

# GA Electronic Crime Statutes

[http://www.legis.state.ga.us/cgi-bin/gl\\_codes\\_detail.pl?code=1-1-1](http://www.legis.state.ga.us/cgi-bin/gl_codes_detail.pl?code=1-1-1)

16-7-22.

(a) A person commits the offense of criminal damage to property in the first degree when he:

(1) Knowingly and without authority interferes with any property in a manner so as to endanger human life; or

(2) Knowingly and without authority and by force or violence interferes with the operation of any system of public communication, public transportation, sewerage, drainage, water supply, gas, power, or other public utility service or with any constituent property thereof.

(b) A person convicted of the offense of criminal damage to property in the first degree shall be punished by imprisonment for not less than one nor more than ten years.

16-9-90.

This article shall be known and may be cited as the 'Georgia Computer Systems Protection Act.'

16-9-91.

The General Assembly finds that:

(1) Computer related crime is a growing problem in the government and in the private sector;

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

(3) The opportunities for computer related crimes in state programs, and in other entities which operate within the state, through the introduction of fraudulent records into a computer system, unauthorized use of computer facilities, alteration or destruction of computerized information files, and stealing of financial instruments, data, or other assets are great;

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

(5) Liability for computer crimes should be imposed on all persons, as that term is defined in this title; and

(6) The prosecution of persons engaged in computer related crime is difficult under previously existing Georgia criminal statutes.

16-9-92.

As used in this article, the term:

(1) 'Computer' means an electronic, magnetic, optical, electrochemical, or other

high-speed data processing device or system performing computer operations with or on data and includes any data storage facility or communications facility directly related to or operating in conjunction with such device; but such term does not include an automated typewriter or typesetter, portable hand-held calculator, household appliance, or other similar device that is not used to communicate with or to manipulate any other computer.

(2) 'Computer network' means a set of related, remotely connected computers and any communications facilities with the function and purpose of transmitting data among them through the communications facilities.

(3) 'Computer operation' means computing, classifying, transmitting, receiving, retrieving, originating, switching, storing, displaying, manifesting, measuring, detecting, recording, reproducing, handling, or utilizing any form of data for business, scientific, control, or other purposes.

(4) 'Computer program' means one or more statements or instructions composed and structured in a form acceptable to a computer that, when executed by a computer in actual or modified form, cause the computer to perform one or more computer operations. The term 'computer program' shall include all associated procedures and documentation, whether or not such procedures and documentation are in human readable form.

(5) 'Data' includes any representation of information, intelligence, or data in any fixed medium, including documentation, computer printouts, magnetic storage media, punched cards, storage in a computer, or transmission by a computer network.

(6) 'Financial instruments' includes any check, draft, money order, note, certificate of deposit, letter of credit, bill of exchange, credit or debit card, transaction-authorizing mechanism, or marketable security, or any computer representation thereof.

(7) 'Property' includes computers, computer networks, computer programs, data, financial instruments, and services.

(8) 'Services' includes computer time or services or data processing services.

(9) 'Use' includes causing or attempting to cause:

(A) A computer or computer network to perform or to stop performing computer operations;

(B) The obstruction, interruption, malfunction, or denial of the use of a computer, computer network, computer program, or data; or

(C) A person to put false information into a computer.

(10) 'Victim expenditure' means any expenditure reasonably and necessarily incurred by the owner to verify that a computer, computer network, computer program, or data was or was not altered, deleted, damaged, or destroyed by unauthorized use.

(11) 'Without authority' includes the use of a computer or computer network in

a manner that exceeds any right or permission granted by the owner of the computer or computer network.

16-9-93.

(a) *Computer theft.* Any person who uses a computer or computer network with knowledge that such use is without authority and with the intention of:

- (1) Taking or appropriating any property of another, whether or not with the intention of depriving the owner of possession;
- (2) Obtaining property by any deceitful means or artful practice; or
- (3) Converting property to such person's use in violation of an agreement or other known legal obligation to make a specified application or disposition of such property

shall be guilty of the crime of computer theft.

(b) *Computer Trespass.* Any person who uses a computer or computer network with knowledge that such use is without authority and with the intention of:

- (1) Deleting or in any way removing, either temporarily or permanently, any computer program or data from a computer or computer network;
- (2) Obstructing, interrupting, or in any way interfering with the use of a computer program or data; or
- (3) Altering, damaging, or in any way causing the malfunction of a computer, computer network, or computer program, regardless of how long the alteration, damage, or malfunction persists

shall be guilty of the crime of computer trespass.

