

98TH CONGRESS
1ST SESSION

H. R. 1092

To amend title 18, United States Code, to make a crime the use, for fraudulent or other illegal purposes, of any computer owned or operated by the United States, certain financial institutions, and entities affecting interstate commerce.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 31, 1983

Mr. NELSON of Florida introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to make a crime the use, for fraudulent or other illegal purposes, of any computer owned or operated by the United States, certain financial institutions, and entities affecting interstate commerce.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Federal Computer Sys-
4 tems Protection Act of 1983".

5 SEC. 2. The Congress finds that—

6 (1) computer-related crime is a growing problem
7 in the Government and in the private sector;

1 (2) such crime occurs at great cost to the public
2 since losses for each incident of computer crime tend to
3 be far greater than the losses associated with each in-
4 cident of other white collar crime;

5 (3) the opportunities for computer-related crimes
6 in Federal programs, in financial institutions, and in
7 computers which operate in or use a facility of inter-
8 state commerce through the introduction of fraudulent
9 records into a computer system, unauthorized use of
10 computer facilities, alteration or destruction of comput-
11 erized information files, and stealing of financial instru-
12 ments, data, or other assets, are great;

13 (4) computer-related crime directed at computers
14 which operate in or use a facility of interstate com-
15 merce has a direct effect on interstate commerce; and

16 (5) the prosecution of persons engaged in com-
17 puter-related crime is difficult under current Federal
18 criminal statutes.

19 SEC. 3. (a) Chapter 47 of title 18, United States Code,
20 is amended by adding at the end thereof the following new
21 section:

22 **“§ 1028. Computer fraud and abuse**

23 “(a) Whoever uses, or attempts to use, a computer with
24 intent to execute a scheme or artifice to defraud, or to obtain
25 property by false or fraudulent pretenses, representations, or

1 promises, or to embezzle, steal, or knowingly convert to his
2 use or the use of another, the property of another, shall, if
3 the computer—

4 “(1) is owned by, under contract to, or operated
5 for or on behalf of:

6 “(A) the United States Government; or

7 “(B) a financial institution;

8 and the prohibited conduct directly involves or affects
9 the computer operation for or on behalf of the United
10 States Government or a financial institution; or

11 “(2) operates in, or uses a facility of, interstate
12 commerce;

13 be fined not more than two times the amount of the gain
14 directly or indirectly derived from the offense or \$50,000,
15 whichever is higher, or imprisoned not more than five years,
16 or both.

17 “(b) Whoever intentionally and without authorization
18 damages a computer described in subsection (a) or intention-
19 ally and without authorization causes or attempts to cause
20 the withholding or denial of the use of a computer, a com-
21 puter program or stored information shall be fined not more
22 than \$50,000 or imprisoned not more than five years or both.

23 “(c) DEFINITIONS.—For the purpose of this section the
24 term—

1 “(1) ‘computer’ means an electronic, magnetic,
2 optical, hydraulic, organic or other high speed data
3 processing device or system performing logical, arith-
4 metic, or storage functions, and includes any property,
5 data storage facility, or communications facility directly
6 related to or operating in conjunction with such device
7 or system; but does not include an automated typewrit-
8 er or typesetter, a portable hand-held calculator, or
9 any computer designed and manufactured for, and
10 which is used exclusively for, routine personal, family,
11 or household purposes and which is not used to access,
12 to communicate with, or to manipulate any other com-
13 puter;

14 “(2) ‘financial institution’ means—

15 “(A) a bank with deposits insured by the
16 Federal Deposit Insurance Corporation;

17 “(B) the Federal Reserve or a member of the
18 Federal Reserve including any Federal Reserve
19 bank;

20 “(C) an institution with accounts insured by
21 the Federal Savings and Loan Corporation;

22 “(D) a credit union with accounts insured by
23 the National Credit Union Administration;

24 “(E) a member of the Federal home loan
25 bank system and any home loan bank;

1 “(F) a member or business insured by the
2 Securities Investor Protection Corporation; and

