

SENATE, No. 2845

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED AUGUST 25, 2020

Sponsored by:

Senator THOMAS H. KEAN, JR.

District 21 (Morris, Somerset and Union)

Senator NELLIE POU

District 35 (Bergen and Passaic)

SYNOPSIS

Increases penalty for “bombing” online meeting or teleconference under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 8/25/2020)

1 AN ACT concerning computer crimes and amending P.L.1984,
2 c.184.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. Section 2 of P.L.1984, c.184 (C.2C:20-23) is amended to
8 read as follows:

9 2. As used in this act:

10 a. "Access" means to instruct, communicate with, store data in,
11 retrieve data from, or otherwise make use of any resources of a
12 computer, computer storage medium, computer system, **[or]**
13 computer network, or online video conference or teleconference.

14 b. "Computer" means an electronic, magnetic, optical,
15 electrochemical or other high speed data processing device or
16 another similar device capable of executing a computer program,
17 including arithmetic, logic, memory, data storage or input-output
18 operations and includes all computer equipment connected to such a
19 device, computer system or computer network, but shall not include
20 an automated typewriter or typesetter or a portable, hand-held
21 calculator.

22 c. "Computer equipment" means any equipment or devices,
23 including all input, output, processing, storage, software, or
24 communications facilities, intended to interface with the computer.

25 d. "Computer network" means the interconnection of
26 communication lines, including microwave or other means of
27 electronic communications, with a computer through remote
28 terminals, or a complex consisting of two or more interconnected
29 computers, and shall include the Internet.

30 e. "Computer program" means a series of instructions or
31 statements executable on a computer, which directs the computer
32 system in a manner to produce a desired result.

33 f. "Computer software" means a set of computer programs,
34 data, procedures, and associated documentation concerned with the
35 operation of a computer system.

36 g. "Computer system" means a set of interconnected computer
37 equipment intended to operate as a cohesive system.

38 h. "Data" means information, facts, concepts, or instructions
39 contained in a computer, computer storage medium, computer
40 system, or computer network. It shall also include, but not be
41 limited to, any alphanumeric, hexadecimal, octal or binary code.

42 i. "Data base" means a collection of data.

43 j. "Financial instrument" includes but is not limited to a check,
44 draft, warrant, money order, note, certificate of deposit, letter of
45 credit, bill of exchange, credit or debit card, transaction

EXPLANATION – Matter enclosed in bold-faced brackets **[thus] in the above bill is
not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 authorization mechanism, marketable security and any computer
2 representation of these items.

3 k. "Services" includes but is not limited to the use of a
4 computer system, computer network, computer programs, data
5 prepared for computer use and data contained within a computer
6 system or computer network.

7 l. "Personal identifying information" shall have the meaning
8 set forth in subsection a. of N.J.S.2C:21-17, and shall also include
9 passwords and other codes that permit access to any data, data base,
10 computer, computer storage medium, computer program, computer
11 software, computer equipment, computer system or computer
12 network, where access is intended to be secure, restricted or limited.

13 m. "Internet" means the international computer network of both
14 federal and non-federal interoperable packet switched data
15 networks.

16 n. "Alter," "damage" or "destroy" shall include, but not be
17 limited to, any change or impairment to the integrity or availability
18 of any data or other information, data base, computer program,
19 computer software, computer equipment, computer, computer
20 storage medium, computer system, or computer network by any
21 means including introduction of a computer contaminant.

22 o. "User of computer services" shall include, but not be limited
23 to, any person, business, computer, computer network, computer
24 system, computer equipment or any other device which makes use
25 of any resources of a computer, computer network, computer
26 system, computer storage medium, computer equipment, data or
27 data base.

28 p. "Computer contaminant" means any set of computer
29 instructions that are designed to alter, damage, destroy, record or
30 transmit information within a computer, computer system or
31 computer network without the authorization of the owner of the
32 information. They include, but are not limited to, a group of
33 computer instructions commonly called viruses or worms, that are
34 self-replicating or self-propagating and are designed to contaminate
35 other computer programs or computer data, consume computer
36 resources, alter, damage, destroy, record or transmit data or in some
37 other fashion usurp the normal operation of the computer, computer
38 program, computer operations, computer services or computer
39 network.

40 q. "Authorization" means permission, authority or consent
41 given by a person who possesses lawful authority to grant such
42 permission, authority or consent to another person to access,
43 operate, use, obtain, take, copy, alter, damage or destroy a
44 computer, computer network, computer system, computer
45 equipment, computer software, computer program, computer
46 storage medium, or data. An actor has authorization if a reasonable
47 person would believe that the act was authorized.

48 (cf: P.L.2003, c.39, s.1)

1 2. Section 4 of P.L.1984, c.184 (C.2C:20-25) is amended to
2 read as follows:

3 4. A person is guilty of computer criminal activity if the person
4 purposely or knowingly and without authorization, or in excess of
5 authorization:

6 a. Accesses any data, data base, computer storage medium,
7 computer program, computer software, computer equipment,
8 computer, computer system or computer network;

9 b. Alters, damages or destroys any data, data base, computer,
10 computer storage medium, computer program, computer software,
11 computer system or computer network, or denies, disrupts or
12 impairs computer services, including access to any part of the
13 Internet, that are available to any other user of the computer
14 services;

15 c. Accesses or attempts to access any data, data base,
16 computer, computer storage medium, computer program, computer
17 software, computer equipment, computer system or computer
18 network for the purpose of executing a scheme to defraud, or to
19 obtain services, property, personal identifying information, or
20 money, from the owner of a computer or any third party;

21 d. (Deleted by amendment, P.L.2003, c.39).

