LEXSTAT WICODE 943.70

WISCONSIN STATUTES

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CRIMINAL CODE
CHAPTER 943. CRIMES AGAINST PROPERTY
SUBCHAPTER III MISAPPROPRIATION

Wis. Stat. § 943.70 (2002)

943.70. Computer crimes.

(1) DEFINITIONS. In this section:

(ag) "Access" means to instruct, communicate with, interact with, intercept, store data in, retrieve data from, or otherwise use the resources of.

(am) "Computer" means an electronic device that performs logical, arithmetic and memory functions by manipulating electronic or magnetic impulses, and includes all input, output, processing, storage, computer software and communication facilities that are connected or related to a computer in a computer system or computer network.

(b) "Computer network" means the interconnection of communication lines with a computer through remote terminals or a complex consisting of 2 or more interconnected computers.

(c) "Computer program" means an ordered set of instructions or statements that, when executed by a computer, causes the computer to process data.

(d) "Computer software" means a set of computer programs, procedures or associated documentation used in the operation of a computer system.

(dm) "Computer supplies" means punchcards, paper tape, magnetic tape, disk packs, diskettes and computer output, including paper and microform.

(e) "Computer system" means a set of related computer equipment, hardware or software.

(f) "Data" means a representation of information, knowledge, facts, concepts or instructions that has been prepared or is being prepared in a formalized manner and has been processed, is being processed or is intended to be processed in a computer system or computer network. Data may be in any form including computer printouts, magnetic storage media, punched cards and as stored in the memory of the computer. Data are property.

(g) "Financial instrument" includes any check, draft, warrant, money order, note, certificate of deposit, letter of credit, bill of exchange, credit or credit card, transaction authorization mechanism, marketable security and any computer representation of them.

(gm) "Interruption in service" means inability to access a computer, computer program, computer system, or computer network, or an inability to complete a transaction involving a computer.

(h) "Property" means anything of value, including but not limited to financial instruments, information, electronically produced data, computer software and computer programs.

(i) "Supporting documentation" means all documentation used in the computer system in the construction, clarification, implementation, use or modification of the software or data.

(2) OFFENSES AGAINST COMPUTER DATA AND PROGRAMS.

(a) Whoever willfully, knowingly and without authorization does any of the following may be penalized as provided

in pars. (b) and (c):

    1. Modifies data, computer programs or supporting documentation.

    2. Destroys data, computer programs or supporting documentation.

    3. Accesses computer programs or supporting documentation.

    4. Takes possession of data, computer programs or supporting documentation.

    5. Copies data, computer programs or supporting documentation.

    6. Discloses restricted access codes or other restricted access information to unauthorized persons.

(am) Whoever intentionally causes an interruption in service by submitting a message, or multiple messages, to a computer, computer program, computer system, or computer network that exceeds the processing capacity of the computer, computer program, computer system, or computer network may be penalized as provided in pars. (b) and (c)

(b) Whoever violates par. (a) or (am) is guilty of:

1. A Class A misdemeanor unless any of subds. 2. to 4. applies.

2. A Class I felony if the offense is committed to defraud or to obtain property.2. A Class E felony if the offense is committed to defraud or to obtain property.

3. A Class E felony if the offense results in damage valued at more than $1,000 but not more than $2,500.

3g. A Class F felony if the offense results in damage valued at more than $2,500.3g. A Class C felony if the offense results in damage valued at more than $2,500.

3r. A Class F felony if the offense causes an interruption or impairment of governmental operations or public communication, of transportation, or of a supply of water, gas, or other public service.3r. A Class C felony if the offense causes an interruption or impairment of governmental operations or public communication, of transportation, or of a supply of water, gas, or other public service.

4. A Class F felony if the offense creates a substantial and unreasonable risk of death or great bodily harm to another.4. A Class C felony if the offense creates a substantial and unreasonable risk of death or great bodily harm to another.

