New section) A person is guilty of a crime of the third
2 degree if he purposely and without authorization accesses a
3 computer system or any of its parts and directly or indirectly
4 discloses or causes to be disclosed data, data base, computer
5 software or computer programs where the accessing and disclosing
6 cannot be assessed a monetary value or loss.

1 11. (New section) A person is guilty of a disorderly persons
2 offense if he purposely and without authorization accesses a
3 computer or any of its parts and this action does not result in the
4 altering, damaging or destruction of any property or services.

1 12. (New section) For the purpose of prosecution under this act,
2 the situs of an offense of theft shall be the location of the computer
3 which is accessed, or where the terminal used in the offense is
4 situated, or where the actual damage occurs.

1 13. This act shall take effect on the 120th day after enactment.

SPONSOR'S STATEMENT

This bill establishes criminal offenses specifically dealing with computer-related criminal activities. Under the bill, a person is guilty of theft if he purposely, knowingly and without authorization alters, damages, takes or destroys any data, computer system, computer software or financial instrument. It would also be theft to purposely, knowingly and without authorization access or attempt to access any computer system for the purpose of executing a scheme to defraud or to obtain services or property from another person.

In addition, the bill makes it a crime to purposely or knowingly access and recklessly alter, damage or obtain any data, computer system or computer software.

The degrees of crime under the bill are graded in accordance with the theft provisions of the New Jersey Code of Criminal Justice, Title 2C. Therefore, the degree of crime would depend on the value of the property altered, damaged or obtained. However, where the offense involves the element of recklessness as described in the bill, its severity is graded one degree lower than the penalty for theft of an equivalent value of property. This reflects the fact that a person should be held less culpable for a reckless action than

for an action carried out with a full knowing and purposeful intent to commit a theft or to cause damage.

Where the property involved cannot be assessed a monetary value, the bill would make it a crime of the third degree.

A person would be guilty of a disorderly persons offense if he purposely and without authorization accesses a computer and no damage of property results.

The intent of this bill is to provide a comprehensive approach to prosecuting the increasing varieties of computer abuse. For example, in Connecticut an auxiliary policeman was suspected of using a police department computer to check records for his full-time employer. This bill would address this purposeful and unauthorized disclosure of computer data.

Another case involved persons who gained access to and altered patient files controlling radiation treatment at the Sloan-Kettering Cancer Center in New York. This bill would permit prosecution under these circumstances.

In a third instance, Columbia University brought a civil action against a computer hobbyist alleging that he had destroyed data and caused \$25,000 in damage by accessing one of the university's computers without authorization. This situation is addressed under the bill.

Further, the provisions of the bill can be used to prosecute a person who accesses a bank system to effectuate illegal transfers of funds, or a person who accesses a college system to view or tamper with student records.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 1807

STATE OF NEW JERSEY

DATED: JUNE 25, 1984

This bill attempts to deal in a comprehensive manner with the issue of criminal, computer-related activities. Under both bills, a person is guilty of theft if the person alters, damages, takes or destroys any computer equipment, data or software. The unauthorized accessing of any computer for the purpose of executing a scheme to defraud or obtain services or property would also be criminalized.

Grading of the criminal offenses defined by both bills is based on two factors: the value of the services or property stolen or the amount of resulting damages and whether the person acted intentionally or recklessly. The grading scheme is as follows:

Crimes of the Second Degree
(five to 10 years imprisonment and/or a fine of up to \$100,000.)

The intentional acquisition or damaging of computer equipment or services with a value of \$75,000 or more.

Any intentional computer-related crime which results in a substantial interruption or impairment to any public service.

Crimes of the Third Degree
(three to five years imprisonment and/or a fine of up to \$7,500)

The reckless acquisition or damaging of computer property or services with a value of \$75,000 or more.

The intentional acquisition or damaging of computer equipment or services with a value of at least \$500 but less than \$75,000.

The intentional accessing and altering of a computer system when the monetary value or loss cannot be assessed.

The intentional disclosure of computer data, software or programs when the monetary value cannot be assessed.

