

SENATE NO. 1849

AN ACT TO UPDATE THE COMPUTER CRIME LAWS OF THE COMMONWEALTH

*Be it enacted by the Senate and House of Representatives in General Court assembled,
And by the authority of the same, as follows:*

1 SECTION 1. Chapter 266 of the General Laws is hereby amended by striking out Section 120F
2 and inserting in its place:

3 Section 120F. Unauthorized Access to Computers; Penalties

4 A. For purposes of this section:

5 1. “Computer” shall mean any computer; computer network; computer system; or data,
6 information or program stored on, operating on, or transmitted by a computer, computer
7 network or computer system;

8 2. “Government” shall mean the Government of the United States, the Government of the
9 Commonwealth of Massachusetts, and the Government of any town, city, county or other
10 political subdivision of the Commonwealth of Massachusetts;

11 3. “Harass” shall mean to willfully and maliciously engage in an act directed at a
12 specific person or persons, which act seriously alarms or annoys such person or persons and
13 would cause a reasonable person to suffer substantial emotional distress; and

14 4. "Electronic communication device" shall mean a telephone, facsimile machine,
15 computer, computer network, computer system, or any other device used to transfer or transmit
16 signs, signals, writings, images, sounds, data or intelligence of any nature in whole or in part by
17 a wire, cable, radio, electromagnetic, photo electric or photo -optical system.

18 B. Whoever uses an electronic communication device to:

19 5. knowingly access a computer, directly or indirectly, without authorization or after
20 using an electronic communication device to access a computer directly or indirectly,
21 knowingly exceeds authorized access, with the intention of, or in reckless disregard of the risk
22 of causing a substantial threat to the health or safety of one or more persons; or

23 6. knowingly access a computer, directly or indirectly, without authorization or after
24 using an electronic communication device to access a computer directly or indirectly,
25 knowingly exceeds authorized access, with the intent to:

26 1. defraud, commit larceny, or extort money or other thing of value;

27 2. damage, destroy, disrupt or deny access to or use of, any computer;

28 3. obtain information for financial gain or commercial advantage;

29 4. obtain information about the medical or mental health history, condition or
30 treatment of one or more persons;

31 5. obtain information about the financial history, condition, or transactions of any
32 person, business, corporation or other entity;

33 6. harass another person or his family; or

34 7. knowingly access a computer, directly or indirectly, and without authority that the
35 person knows or reasonably should know is owned or primarily used by any division, bureau,
36 agency, department or subdivision of the Government, or after using an electronic

37 communication device knowingly to access a computer directly or indirectly that the person
38 knows or reasonably should know is owned or primarily used by any division, bureau, agency,
39 department or subdivision of the Government intentionally exceeds authorized access; or
40 8. knowingly transmits or causes the transmission of a program, information, code or
41 command to a computer with the intent to damage or destroy any computer without
42 authorization, or with the intent to disrupt or deny access to or use of any computer without
43 authorization shall be imprisoned in the state prison for not more than 10 years or in the house
44 of correction for not more than 2 1/2 years, or by a fine of not more than \$10,000, or by both
45 imprisonment and fine.

46 C. A person who uses an electronic communication device to knowingly access a computer,
47 directly or indirectly, without authorization or after using an electronic communication device to
48 access a computer directly or indirectly, knowingly exceeds authorized access, shall be
49 imprisoned in the in the house of correction for not more than 2 1/2 years, or by a fine of not
50 more than \$2,500, or by both imprisonment and fine.

51 SECTION 2. Chapter 277 of the General Laws is hereby amended by striking out Section
52 58A1/2 and inserting in its place:

53 Section 58A1/2: Computer Offenses; place of prosecution:

54 The crimes described in sections thirty-three A and one hundred and twenty F of chapter two
55 hundred and sixty-six and section one hundred and twenty-seven of said chapter two hundred
56 and sixty-six may be prosecuted and punished in any county where the defendant was
57 physically located at the time of the violation, where the computer or data that is accessed,
58 disrupted, damaged or destroyed is located, where the computer to which access is denied or

59 disrupted is located, or where any sort of remote access device used by the defendant to access a
60 computer or deny or disrupt access to a computer is physically located.