

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

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

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, AND MAKING CHANGES TO THE PENALTY
105 STRUCTURE FOR CYBERCRIME.

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 cybercrime. The bill makes changes to the way current cybercrimes may

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.

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, **amend** 18-5.5-102
20 as follows:

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

3 (a) ~~WITHOUT AUTHORIZATION OR IN EXCESS OF AUTHORIZATION~~
4 ~~accesses a ANY computer, computer network, or computer system, or any~~
5 ~~part thereof; without authorization; exceeds authorized access to a~~
6 ~~computer, computer network, or computer system or any part thereof; or~~
7 ~~uses a computer, computer network, or computer system or any part~~
8 ~~thereof without authorization or in excess of authorized access; or~~

9 (b) ~~Accesses any computer, computer network, or computer~~
10 ~~system, or any part thereof for the purpose of devising or executing any~~
11 ~~scheme or artifice to defraud; or~~

12 (c) ~~WITHOUT AUTHORIZATION OR IN EXCESS OF AUTHORIZATION~~
13 ~~accesses any computer, computer network, or computer system, or any~~
14 ~~part thereof, to obtain by means of false or fraudulent pretenses,~~
15 ~~representations, or promises, money, property, services, passwords or~~
16 ~~similar information through which a computer, computer network, or~~
17 ~~computer system or any part thereof may be accessed; or other thing of~~
18 ~~value~~ PERSONAL IDENTIFYING INFORMATION AS DEFINED IN SECTION
19 18-5-901 (13), FINANCIAL IDENTIFYING INFORMATION AS DEFINED IN
20 SECTION 18-5-901 (7), OR ANY OTHER THING OF VALUE; or

21 (d) ~~WITHOUT AUTHORIZATION OR IN EXCESS OF AUTHORIZATION~~
22 ~~accesses any computer, computer network, or computer system, or any~~
23 ~~part thereof, to WITH THE INTENT TO COMMIT THEFT OR DOES commit theft~~
24 ~~AS DESCRIBED IN SECTION 18-4-401; or~~

25 (e) Without authorization or in excess of ~~authorized access~~
26 AUTHORIZATION alters, damages, interrupts, or causes the interruption or
27 impairment of the proper functioning of, or causes any damage to, any

1 computer, computer network, computer system, ~~computer software,~~
2 ~~program, application, documentation, or data contained in such computer,~~
3 ~~computer network, or computer system~~ or any part thereof; or

4 (f) Causes the transmission of a computer program, software,
5 information, code, data, or A command by means of ~~a computer, computer~~
6 ~~network, or computer system or any part thereof~~ ANY DEVICE, PROCESS,
7 SYSTEM, OR METHOD with the intent to cause damage to or to cause the
8 interruption or impairment of the proper functioning of or that actually
9 causes damage to or the interruption or impairment of the proper
10 functioning of any computer, computer network, computer system, or part
11 thereof; or

12 (g) Uses or causes to be used a software application that runs
13 automated tasks over the internet to access a computer, computer
14 network, or computer system, or any part thereof, that circumvents or
15 disables any electronic queues, waiting periods, or other technological
16 measure intended by the seller to limit the number of event tickets that
17 may be purchased by any single person in an online event ticket sale as
18 defined in section 6-1-720; ~~C.R.S.~~ OR

19 (h) SOLICITS, ARRANGES, OR OFFERS TO ARRANGE A SITUATION IN
20 WHICH A MINOR MAY ENGAGE IN PROSTITUTION, BY MEANS OF USING A
21 COMPUTER, COMPUTER NETWORK, COMPUTER SYSTEM, OR ANY PART
22 THEREOF; OR

23 (i) DIRECTLY OR INDIRECTLY USES A SCANNING DEVICE TO ACCESS,
24 READ, OBTAIN, MEMORIZE, OR STORE, TEMPORARILY OR PERMANENTLY,
25 INFORMATION ENCODED ON THE MAGNETIC STRIP OR STRIPE OF A PAYMENT
26 CARD WITHOUT THE PERMISSION OF THE AUTHORIZED USER OF THE
27 PAYMENT CARD, AND WITH THE INTENT TO DEFRAUD THE AUTHORIZED

1 USER, THE ISSUER OF THE AUTHORIZED USER'S PAYMENT CARD, OR A
2 MERCHANT; OR

3 (j) DIRECTLY OR INDIRECTLY USES AN ENCODING MACHINE TO
4 PLACE INFORMATION ENCODED ON THE MAGNETIC STRIP OR STRIPE OF A
5 PAYMENT CARD ONTO THE MAGNETIC STRIP OR STRIPE OF A DIFFERENT
6 PAYMENT CARD WITHOUT THE PERMISSION OF THE AUTHORIZED USER OF
7 THE PAYMENT CARD FROM WHICH THE INFORMATION BEING REENCODED
8 WAS OBTAINED, AND WITH THE INTENT TO DEFRAUD THE AUTHORIZED
9 USER, THE ISSUER OF THE AUTHORIZED USER'S PAYMENT CARD, OR A
10 MERCHANT.

