LEGISLATIVE BILL 135

Approved by the Governor February 25, 1991

Introduced by Lindsay, 9; Landis, 46

AN ACT relating to computers; to amend sections 28-1343
        to 28-1348, Reissue Revised Statutes of
        Nebraska, 1943, and section 28-101, Revised
        Statutes Supplement, 1990; to create the
        Computer Crimes Act; to state intent; to
        define and redefine terms; to change
        provisions relating to unauthorized use of
        computers; to prohibit use of destructive
        computer programs; to provide and change
        penalties; to harmonize provisions; and to
        repeal the original sections.
Be it enacted by the people of the State of Nebraska,

        Section 1.   That section 28-101, Revised
Statutes Supplement, 1990, be amended to read as
follows:
        28-101.   Sections 28-101 to 28-1348 and
sections 2, 3, and 5 of this act shall be known and may
be cited as the Nebraska Criminal Code.
        Sec. 2.   Sections 28-1343 to 28-1348 and
sections 2, 3, and 5 of this act shall be known and may
be cited as the Computer Crimes Act.
        Sec. 3.   The Legislature finds and declares
that our society is increasingly dependent on computers,
that important personal, financial, medical, and
historical data is stored in computers, and that
valuable data stored can be lost due to criminal action.
        The Legislature further finds that specific
criminal statutes are necessary to cover the actions of
persons who intentionally destroy data or commit fraud
using computers.
        Sec. 4.   That section 28-1343, Reissue Revised
Statutes of Nebraska, 1943, be amended to read as
follows:
        28-1343.   For purposes of sections 28-1343 to
28-1348, unless the content otherwise requires the
Computer Crimes Act:
        (1) Access shall mean to instruct, communicate
with, store data in, retrieve data from, or otherwise
use the resources of a computer, computer system, or
computer network;
        (2) Computer shall mean a high-speed data

processing device or system which performs logical,
arithmetic, data storage and retrieval, communication,
memory, or control functions by the manipulation of
signals, including, but not limited to, electronic or
magnetic impulses, and ~~includes~~ shall include any input,
output, data storage, processing, or communication
facilities directly related to or operating in
conjunction with any such device or system;

(3) Computer network shall mean the
interconnection of ~~communication links~~ a communications
system with a computer through a remote terminal or ~~an
interconnection of computers which communicate with each
other~~ with two or more interconnected computers or
computer systems;

(4) Computer program shall mean ~~a set of
instructions, statements, or related data that directs
or is intended to direct the computer to perform certain
specified functions~~ an instruction or statement or a
series of instructions or statements in a form
acceptable to a computer which directs the functioning
of a computer system in a manner designed to provide
appropriate products from the computer;

(5) Computer security system shall mean a
computer program or device that:

(a) Is intended to protect the confidentiality
and secrecy of data and information stored in or
accessible through the computer system; and

(b) Displays a conspicuous warning to a user
that the user is entering a secure system or requires a
person seeking access to knowingly respond by use of an
authorized code to the program or device in order to
gain access;

(6) Computer software shall mean a computer
program of procedures or associated documentation
concerned with the operation of a computer;

(7) Computer system shall mean related
computers and peripheral equipment, whether connected or
unconnected;

(8) Data shall mean a representation of
information, facts, knowledge, concepts, or instructions
prepared in a formalized or other manner and intended
for use in a computer or computer network;

(9) Destructive computer program shall mean a
computer program that performs a destructive function or
produces a destructive product;

(10) Destructive function shall mean a
function that (a) degrades the performance of a
computer, its associated peripheral equipment, or a
computer program, (b) disables a computer, its