(c) *Computer Invasion of Privacy.* Any person who uses a computer or computer network with the intention of examining any employment, medical, salary, credit, or any other financial or personal data relating to any other person with knowledge that such examination is without authority shall be guilty of the crime of computer invasion of privacy.

(d) *Computer Forgery.* Any person who creates, alters, or deletes any data contained in any computer or computer network, who, if such person had created, altered, or deleted a tangible document or instrument would have committed forgery under Article 1 of this chapter, shall be guilty of the crime of computer forgery. The absence of a tangible writing directly created or altered by the offender shall not be a defense to the crime of computer forgery if a creation, alteration, or deletion of data was involved in lieu of a tangible document or instrument.

(e) *Computer Password Disclosure.* Any person who discloses a number, code, password, or other means of access to a computer or computer network knowing that such disclosure is without authority and which results in damages (including the fair market value of any services used and victim expenditure) to the owner of the computer or computer network in excess of \$500.00 shall be

guilty of the crime of computer password disclosure.

(f) *Article not Exclusive.* The provisions of this article shall not be construed to preclude the applicability of any other law which presently applies or may in the future apply to any transaction or course of conduct which violates this article.

(g) *Civil Relief; Damages.*

(1) Any person whose property or person is injured by reason of a violation of any provision of this article may sue therefor and recover for any damages sustained and the costs of suit. Without limiting the generality of the term, 'damages' shall include loss of profits and victim expenditure.

(2) At the request of any party to an action brought pursuant to this Code section, the court shall by reasonable means conduct all legal proceedings in such a way as to protect the secrecy and security of any computer, computer network, data, or computer program involved in order to prevent possible recurrence of the same or a similar act by another person and to protect any trade secrets of any party.

(3) The provisions of this article shall not be construed to limit any person's right to pursue any additional civil remedy otherwise allowed by law.

(4) A civil action under this Code section must be brought within four years after the violation is discovered or by exercise of reasonable diligence should have been discovered. For purposes of this article, a continuing violation of any one subsection of this Code section by any person constitutes a single violation by such person.

(h) *Criminal Penalties.*

(1) Any person convicted of the crime of computer theft, computer trespass, computer invasion of privacy, or computer forgery shall be fined not more than \$50,000.00 or imprisoned not more than 15 years, or both.

(2) Any person convicted of computer password disclosure shall be fined not more than \$5,000.00 or incarcerated for a period not to exceed one year, or both.

16-9-93.1.

(a) It shall be unlawful for any person, any organization, or any representative of any organization knowingly to transmit any data through a computer network or over the transmission facilities or through the network facilities of a local telephone network for the purpose of setting up, maintaining, operating, or exchanging data with an electronic mailbox, home page, or any other electronic information storage bank or point of access to electronic information if such data uses any individual name, trade name, registered trademark, logo, legal or official seal, or copyrighted symbol to falsely identify the person, organization, or representative transmitting such data or which would falsely

state or imply that such person, organization, or representative has permission or is legally authorized to use such trade name, registered trademark, logo, legal or official seal, or copyrighted symbol for such purpose when such permission or authorization has not been obtained; provided, however, that no telecommunications company or Internet access provider shall violate this Code section solely as a result of carrying or transmitting such data for its customers.

(b) Any person violating subsection (a) of this Code section shall be guilty of a misdemeanor.

(c) Nothing in this Code section shall be construed to limit an aggrieved party's right to pursue a civil action for equitable or monetary relief, or both, for actions which violate this Code section.

16-9-94.

For the purpose of venue under this article, any violation of this article shall be considered to have been committed:

(1) In the county of the principal place of business in this state of the owner of a computer, computer network, or any part thereof;

(2) In any county in which any person alleged to have violated any provision of this article had control or possession of any proceeds of the violation or of any books, records, documents, or property which were used in furtherance of the violation;

(3) In any county in which any act was performed in furtherance of any transaction which violated this article; and

(4) In any county from which, to which, or through which any use of a computer or computer network was made, whether by wires, electromagnetic waves, microwaves, or any other means of communication.

16-12-100.2.

(a) This Code section shall be known and may be cited as the 'Computer Pornography and Child Exploitation Prevention Act of 1999.'

(b) As used in this Code section, the term:

(1) 'Child' means any person under the age of 16 years.

