

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 18-0637.01 Michael Dohr x4347

HOUSE BILL 18-1200

HOUSE SPONSORSHIP

Lundeen and Garnett,

SENATE SPONSORSHIP

Coram and Fields,

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING CYBERCRIME, AND, IN CONNECTION THEREWITH,**
102 **CRIMINALIZING USING A COMPUTER TO ENGAGE IN**
103 **PROSTITUTION OF A MINOR, CRIMINALIZING SKIMMING**
104 **PAYMENT CARDS, ██████ MAKING CHANGES TO THE PENALTY**
105 **STRUCTURE FOR CYBERCRIME, ██████ AND MAKING AN**
106 **APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill changes the name of the crime computer crime to

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
April 13, 2018

cybercrime. The bill makes changes to the way current cybercrimes may be committed. The bill makes soliciting, arranging, or offering to arrange a situation in which a minor may engage in prostitution, by means of using a computer, computer network, computer system, or any part thereof, a cybercrime. The bill makes stealing the information from a credit card magnetic strip or placing different information on a credit card magnetic strip without permission and with the intent to defraud a cybercrime. The bill makes changes to the penalty structure for cybercrime.

The bill makes conforming amendments.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 18-5.5-101, **amend**
3 the introductory portion; and **add** (6.5), (7.5), and (8.5) as follows:

4 **18-5.5-101. Definitions.** As used in this ~~article~~ ARTICLE 5.5,
5 unless the context otherwise requires:

6 (6.5) "ENCODING MACHINE" MEANS AN ELECTRONIC DEVICE THAT
7 IS USED TO ENCODE INFORMATION ONTO A PAYMENT CARD.

8 (7.5) "PAYMENT CARD" MEANS A CREDIT CARD, CHARGE CARD,
9 DEBIT CARD, OR ANY OTHER CARD THAT IS ISSUED TO AN AUTHORIZED
10 CARD USER AND THAT ALLOWS THE USER TO OBTAIN, PURCHASE, OR
11 RECEIVE GOODS, SERVICES, MONEY, OR ANYTHING ELSE OF VALUE FROM
12 A MERCHANT.

13 (8.5) "SCANNING DEVICE" MEANS A SCANNER, READER, WIRELESS
14 ACCESS DEVICE, RADIO-FREQUENCY IDENTIFICATION SCANNER,
15 NEAR-FIELD COMMUNICATIONS TECHNOLOGY, OR ANY OTHER ELECTRONIC
16 DEVICE THAT IS USED TO ACCESS, READ, SCAN, OBTAIN, MEMORIZE, OR
17 STORE, TEMPORARILY OR PERMANENTLY, INFORMATION FROM A PAYMENT
18 CARD.

19 **SECTION 2.** In Colorado Revised Statutes, 18-5.5-102, **amend**
20 (1) introductory portion and (3); and **add** (1)(h), (1)(i), (1)(j), and (4) as

1 follows:

2 **18-5.5-102. Cybercrime.** (1) A person commits ~~computer crime~~
3 CYBERCRIME if the person knowingly:

4

5 (h) SOLICITS OR OFFERS TO ARRANGE A SITUATION IN WHICH A
6 MINOR MAY ENGAGE IN PROSTITUTION, BY MEANS OF USING A COMPUTER,
7 COMPUTER NETWORK, COMPUTER SYSTEM, OR ANY PART THEREOF; OR

8 (i) DIRECTLY OR INDIRECTLY USES A SCANNING DEVICE TO ACCESS,
9 READ, OBTAIN, MEMORIZE, OR STORE, TEMPORARILY OR PERMANENTLY,
10 INFORMATION ENCODED ON THE [REDACTED] PAYMENT CARD WITHOUT THE
11 PERMISSION OF THE AUTHORIZED USER OF THE PAYMENT CARD, AND WITH
12 THE INTENT TO DEFRAUD THE AUTHORIZED USER, THE ISSUER OF THE
13 AUTHORIZED USER'S PAYMENT CARD, OR A MERCHANT; OR

14 (j) DIRECTLY OR INDIRECTLY USES AN ENCODING MACHINE TO
15 PLACE INFORMATION ENCODED ON THE [REDACTED] PAYMENT CARD ONTO [REDACTED] A
16 DIFFERENT PAYMENT CARD WITHOUT THE PERMISSION OF THE AUTHORIZED
17 USER OF THE PAYMENT CARD FROM WHICH THE INFORMATION BEING
18 REENCODED WAS OBTAINED, AND WITH THE INTENT TO DEFRAUD THE
19 AUTHORIZED USER, THE ISSUER OF THE AUTHORIZED USER'S PAYMENT
20 CARD, OR A MERCHANT.

