

NM Electronic Crime Statutes

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30-45-1. Short title.

This act [[30-45-1](#) to [30-45-7](#) NMSA 1978] may be cited as the "Computer Crimes Act".

30-45-2. Definitions.

As used in the Computer Crimes Act [[30-45-1](#) NMSA 1978]:

- A. "access" means to program, execute programs on, intercept, instruct, communicate with, store data in, retrieve data from or otherwise make use of any computer resources, including data or programs of a computer, computer system, computer network or database;
- B. "computer" includes an electronic, magnetic, optical or other high-speed data processing device or system performing logical, arithmetic or storage functions and includes any property, data storage facility or communications facility directly related to or operating in conjunction with such device or system. The term does not include an automated typewriter or typesetter or a single display machine in and of itself, designed and used solely within itself for word processing, or a portable hand-held calculator, or any other device which might contain components similar to those in computers but in which the components have the sole function of controlling the device for the single purpose for which the device is intended;
- C. "computer network" means the interconnection of communication lines and circuits with a computer or a complex consisting of two or more interconnected computers;
- D. "computer program" means a series of instructions or statements, in a form acceptable to a computer, which permits the functioning of a computer system in a manner designed to provide appropriate products from a computer system;
- E. "computer property" includes a financial instrument, data, databases, computer software, computer programs, documents associated with computer systems and computer programs, or copies, whether tangible or intangible, and data while in transit;
- F. "computer service" includes computer time, the use of the computer system, computer network, computer programs or data prepared for computer use, data contained within a computer network and data processing and other functions performed, in whole or in part, by the use of computers, computer systems, computer networks or computer software;
- G. "computer software" means a set of computer programs, procedures and associated documentation concerned with the operation and function of a computer system;
- H. "computer system" means a set of related or interconnected computer equipment, devices and software;
- I. "data" means a representation of information, knowledge, facts, concepts or instructions which are prepared and are intended for use in a computer, computer system or computer network;
- J. "database" means any data or other information classified, processed, transmitted, received, retrieved, originated, switched, stored, manifested, measured, detected, recorded, reproduced, handled or utilized by a computer, computer system, computer network or computer software; and
- K. "financial instrument" includes any check, draft, warrant, money order, note, certificate of deposit, letter of credit, bill of exchange, credit or debit card, transaction,

authorization mechanism, marketable security or any other computerized representation thereof.

30-45-3. Computer access with intent to defraud or embezzle.

Any person who knowingly and willfully accesses or causes to be accessed any computer, computer system, computer network or any part thereof with the intent to obtain, by means of embezzlement or false or fraudulent pretenses, representations or promises, money, property or anything of value, where:

- A. the money, property or other thing has a value of one hundred dollars (\$100) or less is guilty of a petty misdemeanor;
- B. the money, property or other thing has a value of more than one hundred dollars (\$100) but not more than two hundred fifty dollars (\$250) is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of [Section 31-19-1](#) NMSA 1978;
- C. the money, property or other thing has a value of more than two hundred fifty dollars (\$250) but not more than two thousand five hundred dollars (\$2,500) is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of [Section 31-18-15](#) NMSA 1978;
- D. the money, property or other thing has a value of more than two thousand five hundred dollars (\$2,500) but not more than twenty thousand dollars (\$20,000) is guilty of a third degree felony and shall be sentenced pursuant to the provisions of [Section 31-18-15](#) NMSA 1978; or
- E. the money, property or other thing has a value of more than twenty thousand dollars (\$20,000) is guilty of a second degree felony and shall be sentenced pursuant to the provisions of [Section 31-18-15](#) NMSA 1978.

30-45-4. Computer abuse.

Any person who knowingly, willfully and without authorization, or having obtained authorization:

- A. directly or indirectly alters, changes, damages, disrupts or destroys any computer, computer network, computer property, computer service or computer system where:
 - (1) the damage to the computer property or computer service has a value of one hundred dollars (\$100) or less is guilty of a petty misdemeanor;
 - (2) the damage to the computer property or computer service has a value of more than one hundred dollars (\$100) but not more than two hundred fifty dollars (\$250) is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of [Section 31-19-1](#) NMSA 1978;
 - (3) the damage to the computer property or computer service has a value of more than two hundred fifty dollars (\$250) but not more than two thousand five hundred dollars (\$2,500) is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of [Section 31-18-15](#) NMSA 1978;
 - (4) the damage to the computer property or computer service has a value of more than two thousand five hundred dollars (\$2,500) but not more than twenty thousand dollars (\$20,000) is guilty of a third degree felony and shall be sentenced pursuant to the provisions of [Section 31-18-15](#) NMSA 1978; or
 - (5) the damage to the computer property or computer service has a value of more than twenty thousand dollars (\$20,000) is guilty of a second degree felony and shall be sentenced pursuant to the provisions of [Section 31-18-15](#) NMSA 1978; or