(c) If a person disguises the identity or location of the computer at which he or she is working while committing an offense under par. (a) or (am) with the intent to make it less likely that he or she will be identified with the crime, the penalties under par. (b) may be increased as follows:

1. In the case of a misdemeanor, the maximum fine prescribed by law for the crime may be increased by not more than $1,000 and the maximum term of imprisonment prescribed by law for the crime may be increased so that the revised maximum term of imprisonment is one year in the county jail.1. In the case of a misdemeanor, the maximum fine prescribed by law for the crime may be increased by not more than $1,000 and the maximum term of imprisonment prescribed by law for the crime may be increased so that the revised maximum term of imprisonment is 12 months.

2. In the case of a felony, the maximum fine prescribed by law for the crime may be increased by not more than $2,500 and the maximum term of imprisonment prescribed by law for the crime may be increased by not more than 2 years.

(3) OFFENSES AGAINST COMPUTERS, COMPUTER EQUIPMENT OR SUPPLIES.

(a) Whoever willfully, knowingly and without authorization does any of the following may be penalized as provided in par. (b):

1. Modifies computer equipment or supplies that are used or intended to be used in a computer, computer system or computer network.

2. Destroys, uses, takes or damages a computer, computer system, computer network or equipment or supplies used or intended to be used in a computer, computer system or computer network.

(b) Whoever violates this subsection is guilty of:

1. A Class A misdemeanor unless subd. 2., 3. or 4. applies.

2. A Class I felony if the offense is committed to defraud or obtain property.2. A Class E felony if the offense is committed to defraud or obtain property.

3. A Class H felony if the damage to the computer, computer system, computer network, equipment or supplies is greater than $2,500.3. A Class D felony if the damage to the computer, computer system, computer network, equipment or supplies is greater than $2,500.

4. A Class F felony if the offense creates a substantial and unreasonable risk of death or great bodily harm to another.4. A Class C felony if the offense creates a substantial and unreasonable risk of death or great bodily harm to another.

(4) COMPUTER USE RESTRICTION. In addition to the other penalties provided for violation of this section, a judge may place restrictions on the offenders use of computers. The duration of any such restrictions may not exceed the maximum period for which the offender could have been imprisoned; except if the offense is punishable by forfeiture, the duration of the restrictions may not exceed 90 days.

(5) INJUNCTIVE RELIEF. Any aggrieved party may sue for injunctive relief under ch. 813 to compel compliance with this section. In addition, owners, lessors, users or manufacturers of computers, or associations or organizations representing any of those persons, may sue for injunctive relief to prevent or stop the disclosure of information which may enable another person to gain unauthorized access to data, computer programs or supporting documentation.

HISTORY: History: 1981 c. 293; 1983 a. 438, 541; 1987 a. 399; 2001 a. 16, 109.Judicial Council Note, 1988:[In (2) (b) 4. and (3) (b) 4.] The words "substantial risk" are substituted for "high probability" to avoid any inference that a statistical likelihood greater than 50% was ever intended. [Bill 191–S]

NOTES:
This section is constitutional. Copyright law does not give a programmer a copyright in data entered into the programmer's program, and copyright law does not preempt prosecution of the programmer for destruction of data entered into the program. *State v. Corcoran, 186 Wis. 2d 616, 522 N.W.2d 226 (Ct. App. 1994).*

Criminal liability for computer offenses and the new Wisconsin computer crimes act. Levy. WBB March 1983.

CASE NOTES:

NOTE: Subd. 2. is shown as amended eff. 2–1–03 by 2001 Wis. Act 109. Prior to 2–1–03 it reads:

NOTE: Subd. 3. is repealed eff. 2–1–03 by 2001 Wis. Act 109.

NOTE: Subd. 3g. is shown as amended eff. 2–1–03 by 2001 Wis. Act 109. Prior to 2–1–03 it reads:

NOTE: Subd. 3r. is shown as amended eff. 2–1–03 by 2001 Wis. Act 109. Prior to 2–1–03 it reads:

NOTE: Subd. 4. is shown as amended eff. 2–1–03 by 2001 Wis. Act 109. Prior to 2–1–03 it reads:

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