Crimes of the Fourth Degree
(up to 18 months imprisonment and/or a fine of up to \$7,500)

The reckless acquisition or damaging of computer equipment or services with a value of at least \$500 but less than \$75,000.

The intentional acquisition or damaging of computer equipment or services with a value of more than \$200 but less than \$500.

Disorderly Persons Offense
(up to six months imprisonment and/or a fine of up to \$1,000)

The reckless acquisition or damaging of computer equipment or services with a value of more than \$200 but less than \$500.

The intentional acquisition or damaging of computer equipment or services with a value of \$200 or less.

The intentional accessing of a computer which does not result in the altering or damaging of equipment or service.

Petty Disorderly Persons Offense (up to 30 days imprisonment and/or a fine of up to \$500)

The reckless acquisition or damaging of computer equipment or services with a value of less than \$200.

Under both bills for purposes of prosecution a computer-related offense can occur where the computer accessed is located, where the terminal used in the offense is situated or where the damage occurs.

By amendment, the committee added language in section 9 of the bill to conform the phrasing of that section with the wording of other sections of the bill.

[OFFICIAL COPY REPRINT]

SENATE, No. 1807

STATE OF NEW JERSEY

INTRODUCED MAY 14, 1984

By Senator GRAVES

Referred to Committee on Judiciary

AN ACT concerning computer-related crimes, amending N. J. S. 2C:20-1 and supplementing chapter 20 of Title 2C of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. N. J. S. 2C:20-1 is amended to read as follows:

2 2C:20-1. Definitions. In chapters 20 and 21 unless a different
3 meaning plainly is required:

4 a. "Deprive" means: (1) to withhold or cause to be withheld
5 property of another permanently or for so extended a period as to
6 appropriate a substantial portion of its economic value, or with
7 purpose to restore only upon payment of reward or other compen-
8 sation; or (2) to dispose or cause disposal of the property so as
9 to make it unlikely that the owner will recover it.

10 b. "Fiduciary" means an executor, general administrator of an
11 intestate, administrator with the will annexed, substituted admin-
12 istrator, guardian, substituted guardian, trustee under any trust
13 express, implied, resulting or constructive, substituted trustee,
14 executor, conservator, curator, receiver, trustee in bankruptcy,
15 assignee for the benefit of creditors, partner, agent or officer of a
16 corporation, public or private, temporary administrator, adminis-
17 trator, administrator pendente lite, administrator ad prosequen-
18 dum, administrator ad litem or other person acting in a similar
19 capacity.

20 c. "Financial institution" means a bank, insurance company,
21 credit union, savings and loan association, investment trust or

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Senate committee amendment adopted June 25, 1984.

22 other organization held out to the public as a place of deposit of
23 funds or medium of savings or collective investment.

24 d. "Government" means the United States, any state, county,
25 municipality, or other political unit, or any department, agency or
26 subdivision of any of the foregoing, or any corporation or other
27 association carrying out the functions of government.

28 e. "Movable property" means property the location of which
29 can be changed, including things growing on, affixed to, or found
30 in land, and documents although the rights represented thereby
31 have no physical location. "Immovable property" is all other
32 property.

33 f. "Obtain" means: (1) in relation to property, to bring about
34 a transfer or purported transfer of a legal interest in the property,
35 whether to the obtainer or another; or (2) in relation to labor or
36 service, to secure performance thereof.

37 g. "Property" means anything of value, including real estate,
38 tangible and intangible personal property, trade secrets, contract
39 rights, choses-in-action and other interests in or claims to wealth,
40 admission or transportation tickets, captured or domestic animals,
41 food and drink, electric, gas, steam or other power, *financial*
42 *instruments, information, data, and computer software in either*
43 *human readable or computer readable form, copies or originals.*

44 h. "Property of another" includes property in which any person
45 other than the actor has an interest which the actor is not privileged
46 to infringe, regardless of the fact that the actor also has an interest
47 in the property and regardless of the fact that the other person
48 might be precluded from civil recovery because the property was
49 used in an unlawful transaction or was subject to forfeiture as
50 contraband. Property in possession of the actor shall not be deemed
51 property of another who has only a security interest therein, even
52 if legal title is in the creditor pursuant to a conditional sales
53 contract or other security agreement.

