

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 SENATE BILL 1310

By: Ford

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6 AS INTRODUCED

7 An Act relating to crimes and punishments; amending
8 21 O.S. 2011, Sections 1952, 1953, 1954, 1955, 1957
9 and 1958, which relate to the Oklahoma Computer
10 Crimes Act; modifying definition; modifying
11 prohibited acts; modifying activity proof of which
deemed prima facie evidence of violation; expanding
12 circumstances in which person may bring certain civil
13 action; modifying activity deemed to apply in all
14 jurisdictions; and providing an effective date.

15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1952, is
17 amended to read as follows:

18 Section 1952. As used in the Oklahoma Computer Crimes Act:

19 1. "Access" means to approach, gain entry to, instruct,
20 communicate with, store data in, retrieve data from or otherwise use
21 the logical, arithmetical, memory or other resources of a computer,
22 computer system ~~or~~ , computer network, personal account or other
account;

23 2. "Computer" means an electronic device which performs work
24 using programmed instruction having one or more of the capabilities

1 of storage, logic, arithmetic or communication. The term includes
2 input, output, processing, storage, software and communication
3 facilities which are connected or related to a device in a system or
4 network;

5 3. "Computer network" means the interconnection of terminals by
6 communication modes with a computer, or a complex consisting of two
7 or more interconnected computers;

8 4. "Computer program" means a set or series of instructions or
9 statements and related data which when executed in actual or
10 modified form directs or is intended to direct the functioning of a
11 computer system in a manner designed to perform certain operations;

12 5. "Computer software" means one or more computer programs,
13 procedures and associated documentation used in the operation of a
14 computer system;

15 6. "Computer system" means a set of related, connected or
16 unconnected, computer equipment, devices including support devices,
17 one or more of which contain computer programs, electronic
18 instructions, input data, and output data, that performs functions
19 including, but not limited to, logic, arithmetic, data storage and
20 retrieval, communication, and control and software. "Computer
21 system" does not include calculators which are not programmable and
22 are not capable of being connected to or used to access other
23 computers, computer networks, computer systems or support devices;

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1 7. "Data" means a representation of information, knowledge,
2 facts, concepts, computer software, computer programs or
3 instructions. Data may be in any form, in storage media, or as
4 stored in the memory of the computer or in transit or presented on a
5 display device;

6 8. "Property" means any tangible or intangible item of value
7 and includes, but is not limited to, financial instruments,
8 geophysical data or the interpretation of that data, information,
9 computer software, computer programs, electronically-produced data
10 and computer-produced or stored data, supporting documentation,
11 computer software in either machine or human readable form,
12 electronic impulses, confidential, copyrighted or proprietary
13 information, private identification codes or numbers which permit
14 access to a computer by authorized computer users or generate
15 billings to consumers for purchase of goods and services, including
16 but not limited to credit card transactions and telecommunications
17 services or permit electronic fund transfers and any other tangible
18 or intangible item of value;

19 9. "Services" includes, but is not limited to, computer time,
20 data processing and storage functions and other uses of a computer,
21 computer system or computer network to perform useful work;

22 10. "Supporting documentation" includes, but is not limited to,
23 all documentation in any form used in the construction, design,
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1 classification, implementation, use or modification of computer
2 software, computer programs or data; and

3 11. "Victim expenditure" means any expenditure reasonably and
4 necessarily incurred by the owner or lessee to verify that a
5 computer system, computer network, computer program or data was or
6 was not altered, deleted, disrupted, damaged or destroyed by the
7 access.

8 SECTION 2. AMENDATORY 21 O.S. 2011, Section 1953, is
9 amended to read as follows:

10 Section 1953. A. It shall be unlawful to:

11 1. Willfully, and without authorization, gain or attempt to
12 gain access to and damage, modify, alter, delete, destroy, copy,
13 make use of, disclose or take possession of a computer, computer
14 system, computer network, personal account or other account or any
15 other property;

16 2. Use a computer, computer system, computer network, personal
17 account or other account or any other property as hereinbefore
18 defined for the purpose of devising or executing a scheme or
19 artifice with the intent to defraud, deceive, extort or for the
20 purpose of controlling or obtaining money, property, services or
21 other thing of value by means of a false or fraudulent pretense or
22 representation;

23 3. Willfully exceed the limits of authorization and damage,
24 modify, alter, destroy, copy, delete, disclose or take possession of

1 a computer, computer system, computer network, personal account or
2 other account or any other property;