21 (3) (a) ~~Except as provided in paragraphs (b), and (c) of this~~
22 ~~subsection (3), SUBSECTIONS (3)(b), (3)(b.5), AND (3)(c) OF THIS SECTION,~~
23 ~~if the loss, damage, value of services, or thing of value taken, or cost of~~
24 ~~restoration or repair caused by a violation of this section is:~~

25 (I) ~~Less than fifty dollars, computer crime is a class 1 petty~~
26 ~~offense;~~

27 (II) ~~Fifty dollars or more but~~ Less than three hundred dollars,

1 ~~computer crime~~ CYBERCRIME is a class 3 misdemeanor;

2 (III) Three hundred dollars or more but less than seven hundred

3 fifty dollars, ~~computer crime~~ CYBERCRIME is a class 2 misdemeanor;

4 (IV) Seven hundred fifty dollars or more but less than two

5 thousand dollars, ~~computer crime~~ CYBERCRIME is a class 1 misdemeanor;

6 (V) Two thousand dollars or more but less than five thousand

7 dollars, ~~computer crime~~ CYBERCRIME is a class 6 felony;

8 (VI) Five thousand dollars or more but less than twenty thousand

9 dollars, ~~computer crime~~ CYBERCRIME is a class 5 felony;

10 (VII) Twenty thousand dollars or more but less than one hundred

11 thousand dollars, ~~computer crime~~ CYBERCRIME is a class 4 felony;

12 (VIII) One hundred thousand dollars or more but less than one

13 million dollars, ~~computer crime~~ CYBERCRIME is a class 3 felony; and

14 (IX) One million dollars or more, ~~computer crime~~ CYBERCRIME is

15 a class 2 felony.

16 (b) ~~Computer crime~~ CYBERCRIME committed in violation of

17 ~~paragraph (a) of subsection (1)~~ SUBSECTION (1)(a) of this section is a class

18 2 misdemeanor; except that, if the person has previously been convicted

19 under this section a ~~previous version of this section, or a statute of~~

20 ~~another state of similar content and purport, computer crime~~ OR OF ANY

21 CRIMINAL ACT COMMITTED IN ANY JURISDICTION OF THE UNITED STATES

22 WHICH, IF COMMITTED IN THIS STATE, WOULD BE A FELONY UNDER THIS

23 STATUTE, CYBERCRIME committed in violation of ~~paragraph (a) of~~

24 ~~subsection (1)~~ SUBSECTION (1)(a) of this section is a class 6 felony.

25 (b.5) CYBERCRIME COMMITTED IN VIOLATION OF SUBSECTION

26 (1)(h), (1)(i) OR (1)(j) OF THIS SECTION IS A CLASS 5 FELONY.

27 (c) (I) ~~Computer crime~~ CYBERCRIME committed in violation of

1 ~~paragraph (g) of subsection (1)~~ SUBSECTION (1)(g) of this section is a
2 class 1 misdemeanor.

3 (II) If ~~computer crime~~ CYBERCRIME is committed to obtain event
4 tickets, each ticket purchased shall constitute a separate offense.

5 (III) ~~Paragraph (g) of subsection (1)~~ SUBSECTION (1)(g) of this
6 section shall not prohibit the resale of tickets in a secondary market by a
7 person other than the event sponsor or promoter.

8 (d) Consistent with section 18-1-202, a prosecution for a violation
9 of ~~paragraph (g) of subsection (1)~~ SUBSECTION (1)(g) of this section may
10 be tried in the county where the event has been, or will be, held.

11 (4) NOTHING IN THIS SECTION PRECLUDES PUNISHMENT PURSUANT
12 TO ANY OTHER SECTION OF LAW. ■ ■

13 **SECTION 3.** In Colorado Revised Statutes, 16-5-401, **amend**
14 (4.5)(b) as follows:

15 **16-5-401. Limitation for commencing criminal proceedings**
16 **and juvenile delinquency proceedings.** (4.5) The period within which
17 a prosecution must be commenced begins to run upon discovery of the
18 criminal act or the delinquent act for:

19 (b) ~~Computer crime~~ CYBERCRIME, pursuant to article 5.5 of title
20 18; ~~C.R.S.~~;

21 **SECTION 4.** In Colorado Revised Statutes, 16-13-303, **amend**
22 (3)(d) as follows:

23 **16-13-303. Class 1 public nuisance.** (3) The following shall be
24 deemed class 1 public nuisances and be subject to forfeiture and
25 distributed as provided in section 16-13-311 (3), and no property rights
26 shall exist in them:

27 (d) All equipment of any kind, including but not limited to

1 computers and any type of computer hardware, software, or other
2 equipment, used in committing sexual exploitation of a child, as described
3 in section 18-6-403, ~~C.R.S.~~, or ~~computer crime~~ CYBERCRIME, as described
4 in section 18-5.5-102. ~~C.R.S.~~

5 **SECTION 5.** In Colorado Revised Statutes, 18-1-202, **amend**
6 (7)(b)(II)(K) as follows:

7 **18-1-202. Place of trial - applicability.** (7) (b) (II) The
8 provisions of subsection (7)(b)(I) of this section shall apply to the
9 following offenses:

10 (K) ~~Computer crime~~ CYBERCRIME, as defined in section
11 18-5.5-102;

12 **SECTION 6.** In Colorado Revised Statutes, 18-17-103, **amend**
13 the introductory portion and (5)(b)(III) as follows:

14 **18-17-103. Definitions.** As used in this ~~article~~ ARTICLE 17, unless
15 the context otherwise requires:

16 (5) "Racketeering activity" means to commit, to attempt to
17 commit, to conspire to commit, or to solicit, coerce, or intimidate another
18 person to commit:

19 (b) Any violation of the following provisions of the Colorado
20 statutes or any criminal act committed in any jurisdiction of the United
21 States which, if committed in this state, would be a crime under the
22 following provisions of the Colorado statutes:

23 (III) Offenses involving ~~computer crime~~ CYBERCRIME, as defined
24 in article 5.5 of this ~~title~~ TITLE 18;

25 **SECTION 7.** In Colorado Revised Statutes, 24-33.5-412, **amend**
26 (8)(a), (8)(b), and (8)(c) as follows:

27 **24-33.5-412. Functions of bureau - legislative review -**

1 **interagency cooperation with reporting functions - processing time**
2 **for criminal history record checks - computer crime - synthetic**
3 **cannabinoids enforcement.** (8) (a) The bureau has the authority to
4 conduct criminal investigations relating to ~~computer crime~~ CYBERCRIME
5 violations pursuant to section 18-5.5-102, ~~C.R.S.~~, when violations are
6 reported or investigations requested by law enforcement officials or the
7 governor or when violations are discovered by the bureau. All
8 investigations conducted by the bureau must be in cooperation and
9 coordination with local, state, or federal law enforcement authorities,
10 subject to the provisions of section 24-33.5-410.

11 (b) The bureau shall develop and collect information with regard
12 to ~~computer crime~~ CYBERCRIME in an effort to identify, charge, and
13 prosecute criminal offenders and enterprises that unlawfully access and
14 exploit computer systems and networks, impact functionality, and access
15 sensitive data and shall report such information to the appropriate law
16 enforcement organizations. The bureau must also provide awareness
17 training and information concerning cyber-security and security risks to
18 the information technology critical infrastructure industry.

19 (c) The bureau shall prepare reports at least annually concerning
20 any activities of ~~computer crime~~ CYBERCRIME in Colorado for use by
21 local or federal law enforcement officials or the governor. The reports are
22 available for public inspection unless the material in the reports is exempt
23 under article 72 of this ~~title~~ TITLE 24.

24 **SECTION 8.** In Colorado Revised Statutes, **add** 17-18-124 as
25 follows:

26 **17-18-124. Appropriation to comply with section 2-2-703 - HB**
27 **18-1200 - repeal.** (1) PURSUANT TO SECTION 2-2-703, THE FOLLOWING

1 STATUTORY APPROPRIATIONS ARE MADE IN ORDER TO IMPLEMENT HOUSE
2 BILL 18-1200, ENACTED IN 2018:

3 (a) FOR THE 2019-20 STATE FISCAL YEAR, TWENTY-TWO THOUSAND
4 SEVENTY-TWO DOLLARS IS APPROPRIATED TO THE DEPARTMENT FROM THE
5 GENERAL FUND;

6 (b) FOR THE 2020-21 STATE FISCAL YEAR, THIRTY-FOUR
7 THOUSAND SIX HUNDRED SEVENTY-SEVEN DOLLARS IS APPROPRIATED TO
8 THE DEPARTMENT FROM THE GENERAL FUND;

9 (c) FOR THE 2021-22 STATE FISCAL YEAR, THIRTY-NINE THOUSAND
10 THREE HUNDRED THIRTY-FOUR DOLLARS IS APPROPRIATED TO THE
11 DEPARTMENT FROM THE GENERAL FUND; AND

12 (d) FOR THE 2022-23 STATE FISCAL YEAR, THIRTY-NINE
13 THOUSAND THREE HUNDRED THIRTY-FOUR DOLLARS IS APPROPRIATED TO
14 THE DEPARTMENT FROM THE GENERAL FUND.

15 (2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2023.

16 **SECTION 9. Act subject to petition - effective date -**
17 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
18 the expiration of the ninety-day period after final adjournment of the
19 general assembly (August 8, 2018, if adjournment sine die is on May 9,
20 2018); except that, if a referendum petition is filed pursuant to section 1
21 (3) of article V of the state constitution against this act or an item, section,
22 or part of this act within such period, then the act, item, section, or part
23 will not take effect unless approved by the people at the general election
24 to be held in November 2018 and, in such case, will take effect on the
25 date of the official declaration of the vote thereon by the governor.

26 (2) This act applies to offenses committed on or after the
27 applicable effective date of this act.