B. directly or indirectly introduces or causes to be introduced data which the person knows to be false into a computer, computer system, computer network, computer software, computer program, database or any part thereof with the intent of harming the property or financial interests or rights of any person is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of [Section 31-18-15](#) NMSA 1978.

30-45-5. Unauthorized computer use.

Any person who knowingly, willfully and without authorization, or having obtained authorization, uses the opportunity such authorization provides for purposes to which the authorization does not extend, directly or indirectly accesses, uses, takes, transfers, conceals, obtains, copies, or retains possession of any computer, computer network, computer property, computer service, computer system or any part thereof where:

A. the damage to the computer property or computer service has a value of one hundred dollars (\$100) or less is guilty of a petty misdemeanor;

B. the damage to the computer property or computer service has a value of more than one hundred dollars (\$100) but not more than two hundred fifty dollars (\$250) is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of [Section 31-19-1](#) NMSA 1978;

C. the damage to the computer property or computer service has a value of more than two hundred fifty dollars (\$250) but not more than two thousand five hundred dollars (\$2,500) is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of [Section 31-18-15](#) NMSA 1978;

D. the damage to the computer property or computer service has a value of more than two thousand five hundred dollars (\$2,500) but not more than twenty thousand dollars (\$20,000) is guilty of a third degree felony and shall be sentenced pursuant to the provisions of [Section 31-18-15](#) NMSA 1978; or

E. the damage to the computer property or computer service has a value of more than twenty thousand dollars (\$20,000) is guilty of a second degree felony and shall be sentenced pursuant to the provisions of [Section 31-18-15](#) NMSA 1978.

30-45-6. Prosecution.

A. Prosecution pursuant to the Computer Crimes Act [[30-45-1](#) NMSA 1978] shall not prevent any prosecutions pursuant to any other provisions of the law where such conduct also constitutes a violation of that other provision.

B. A person found guilty of violating any provision of the Computer Crimes Act shall, in addition to any other punishment, be ordered to make restitution for any financial loss sustained by anyone injured as the direct result of the commission of the crime. Restitution shall be imposed in addition to incarceration, forfeiture or fine, and not in lieu thereof, and may be made a condition of probation. The defendant's present and future ability to make such restitution shall be considered. In an extraordinary case, the court may determine that the interests of those injured and justice would not be served by ordering restitution. In such a case, the court shall make and enter specific written findings on the record substantiating the extraordinary circumstance presented upon which the court determined not to order restitution. In all other cases, the court shall determine the amount and method of restitution.

30-45-7. Forfeiture of property.

A. The following are subject to forfeiture:

- (1) all computer property, equipment or products of any kind that have been used, manufactured, acquired or distributed in violation of the Computer Crimes Act [[30-45-1](#) NMSA 1978];
 - (2) all materials, products and equipment of any kind that are used or intended for use in manufacturing, using, accessing, altering, disrupting, copying, concealing, destroying, transferring, delivering, importing or exporting any computer property or computer service in violation of the Computer Crimes Act;
 - (3) all books, records and research products and materials involving formulas, microfilm, tapes and data that are used or intended for use in violation of the Computer Crimes Act;
 - (4) all conveyances, including aircraft, vehicles or vessels, that are used or intended for use to transport or in any manner to facilitate the transportation of property described in this subsection for the purpose of violating the Computer Crimes Act;
 - (5) all property, real, personal or mixed, that has been used or intended for use, maintained or acquired in violation of the Computer Crimes Act; and
 - (6) all money or proceeds that constitute an instrumentality or derive from a violation of the Computer Crimes Act.
- B. The provisions of the Forfeiture Act [[31-27-1](#) NMSA 1978] apply to the seizure, forfeiture and disposal of property subject to forfeiture pursuant to Subsection A of this section.