11 (2) (Deleted by amendment, L. 2000, p. 695, § 8, effective July 1,
12 2000.)

13 (3) (a) ~~Except as provided in paragraphs (b) and (c) of this~~
14 ~~subsection (3), if the loss, damage, value of services, or thing of value~~
15 ~~taken, or cost of restoration or repair caused by a violation of this section~~
16 ~~is:~~

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

19 ~~(II) Fifty dollars or more but less than three hundred dollars,~~
20 ~~computer crime is a class 3 misdemeanor;~~

21 ~~(III) Three hundred dollars or more but less than seven hundred~~
22 ~~fifty dollars, computer crime is a class 2 misdemeanor;~~

23 ~~(IV) Seven hundred fifty dollars or more but less than two~~
24 ~~thousand dollars, computer crime is a class 1 misdemeanor;~~

25 ~~(V) Two thousand dollars or more but less than five thousand~~
26 ~~dollars, computer crime is a class 6 felony;~~

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

1 ~~dollars, computer crime is a class 5 felony;~~
2 ~~(VII) Twenty thousand dollars or more but less than one hundred~~
3 ~~thousand dollars, computer crime is a class 4 felony;~~
4 ~~(VIII) One hundred thousand dollars or more but less than one~~
5 ~~million dollars, computer crime is a class 3 felony; and~~
6 ~~(IX) One million dollars or more, computer crime is a class 2~~
7 ~~felony.~~
8 (b) ~~Computer crime~~ CYBERCRIME committed in violation of
9 ~~paragraph (a) of subsection (1)~~ SUBSECTION (1)(a) of this section is a class
10 2 CLASS 1 misdemeanor; except that, if the person has previously been
11 convicted OF A FELONY under this section, a previous version of this
12 section, or a statute of another state of similar content and purport,
13 ~~computer crime~~ CYBERCRIME committed in violation of ~~paragraph (a) of~~
14 ~~subsection (1)~~ SUBSECTION (1)(a) of this section is a ~~class 6~~ CLASS 5
15 felony.
16 (b.5) (I) CYBERCRIME COMMITTED IN VIOLATION OF SUBSECTION
17 (1)(c), (1)(d), (1)(e), (1)(f), (1)(h), (1)(i), OR (1)(j) OF THIS SECTION IS A
18 CLASS 5 FELONY.
19 (II) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION
20 (3)(b.5)(I) OF THIS SECTION, IF THE LOSS, DAMAGE, OR VALUE OF
21 SERVICES, OR THING OF VALUE TAKEN, OR COST OF RESTORATION OR
22 REPAIR CAUSED BY A VIOLATION OF THIS SECTION IS:
23 (A) TWENTY THOUSAND DOLLARS OR MORE BUT LESS THAN ONE
24 HUNDRED THOUSAND DOLLARS, CYBERCRIME IS A CLASS 4 FELONY;
25 (B) ONE HUNDRED THOUSAND DOLLARS OR MORE BUT LESS THAN
26 ONE MILLION DOLLARS, CYBERCRIME IS A CLASS 3 FELONY; AND
27 (C) ONE MILLION DOLLARS OR MORE, CYBERCRIME IS A CLASS 2

1 FELONY.

2 (c) (I) ~~Computer crime~~ CYBERCRIME committed in violation of
3 ~~paragraph (g) of subsection (1)~~ SUBSECTION (1)(g) of this section is a
4 class 1 misdemeanor.

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

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

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

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. Potential appropriation.** Pursuant to section
25 2-2-703, C.R.S., any bill that results in a net increase in periods of
26 imprisonment in state correctional facilities must include an appropriation
27 of money that is sufficient to cover any increased capital construction, any

1 operational costs, and increased parole costs that are the result of the bill
2 for the department of corrections in each of the first five years following
3 the effective date of the bill. Because this act may increase periods of
4 imprisonment, this act may require a five-year appropriation.

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

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