(2) 'Identifiable child' means a person:

(A) Who was a child at the time the visual depiction was created, adapted, or modified or whose image as a child was used in creating, adapting, or modifying the visual depiction; and

(B) Who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature or by electronic or scientific means as may be available.

The term shall not be construed to require proof of the actual identity of the

child.

(3) 'Sodomasochistic abuse' has the same meaning as provided in Code Section 16-12-100.1.

(4) 'Sexual conduct' has the same meaning as provided in Code Section 16-12-100.1.

(5) 'Sexual excitement' has the same meaning as provided in Code Section 16-12-100.1.

(6) 'Sexually explicit nudity' has the same meaning as provided in Code Section 16-12-102.

(7) 'Visual depiction' means any image and includes undeveloped film and video tape and data stored on computer disk or by electronic means which is capable of conversion into a visual image or which has been created, adapted, or modified to show an identifiable child engaged in sexually explicit conduct.

(c)(1) A person commits the offense of computer pornography if such person intentionally or willfully:

(A) Compiles, enters into, or transmits by means of computer;

(B) Makes, prints, publishes, or reproduces by other computerized means;

(C) Causes or allows to be entered into or transmitted by means of computer; or

(D) Buys, sells, receives, exchanges, or disseminates

any notice, statement, or advertisement, or any child's name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information for the purpose of offering or soliciting sexual conduct of or with an identifiable child or the visual depiction of such conduct.

(2) Any person convicted of violating paragraph (1) of this subsection shall be punished by a fine of not more than \$10,000.00 and by imprisonment for not less than one nor more than 20 years.

(d)(1) It shall be unlawful for any person intentionally or willfully to utilize a computer on-line service or Internet service, including but not limited to a local bulletin board service, Internet chat room, e-mail, or on-line messaging service to seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice a child or another person believed by such person to be a child to commit any illegal act described in Code Section 16-6-2, relating to the offense of sodomy or aggravated sodomy; Code Section 16-6-4, relating to the offense of child molestation or aggravated child molestation; Code Section 16-6-5, relating to the offense of enticing a child for indecent purposes; or Code Section 16-6-8, relating to the offense of public indecency or to engage in any conduct that by its nature is an unlawful sexual offense against a child.

(2) Any person who violates paragraph (1) of this subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than 20 years and by a fine of not more than \$25,000.00; provided, however, that, if at the time of the offense the victim was 14 or 15

years of age and the defendant was no more than three years older than the victim, then the defendant shall be guilty of a misdemeanor of a high and aggravated nature.

(e)(1) A person commits the offense of obscene Internet contact with a child if he or she has contact with someone he or she knows to be a child or with someone he or she believes to be a child via a computer on-line service or Internet service, including but not limited to a local bulletin board service, Internet chat room, e-mail, or on-line messaging service, and the contact involves any matter containing explicit verbal descriptions or narrative accounts of sexually explicit nudity, sexual conduct, sexual excitement, or sadomasochistic abuse that is intended to arouse or satisfy the sexual desire of either the child or the person, provided that no conviction shall be had for a violation of this subsection on the unsupported testimony of a child.

(2) Any person who violates paragraph (1) of this subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than ten years or by a fine of not more than \$10,000.00; provided, however, that, if at the time of the offense the victim was 14 or 15 years of age and the defendant was no more than three years older than the victim, then the defendant shall be guilty of a misdemeanor of a high and aggravated nature.

(f)(1) It shall be unlawful for any owner or operator of a computer on-line service, Internet service, or local bulletin board service intentionally or willfully to permit a subscriber to utilize the service to commit a violation of this Code section, knowing that such person intended to utilize such service to violate this Code section. No owner or operator of a public computer on-line service, Internet service, or local bulletin board service shall be held liable on account of any action taken in good faith in providing the aforementioned services.

(2) Any person who violates paragraph (1) of this subsection shall be guilty of a misdemeanor of a high and aggravated nature.

(g) The sole fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense under this Code section shall not constitute a defense to prosecution under this Code section.

(h) A person is subject to prosecution in this state pursuant to Code Section 17-2-1, relating to jurisdiction over crimes and persons charged with commission of crimes generally, for any conduct made unlawful by this Code section which the person engages in while either within or outside of this state if, by such conduct, the person commits a violation of this Code section which involves a child who resides in this state or another person believed by such person to be a child residing in this state.

(i) Any violation of this Code section shall constitute a separate offense.