3 “(G) a broker-dealer registered with the Se-
4 curities and Exchange Commission pursuant to
5 section 15 of the Securities and Exchange Act of
6 1934;

7 “(3) ‘property’ means anything of value, and in-
8 cludes tangible and intangible personal property; infor-
9 mation in the form of computer processed, produced, or
10 stored data; information configured for use in a com-
11 puter; information in a computer medium; information
12 being processed, transmitted or stored; computer oper-
13 ating or applications programs; or services;

14 “(4) ‘services’ includes computer data processing
15 and storage functions;

16 “(5) ‘United States Government’ includes a
17 branch or agency thereof; and

18 “(6) ‘use’ includes to instruct, communicate with,
19 store data in, or retrieve data from, or otherwise utilize
20 the logical, arithmetic, or memory functions of a com-
21 puter, or, with fraudulent or malicious intent, to cause
22 another to put false information into a computer; and

23 “(7) ‘computer medium’ includes the means of ef-
24 fecting or conveying data for processing in a computer,
25 or a substance or surrounding medium which is the

1 means of transmission of a force or effect that repre-
2 sent data for processing in a computer, or a channel
3 of communication of data for processing in a computer.

4 “(d)(1) In a case in which Federal jurisdiction over an
5 offense as described in this section exists concurrently with
6 State or local jurisdiction, the existence of Federal jurisdic-
7 tion does not, in itself, require the exercise of Federal juris-
8 diction, nor does the initial exercise of Federal jurisdiction
9 preclude its discontinuation.

10 “(2) In a case in which Federal jurisdiction over an of-
11 fense as described in this section exists or may exist concur-
12 rently with State or local jurisdiction, Federal law enforce-
13 ment officers, in determining whether to exercise jurisdiction,
14 shall consider—

15 “(A) the relative gravity of the Federal offense
16 and the State or local offense;

17 “(B) the relative interest in Federal investigation
18 or prosecution;

19 “(C) the resources available to the Federal au-
20 thorities and the State or local authorities;

21 “(D) the traditional role of the Federal authorities
22 and the State or local authorities with respect to the
23 offense;

24 “(E) the interests of federalism; and

25 “(F) any other relevant factor.

1 “(3) The Attorney General shall—

2 “(A) consult periodically with representatives of
3 State and local governments concerning the exercise of
4 jurisdiction in cases in which Federal jurisdiction as de-
5 scribed in this section exists or may exist concurrently
6 with State or local jurisdiction;

7 “(B) provide general direction to Federal law en-
8 forcement officers concerning the appropriate exercise
9 of such Federal jurisdiction which, for the purposes of
10 investigation, is vested concurrently in the Department
11 of Justice and the Department of the Treasury;

12 “(C) report annually to Congress concerning the
13 extent of the exercise of such Federal jurisdiction
14 during the preceding fiscal year; and

15 “(D) report to Congress, within one year of the
16 effective date of this Act, on the long-term impact
17 upon Federal jurisdiction, of this Act and, the increas-
18 ingly pervasive and widespread use of computers in the
19 United States. The Attorney General shall periodically
20 review and update such report.

21 “(4) Except as otherwise prohibited by law, information
22 or material obtained pursuant to the exercise of Federal juris-
23 diction may be made available to State or local law enforce-
24 ment officers having concurrent jurisdiction, and to State or

1 local authorities otherwise assigned responsibility with regard
2 to the conduct constituting the offense.

3 “(5) An issue relating to the propriety of the exercise of
4 or of the failure to exercise Federal jurisdiction over an of-
5 fense as described in this section, or otherwise relating to the
6 compliance, or to the failure to comply, with this section,
7 may not be litigated, and a court may not entertain or resolve
8 such an issue except as may be necessary in the course of
9 granting leave to file a dismissal of an indictment, an infor-
10 mation, or a complaint.”.

11 SEC. 4. The table of sections of chapter 47 of title 18,
12 United States Code, is amended by adding at the end thereof
13 the following:

“1028. Computer fraud and abuse.”.

○