54 i. "Trade secret" means the whole or any portion or phase of
55 any scientific or technical information, design, process, procedure,
56 formula or improvement which is secret and of value. A trade
57 secret shall be presumed to be secret when the owner thereof takes
58 measures to prevent it from becoming available to persons other
59 than those selected by the owner to have access thereto for limited
60 purposes.

61 j. "Dealer in property" means a person who buys and sells prop-
62 erty as a business.

63 k. "Traffic" means:

64 (1) To sell, transfer, distribute, dispense or otherwise dispose of
65 property to another person; or

66 (2) To buy, receive, possess, or obtain control of or use property,
67 with intent to sell, transfer, distribute, dispense or otherwise dis-
68 pose of such property to another person.

69 l. "Broken succession of title" means lack of regular documents
70 of purchase and transfer by any seller except the manufacturer of
71 the subject property, or possession of documents of purchase and
72 transfer by any buyer without corresponding documents of sale and
73 transfer in possession of seller, or possession of documents of sale
74 and transfer by seller without corresponding documents of pur-
75 chase and transfer in possession of any buyer.

76 m. "Person" includes any individual or entity or enterprise as
77 defined herein holding or capable of holding a legal or beneficial
78 interest in property.

79 n. "Anything of value" means any direct or indirect gain or
80 advantage to any person.

81 o. "Interest in property which has been stolen" mean title or
82 right of possession to such property.

83 p. "Stolen property" means property that has been the subject
84 of any unlawful taking.

85 q. "Enterprise" includes any individual, sole proprietorship,
86 partnership, corporation, business trust, association, or other legal
87 entity, and any union or group of individuals associated in fact
88 although not a legal entity, and it includes illicit as well as licit
89 enterprises and governmental as well as other entities.

90 r. "Attorney General" includes the Attorney General of New
91 Jersey, his assistants and deputies. The term shall also include a
92 county prosecutor or his designated assistant prosecutor if a county
93 prosecutor is expressly authorized in writing by the Attorney Gen-
94 eral to carry out the powers conferred on the Attorney General by
95 this chapter.

1 2. (New section) As used in this act:

2 a. "Access" means to instruct, communicate with, store data in,
3 retrieve data from, or otherwise make use of any resources of a
4 computer, computer system, or computer network.

5 b. "Computer" means an electronic device or another similar
6 device capable of executing a computer program, including arith-
7 metic, logic, memory or input-output operations, by the manipula-
8 tion of electronic or magnetic impulses and includes all computer
9 equipment connected to such a device in a computer system or
10 network.

11 c. "Computer equipment" means any equipment or devices

12 including all input, output, processing, storage, software, or
13 communications facilities, intended to interface with the computer.

14 d. "Computer network" means the interconnection of communi-
15 cation lines, including microwave or other means of electronic
16 communications, with a computer through remote terminals, or a
17 complex consisting of two or more inter-connected computers.

18 e. "Computer program" means a series of instructions or
19 statements executable on a computer which directs the computer
20 system in a manner to produce a desired result.

21 f. "Computer software" means a set of computer programs,
22 data, procedures, and associated documentation concerned with the
23 operation of a computer system.

24 g. "Computer system" means a set of interconnected computer
25 equipment intended to operate as a cohesive system.

26 h. "Data" means information, facts, concepts, or instructions
27 prepared for use in a computer, computer system, or computer
28 network.

29 i. "Data base" means a collection of data.

30 j. "Financial instrument" includes but is not limited to a check,
31 draft, warrant, money order, note, certificate of deposit, letter of
32 credit, bill of exchange, credit or debit card, transaction authoriza-
33 tion mechanism, marketable security and any computer representa-
34 tion of these items.

35 k. "Services" includes but is not limited to the use of a computer
36 system, computer network, computer programs, data prepared
37 for computer use and data contained within a computer system or
38 computer network.

1 3. (New section) For the purposes of this act, the value of any
2 property or services, including the use of computer time, shall be
3 their fair market value if it is determined that a willing buyer and
4 willing seller exist. Alternatively, value shall include but not be
5 limited to the cost of generating or obtaining data and storing it
6 within a computer or computer system.