22 e. Obtains, takes, copies or uses any data, data base, computer
23 program, computer software, personal identifying information, or
24 other information stored in a computer, computer network,
25 computer system, computer equipment or computer storage
26 medium; or

27 f. Accesses and recklessly alters, damages or destroys any
28 data, data base, computer, computer storage medium, computer
29 program, computer software, computer equipment, computer system
30 or computer network, including but not limited to disrupting an
31 online video conference or teleconference.

32 g. A violation of subsection a. of this section is a crime of the
33 third degree. A violation of subsection b. is a crime of the second
34 degree. A violation of subsection c. is a crime of the third degree,
35 except that it is a crime of the second degree if the value of the
36 services, property, personal identifying information, or money
37 obtained or sought to be obtained exceeds \$5,000. A violation of
38 subsection e. is a crime of the third degree, except that it is a crime
39 of the second degree if the data, data base, computer program,
40 computer software, or information:

41 (1) is or contains personal identifying information, medical
42 diagnoses, treatments or other medical information concerning an
43 identifiable person;

44 (2) is or contains governmental records or other information that
45 is protected from disclosure by law, court order or rule of court; or

46 (3) has a value exceeding \$5,000.

47 A violation of subsection f. is a crime of the fourth degree,
48 except that it is a crime of the third degree if:

1 (a) the value of the damage exceeds \$5,000; or
2 (b) the violation consists of accessing an online video
3 conference or teleconference without authorization and posting or
4 displaying obscene material in violation of N.J.S.2C:34-3 that is
5 viewed by a minor under the age of 18.

6 A violation of any subsection of this section is a crime of the
7 first degree if the offense results in:

8 (1) a substantial interruption or impairment of public
9 communication, transportation, supply of water, gas or power, or
10 other public service. The term "substantial interruption or
11 impairment" shall mean such interruption or impairment that:

12 (a) affects 10 or more structures or habitations;

13 (b) lasts for two or more hours; or

14 (c) creates a risk of death or significant bodily injury to any
15 person;

16 (2) damages or loss in excess of \$250,000; or

17 (3) significant bodily injury to any person.

18 Every sentence of imprisonment for a crime of the first degree
19 committed in violation of this section shall include a minimum term
20 of one-third to one-half of the sentence imposed, during which term
21 the defendant shall not be eligible for parole.

22 h. Every sentence imposed upon a conviction pursuant to this
23 section shall, if the victim is a government agency, include a period
24 of imprisonment. The period of imprisonment shall include a
25 minimum term of one-third to one-half of the sentence imposed,
26 during which term the defendant shall not be eligible for parole.
27 The victim shall be deemed to be a government agency if a
28 computer, computer network, computer storage medium, computer
29 system, computer equipment, computer program, computer
30 software, computer data or data base that is a subject of the crime is
31 owned, operated or maintained by or on behalf of a governmental
32 agency or unit of State or local government or a public authority.
33 The defendant shall be strictly liable under this subsection and it
34 shall not be a defense that the defendant did not know or intend that
35 the victim was a government agency, or that the defendant intended
36 that there be other victims of the crime.

37 A violation of any subsection of this section shall be a distinct
38 offense from a violation of any other subsection of this section, and
39 a conviction for a violation of any subsection of this section shall
40 not merge with a conviction for a violation of any other subsection
41 of this section or section 10 of P.L.1984, c.184 (C.2C:20-31), or for
42 conspiring or attempting to violate any subsection of this section or
43 section 10 of P.L.1984, c.184 (C.2C:20-31), and a separate sentence
44 shall be imposed for each such conviction.

45 When a violation of any subsection of this section involves an
46 offense committed against a person under 18 years of age, the
47 violation shall constitute an aggravating circumstance to be

1 considered by the court when determining the appropriate sentence
2 to be imposed.

3 (cf: P.L.2003, c.39, s.3)

4

5 3. This act shall take effect immediately.

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STATEMENT

9

10 This bill would amend the current law concerning computer theft
11 to specifically address the “bombing” of online video conferences
12 or teleconferences.

13 Under current law, a person is guilty of computer criminal
14 activity if, among other provisions, the person purposely or
15 knowingly and without authorization, or in excess of authorization,
16 accesses and recklessly alters, damages or destroys any data, data
17 base, computer, computer storage medium, computer program,
18 computer software, computer equipment, computer system or
19 computer network. This bill amends the statute to include
20 unauthorized access to, and disruption of, an online video
21 conference or teleconference.

22 Currently, it is a crime of the fourth degree to violate this
23 provision of law, except that it is a crime of the third degree if the
24 value of the damage exceeds \$5,000. Under the bill, it would also
25 be a crime of the third degree if the violation consists of accessing
26 an online video conference or teleconference without authorization
27 and posting or displaying obscene material in violation of
28 N.J.S.2C:34-3 that is viewed by a minor under the age of 18.

29 A crime of the fourth degree is punishable by a term of
30 imprisonment of up to 18 months or a fine up to \$10,000, or both; a
31 crime of the third degree is punishable by a term of three to five
32 years or a fine up to \$15,000, or both.