3 4. Willfully and without authorization, gain or attempt to gain
4 access to a computer, computer system, computer network, personal
5 account or other account or any other property;

6 5. Willfully and without authorization use or cause to be used
7 computer services;

8 6. Willfully and without authorization disrupt or cause the
9 disruption of computer services or deny or cause the denial of
10 access or other computer services to an authorized user of a
11 computer, computer system ~~or~~ , computer network, personal account or
12 other account;

13 7. Willfully and without authorization provide or assist in
14 providing a means of accessing a computer, computer system ~~or~~ ,
15 computer network, personal account or other account in violation of
16 this section;

17 8. Willfully use a computer, computer system, ~~or~~ computer
18 network, personal account or other account to annoy, abuse,
19 threaten, or harass another person; and

20 9. Willfully use a computer, computer system, ~~or~~ computer
21 network, personal account or other account to put another person in
22 fear of physical harm or death.

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1 B. Any person convicted of violating paragraph 1, 2, 3, 6, 7 or
2 9 of subsection A of this section shall be guilty of a felony
3 punishable as provided in Section 1955 of this title.

4 C. Any person convicted of violating paragraph 4, 5 or 8 of
5 subsection A of this section shall be guilty of a misdemeanor.

6 SECTION 3. AMENDATORY 21 O.S. 2011, Section 1954, is
7 amended to read as follows:

8 Section 1954. Proof that any person has accessed, damaged,
9 disrupted, deleted, modified, altered, destroyed, caused to be
10 accessed, copied, disclosed or taken possession of a computer,
11 computer system, computer network, personal account or other account
12 or any other property, or has attempted to perform any of these
13 enumerated acts without authorization or exceeding the limits of
14 authorization, shall be prima facie evidence of the willful
15 violation of the Oklahoma Computer Crimes Act.

16 SECTION 4. AMENDATORY 21 O.S. 2011, Section 1955, is
17 amended to read as follows:

18 Section 1955. A. Upon conviction of a felony under the
19 provisions of the Oklahoma Computer Crimes Act, punishment shall be
20 by a fine of not less than Five Thousand Dollars (\$5,000.00) and not
21 more than One Hundred Thousand Dollars (\$100,000.00), or by
22 confinement in the State Penitentiary for a term of not more than
23 ten (10) years, or by both such fine and imprisonment.

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1 B. Upon conviction of a misdemeanor under the provisions of the
2 Oklahoma Computer Crimes Act, punishment shall be by a fine of not
3 more than Five Thousand Dollars (\$5,000.00), or by imprisonment in
4 the county jail not to exceed thirty (30) days, or by both such fine
5 and imprisonment.

6 C. In addition to any other civil remedy available, the owner
7 or lessee of the computer, computer system, computer network,
8 personal account or other account, computer program or data may
9 bring a civil action against any person convicted of a violation of
10 the Oklahoma Computer Crimes Act for compensatory damages, including
11 any victim expenditure reasonably and necessarily incurred by the
12 owner or lessee to verify that a computer system, computer network,
13 computer program, personal account or other account or data was or
14 was not altered, damaged, deleted, disrupted or destroyed by the
15 access. In any action brought pursuant to this subsection the court
16 may award reasonable attorneys fees to the prevailing party.

17 SECTION 5. AMENDATORY 21 O.S. 2011, Section 1957, is
18 amended to read as follows:

19 Section 1957. For purposes of bringing a civil or a criminal
20 action pursuant to the Oklahoma Computer Crimes Act, a person who
21 causes, by any means, the access of a computer, computer system ~~or~~,
22 computer network, personal account or other account in one
23 jurisdiction from another jurisdiction is deemed to have personally
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1 accessed the computer, computer system ~~or~~, computer network,
2 personal account or other account in each jurisdiction.

3 SECTION 6. AMENDATORY 21 O.S. 2011, Section 1958, is
4 amended to read as follows:

5 Section 1958. No person shall communicate with, store data in,
6 or retrieve data from a computer system ~~or~~, computer network,
7 personal account or other account for the purpose of using such
8 access to violate any of the provisions of the Oklahoma Statutes.

9 Any person convicted of violating the provisions of this section
10 shall be guilty of a felony punishable by imprisonment in the State
11 Penitentiary for a term of not more than five (5) years, or by a
12 fine of not more than Five Thousand Dollars (\$5,000.00), or by both
13 such imprisonment and fine.

14 SECTION 7. This act shall become effective November 1, 2012.

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