1 4. (New section) A person is guilty of theft if he purposely or
2 knowingly and without authorization:

3 a. Alters, damages, takes or destroys any data, data base,
4 computer program, computer software or computer equipment
5 existing internally or externally to a computer, computer system
6 or computer network;

7 b. Alters, damages, takes or destroys a computer, computer
8 system or computer network;

9 c. Accesses or attempts to access any computer, computer system
10 or computer network for the purpose of executing a scheme to

11 defraud, or to obtain services, property, or money, from the owner
12 of a computer or any third party; or

13 d. Alters, tampers with, obtains, intercepts, damages or destroys
14 a financial instrument.

1 5. (New section) a. Theft under section 4 of this act constitutes
2 a crime of the second degree if the offense results in the altering,
3 damaging, destruction or obtaining of property or services with a
4 value of \$75,000.00 or more. It shall also be a crime of the second
5 degree if the offense results in a substantial interruption or
6 impairment of public communication, transportation, supply of
7 water, gas or power, or other public service.

8 b. A person is guilty of a crime of the third degree if he purposely
9 or knowingly accesses and recklessly alters, damages, destroys or
10 obtains any data, data base, computer, computer program, computer
11 software, computer equipment, computer system or computer
12 network with a value of \$75,000.00 or more.

1 6. (New section) a. Theft under section 4 of this act constitutes
2 a crime of the third degree if the offense results in the altering,
3 damaging, destruction, or obtaining of property or services with a
4 value of at least \$500.00 but less than \$75,000.00.

5 b. A person is guilty of a crime of the fourth degree if he
6 purposely or knowingly accesses and recklessly alters, damages,
7 destroys or obtains any data, data base, computer, computer
8 program, computer software, computer equipment, computer
9 system or computer network with a value of at least \$500.00 but
10 less than \$75,000.00.

1 7. (New section) a. Theft under section 4 of this act constitutes
2 a crime of the fourth degree if the offense results in the altering,
3 damaging, destruction or obtaining of property or services with a
4 value of more than \$200.00 but less than \$500.00.

5 b. A person is guilty of a disorderly persons offense if he
6 purposely or knowingly accesses and recklessly alters, damages,
7 destroys or obtains any data, data base, computer, computer
8 program, computer software, computer equipment, computer
9 system or computer network with a value of more than \$200.00 but
10 less than \$500.00.

1 8. (New section) a. Theft under section 4 of this act constitutes
2 a disorderly persons offense when the offense results in the altering,
3 damaging, destruction or obtaining of property or services with a
4 value of \$200.00 or less.

5 b. A person is guilty of a petty disorderly persons offense if he
6 purposely or knowingly accesses and recklessly alters, damages,
7 destroys or obtains any data, data base, computer, computer pro-

8 gram, computer software, computer equipment, computer system
9 or computer network with a value of \$200.00 or less.

1 9. (New section) A person is guilty of a crime of the third degree
2 if he purposely and without authorization accesses *~~and alters~~*,
3 *alters, damages or destroys* a computer system or any of its parts
4 where the accessing and altering cannot be assessed a monetary
5 value or loss.

1 10. (New section) A person is guilty of a crime of the third
2 degree if he purposely and without authorization accesses a
3 computer system or any of its parts and directly or indirectly
4 discloses or causes to be disclosed data, data base, computer
5 software or computer programs where the accessing and disclosing
6 cannot be assessed a monetary value or loss.

1 11. (New section) A person is guilty of a disorderly persons
2 offense if he purposely and without authorization accesses a
3 computer or any of its parts and this action does not result in the
4 altering, damaging or destruction of any property or services.

1 12. (New section) For the purpose of prosecution under this act,
2 the situs of an offense of theft shall be the location of the computer
3 which is accessed, or where the terminal used in the offense is
4 situated, or where the actual damage occurs.

1 13. This act shall take effect on the 120th day after enactment.