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associated peripheral equipment, or a computer program,
or (c) alters a computer program or data;
     (11) Destructive product shall mean a product
that: (a) Produces unauthorized data, including data
that make computer memory space unavailable; (b) results
in the unauthorized alteration of data or a computer
program; or (c) produces a destructive computer program,
including, but not limited to, a self-replicating
program;
     (12) Loss shall mean the greatest of the
following:
     (a) The retail market value of the property or
services involved;
     (b) The reasonable repair or replacement cost
whichever is less; or
     (c) The reasonable value of the damage created
by the unavailability or lack of utility of the property
or services involved until repair or replacement can be
effected;
     ~~(6)~~ (13) Property shall mean any ~~tangible or
intangible thing of value and shall~~ include, but not be
limited to, ~~financial instruments, data, computer
programs, information, computer-produced or stored data,
supporting documentation, or data in transit,~~
electronically processed or electronically produced data
and information in computer software whether in human or
computer readable form; and
     ~~(7)~~ (14) Services shall mean ~~use of a computer
or computer network including~~ include, but not ~~be~~
limited to, computer time, data processing, and storage
functions. ~~, computer programs, or data.~~
     Sec. 5. (1) A person commits the offense of
unauthorized computer access if the person intentionally
and without authority penetrates a computer security
system.
     (2) A person who violates subsection (1) of
this section in a manner that creates a grave risk of
causing the death of a person shall be guilty of a Class
IV felony.
     (3) A person who violates subsection (1) of
this section in a manner that creates a risk to public
health and safety shall be guilty of a Class I
misdemeanor.
     (4) A person who violates subsection (1) of
this section in a manner that compromises the security
of data shall be guilty of a Class II misdemeanor.
     Sec. 6. That section 28-1344, Reissue Revised
Statutes of Nebraska, 1943, be amended to read as
follows:

28-1344.   Any   person   who   intentionally
accesses   or   causes   to   be   accessed,   directly   or
indirectly,   any   computer, computer system, computer
software, or computer network without authorization or
who, having accessed any computer, computer system,
computer software, or computer network with
authorization, knowingly and intentionally exceeds the
limits of such authorization shall be guilty of a Class
IV felony if he or she intentionally: (1) Deprives
another of property or services; or (2) obtains property
or services of another, except that any person who
obtains property or services or deprives another of
property or services with a value of one thousand
dollars or more by such conduct shall be guilty of a
Class III felony.
              Sec. 7. That section 28-1345, Reissue Revised
Statutes of Nebraska, 1943, be amended to read as
follows:
              28-1345. Any person who accesses or causes to
be accessed any computer, computer system, computer
software, or computer network without authorization or
who, having accessed any computer, computer system,
computer software, or computer network with
authorization, knowingly and intentionally exceeds the
limits of such authorization shall be guilty of a Class
IV felony if he or she intentionally: (1) Alters,
damages, deletes, or destroys any computer, computer
system, computer software, computer network, computer
program, data, or other property; or (2) disrupts the
operation of any computer, computer system, computer
software, or computer network; or (3) distributes a
destructive computer program with intent to damage or
destroy any computer, computer system, computer network,
or computer software, except that any person who causes
losses loss with a value of one thousand dollars or more
by such conduct shall be guilty of a Class III felony.
              Sec. 8. That section 28-1346, Reissue Revised
Statutes of Nebraska, 1943, be amended to read as
follows:
              28-1346.   Any   person   who   intentionally
accesses or causes to be accessed any computer, computer
system, computer software, or computer network without
authorization, or who, having accessed a computer,
computer system, computer software, or computer network
with authorization, knowingly and intentionally exceeds
the limits of such authorization, and thereby obtains
information filed by the public with the state or any
political subdivision which is by statute required to be
kept confidential shall be guilty of a Class II

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misdemeanor. For any second or subsequent offense under this section, such person shall be guilty of a Class I misdemeanor.

Sec. 9. That section 28-1347, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-1347. Any person who intentionally accesses any computer, computer system, computer software, computer network, computer program, or data without authorization and with knowledge that such access was not authorized or who, having accessed any computer, computer system, computer software, or computer network, computer program, or data with authorization, knowingly and intentionally exceeds the limits of such authorization shall be guilty of a Class V misdemeanor. For any second or subsequent offense under this section, such person shall be guilty of a Class II misdemeanor.

Sec. 10. That section 28-1348, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-1348. Sections 28-1343 to 28-1348 The Computer Crimes Act shall not be construed to preclude the applicability of any other provision of Chapter 28 the Nebraska Criminal Code which may apply to any transaction described in such sections the Computer Crimes Act.

Sec. 11. That original sections 28-1343 to 28-1348, Reissue Revised Statutes of Nebraska, 1943, and section 28-101, Revised Statutes Supplement, 1990, are repealed.