[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 1807

STATE OF NEW JERSEY

INTRODUCED MAY 14, 1984

By Senator GRAVES

Referred to Committee on Judiciary

AN ACT concerning computer-related crimes, amending N. J. S. 2C:20-1 and supplementing chapter 20 of Title 2C of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. N. J. S. 2C:20-1 is amended to read as follows:

2 2C:20-1. Definitions. In chapters 20 and 21 unless a different
3 meaning plainly is required:

4 a. "Deprive" means: (1) to withhold or cause to be withheld
5 property of another permanently or for so extended a period as to
6 appropriate a substantial portion of its economic value, or with
7 purpose to restore only upon payment of reward or other compen-
8 sation; or (2) to dispose or cause disposal of the property so as
9 to make it unlikely that the owner will recover it.

10 b. "Fiduciary" means an executor, general administrator of an
11 intestate, administrator with the will annexed, substituted admin-
12 istrator, guardian, substituted guardian, trustee under any trust
13 express, implied, resulting or constructive, substituted trustee,
14 executor, conservator, curator, receiver, trustee in bankruptcy,
15 assignee for the benefit of creditors, partner, agent or officer of a
16 corporation, public or private, temporary administrator, adminis-
17 trator, administrator pendente lite, administrator ad prosequen-
18 dam, administrator ad litem or other person acting in a similar
19 capacity.

20 c. "Financial institution" means a bank, insurance company,
21 credit union, savings and loan association, investment trust or

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Senate committee amendment adopted June 25, 1984.

**—Senate amendments adopted September 13, 1984.

22 other organization held out to the public as a place of deposit of
23 funds or medium of savings or collective investment.

24 d. "Government" means the United States, any state, county,
25 municipality, or other political unit, or any department, agency or
26 subdivision of any of the foregoing, or any corporation or other
27 association carrying out the functions of government.

28 e. "Movable property" means property the location of which
29 can be changed, including things growing on, affixed to, or found
30 in land, and documents although the rights represented thereby
31 have no physical location. "Immovable property" is all other
32 property.

33 f. "Obtain" means: (1) in relation to property, to bring about
34 a transfer or purported transfer of a legal interest in the property,
35 whether to the obtainer or another; or (2) in relation to labor or
36 service, to secure performance thereof.

37 g. "Property" means anything of value, including real estate,
38 tangible and intangible personal property, trade secrets, contract
39 rights, choses-in-action and other interests in or claims to wealth,
40 admission or transportation tickets, captured or domestic animals,
41 food and drink, electric, gas, steam or other power, *financial*
42 *instruments, information, data, and computer software in either*
43 *human readable or computer readable form, copies or originals.*

44 h. "Property of another" includes property in which any person
45 other than the actor has an interest which the actor is not privileged
46 to infringe, regardless of the fact that the actor also has an interest
47 in the property and regardless of the fact that the other person
48 might be precluded from civil recovery because the property was
49 used in an unlawful transaction or was subject to forfeiture as
50 contraband. Property in possession of the actor shall not be deemed
51 property of another who has only a security interest therein, even
52 if legal title is in the creditor pursuant to a conditional sales
53 contract or other security agreement.

54 i. "Trade secret" means the whole or any portion or phase of
55 any scientific or technical information, design, process, procedure,
56 formula or improvement which is secret and of value. A trade
57 secret shall be presumed to be secret when the owner thereof takes
58 measures to prevent it from becoming available to persons other
59 than those selected by the owner to have access thereto for limited
60 purposes.

61 j. "Dealer in property" means a person who buys and sells prop-
62 erty as a business.

63 k. "Traffic" means:

64 (1) To sell, transfer, distribute, dispense or otherwise dispose of
65 property to another person; or

66 (2) To buy, receive, possess, or obtain control of or use property,
67 with intent to sell, transfer, distribute, dispense or otherwise dis-
68 pose of such property to another person.

69 l. "Broken succession of title" means lack of regular documents
70 of purchase and transfer by any seller except the manufacturer of
71 the subject property, or possession of documents of purchase and
72 transfer by any buyer without corresponding documents of sale and
73 transfer in possession of seller, or possession of documents of sale
74 and transfer by seller without corresponding documents of pur-
75 chase and transfer in possession of any buyer.

76 m. "Person" includes any individual or entity or enterprise as
77 defined herein holding or capable of holding a legal or beneficial
78 interest in property.

79 n. "Anything of value" means any direct or indirect gain or
80 advantage to any person.

81 o. "Interest in property which has been stolen" mean title or
82 right of possession to such property.

83 p. "Stolen property" means property that has been the subject
84 of any unlawful taking.

85 q. "Enterprise" includes any individual, sole proprietorship,
86 partnership, corporation, business trust, association, or other legal
87 entity, and any union or group of individuals associated in fact
88 although not a legal entity, and it includes illicit as well as licit
89 enterprises and governmental as well as other entities.

90 r. "Attorney General" includes the Attorney General of New
91 Jersey, his assistants and deputies. The term shall also include a
92 county prosecutor or his designated assistant prosecutor if a county
93 prosecutor is expressly authorized in writing by the Attorney Gen-
94 eral to carry out the powers conferred on the Attorney General by
95 this chapter.

1 2. (New section) As used in this act:

2 a. "Access" means to instruct, communicate with, store data in,
3 retrieve data from, or otherwise make use of any resources of a
4 computer, computer system, or computer network.

5 b. "Computer" means an electronic device or another similar
6 device capable of executing a computer program, including arith-
7 metic, logic, memory or input-output operations, by the manipula-
8 tion of electronic or magnetic impulses and includes all computer
9 equipment connected to such a device in a computer system or
10 network.

11 c. "Computer equipment" means any equipment or devices

12 including all input, output, processing, storage, software, or
13 communications facilities, intended to interface with the computer.

14 d. "Computer network" means the interconnection of communi-
15 cation lines, including microwave or other means of electronic
16 communications, with a computer through remote terminals, or a
17 complex consisting of two or more inter-connected computers.

18 e. "Computer program" means a series of instructions or
19 statements executable on a computer which directs the computer
20 system in a manner to produce a desired result.

21 f. "Computer software" means a set of computer programs,
22 data, procedures, and associated documentation concerned with the
23 operation of a computer system.

24 g. "Computer system" means a set of interconnected computer
25 equipment intended to operate as a cohesive system.

26 h. "Data" means information, facts, concepts, or instructions
27 prepared for use in a computer, computer system, or computer
28 network.

29 i. "Data base" means a collection of data.

30 j. "Financial instrument" includes but is not limited to a check,
31 draft, warrant, money order, note, certificate of deposit, letter of
32 credit, bill of exchange, credit or debit card, transaction authoriza-
33 tion mechanism, marketable security and any computer representa-
34 tion of these items.

35 k. "Services" includes but is not limited to the use of a computer
36 system, computer network, computer programs, data prepared
37 for computer use and data contained within a computer system or
38 computer network.

1 3. (New section) For the purposes of this act, the value of any
2 property or services, including the use of computer time, shall be
3 their fair market value if it is determined that a willing buyer and
4 willing seller exist. Alternatively, value shall include but not be
5 limited to the cost of generating or obtaining data and storing it
6 within a computer or computer system.

1 4. (New section) A person is guilty of theft if he purposely or
2 knowingly and without authorization:

3 a. Alters, damages, takes or destroys any data, data base,
4 computer program, computer software or computer equipment
5 existing internally or externally to a computer, computer system
6 or computer network;

7 b. Alters, damages, takes or destroys a computer, computer
8 system or computer network;

9 c. Accesses or attempts to access any computer, computer system
10 or computer network for the purpose of executing a scheme to

11 defraud, or to obtain services, property, or money, from the owner
12 of a computer or any third party; or

13 d. Alters, tampers with, obtains, intercepts, damages or destroys
14 a financial instrument.

1 5. (New section) a. Theft under section 4 of this act constitutes
2 a crime of the second degree if the offense results in the altering,
3 damaging, destruction or obtaining of property or services with a
4 value of \$75,000.00 or more. It shall also be a crime of the second
5 degree if the offense results in a substantial interruption or
6 impairment of public communication, transportation, supply of
7 water, gas or power, or other public service.

8 b. A person is guilty of a crime of the third degree if he purposely
9 or knowingly accesses and recklessly alters, damages, destroys or
10 obtains any data, data base, computer, computer program, computer
11 software, computer equipment, computer system or computer
12 network with a value of \$75,000.00 or more.

1 6. (New section) a. Theft under section 4 of this act constitutes
2 a crime of the third degree if the offense results in the altering,
3 damaging, destruction, or obtaining of property or services with a
4 value of at least \$500.00 but less than \$75,000.00.

5 b. A person is guilty of a crime of the fourth degree if he
6 purposely or knowingly accesses and recklessly alters, damages,
7 destroys or obtains any data, data base, computer, computer
8 program, computer software, computer equipment, computer
9 system or computer network with a value of at least \$500.00 but
10 less than \$75,000.00.

1 7. (New section) a. Theft under section 4 of this act constitutes
2 a crime of the fourth degree if the offense results in the altering,
3 damaging, destruction or obtaining of property or services with a
4 value of more than \$200.00 but less than \$500.00.

5 b. A person is guilty of a disorderly persons offense if he
6 purposely or knowingly accesses and recklessly alters, damages,
7 destroys or obtains any data, data base, computer, computer
8 program, computer software, computer equipment, computer
9 system or computer network with a value of more than \$200.00 but
10 less than \$500.00.

1 8. (New section) a. Theft under section 4 of this act constitutes
2 a disorderly persons offense when the offense results in the altering,
3 damaging, destruction or obtaining of property or services with a
4 value of \$200.00 or less.

5 b. A person is guilty of a petty disorderly persons offense if he
6 purposely or knowingly accesses and recklessly alters, damages,
7 destroys or obtains any data, data base, computer, computer pro-

8 gram, computer software, computer equipment, computer system
9 or computer network with a value of \$200.00 or less.

1 9. (New section) A person is guilty of a crime of the third degree
2 if he purposely and without authorization accesses ***[and alters]*** ,
3 *alters, damages or destroys* a computer system or any of its parts
4 where the accessing and altering cannot be assessed a monetary
5 value or loss.

1 10. (New section) A person is guilty of a crime of the third
2 degree if he purposely and without authorization accesses a
3 computer system or any of its parts and directly or indirectly
4 discloses or causes to be disclosed data, data base, computer
5 software or computer programs where the accessing and disclosing
6 cannot be assessed a monetary value or loss.

1 11. (New section) A person is guilty of a disorderly persons
2 offense if he purposely and without authorization accesses a
3 computer or any of its parts and this action does not result in the
4 altering, damaging or destruction of any property or services.

1 ***12. (New section) The copying or altering of a computer
2 program or computer software shall not constitute theft for the
3 purposes of chapters 20 and 21 of Title 2C of the New Jersey
4 Statutes or any offense under this act if the computer program or
5 computer software is of a retail value of \$1,000.00 or less and is
6 not copied for resale.***

1 ****[12.]**** ***13.*** (New section) For the purpose of prosecution
2 under this act, the situs of an offense of theft shall be the location
3 of the computer which is assessed, or where the terminal used in
4 the offense is situated, or where the actual damage occurs.

1 ****[13.]**** ***14.*** This act shall take effect on the 120th day after
2 enactment.



OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001

Contact:

PAUL WOLCOTT
609-292-8956

TRENTON, N.J. 08625

Release: WED., NOV. 14, 1984

Governor Thomas H. Kean has signed legislation making it a crime to take information or services from a computer, and to establish civil liability for computer related offenses.

A-1301/S-1807, sponsored by Assemblyman William E. Flynn, D-Middlesex, and State Senator Frank X. Graves, D-Passaic, makes it a crime to damage or alter computer equipment or services, or to take or destroy any data, data base, computer program or computer software.

Included in the provisions of the bill is the unauthorized entry of a computer memory bank in order to use the computer capacity, even if the entry does not result in the alteration, damage or destruction of the computer equipment or services.

A-245/S-1815, sponsored by Assemblyman Walter M. D. Kern, R-Bergen, and Senator Graves, makes an individual civilly liable for damages resulting from unauthorized taking or destruction of computer information or programs. The bill provides for compensatory and punitive damages, as well as cost of the legal action.

Both bills become effective in 120 days.

#

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.
Matter printed in italics *thus* is new matter.