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HOUSE BILL NO. 2631

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Appropriations
on February 3, 2005)

(Patrons Prior to Substitute—Delegates Bell and McDougale [HB 2304])

A BILL to amend and reenact §§ 18.2-152.3 and 18.2-152.5 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-152.5:1 in Article 7.1 of Chapter 5 of Title 18.2, relating to computer crimes; penalties.

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-152.3 and 18.2-152.5 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-152.5:1 in Article 7.1 of Chapter 5 of Title 18.2 as follows:

§ 18.2-152.3. Computer fraud; penalty.

Any person who uses a computer or computer network, without authority and with the intent to:

1. Obtain Obtains property or services by false pretenses;
2. Embezzle Embezzles or commit commits larceny; or
3. Convert Converts the property of another

is guilty of the crime of computer fraud.

If the value of the property or services obtained is \$200 or more, the crime of computer fraud shall be punishable as a Class 5 felony. Where the value of the property or services obtained is less than \$200, the crime of computer fraud shall be punishable as a Class 1 misdemeanor.

§ 18.2-152.5. Computer invasion of privacy; penalties.

A. A person is guilty of the crime of computer invasion of privacy when he uses a computer or computer network and intentionally examines without authority any employment, salary, credit or any other financial or personal identifying information, as defined in clauses (iii) through (xiii) of subsection C of § 18.2-186.3, relating to any other person. "Examination" under this section requires the offender to review the information relating to any other person after the time at which the offender knows or should know that he is without authority to view the information displayed.

B. The crime of computer invasion of privacy shall be punishable as a Class 1 misdemeanor.

C. Any person who violates this section after having been previously convicted of a violation of this section or any substantially similar laws of any other state or of the United States is guilty of a Class 6 felony.

D. Any person who violates this section and sells or distributes such information to another is guilty of a Class 6 felony.

E. Any person who violates this section and uses such information in the commission of another crime is guilty of a Class 6 felony.

F. This section shall not apply to any person collecting information that is reasonably needed to (i) protect the security of a computer, computer service, or computer business, or to facilitate diagnostics or repair in connection with such computer, computer service, or computer business or (ii) determine whether the computer user is licensed or authorized to use specific computer software or a specific computer service.

§ 18.2-152.5:1. Using a computer to gather identifying information; penalties.

A. It is unlawful for any person, other than a law-enforcement officer, as defined in § 9.1-101, and acting in the performance of his official duties, to use a computer to obtain, access, or record, through the use of material artifice, trickery or deception, any identifying information, as defined in clauses (iii) through (xiii) of subsection C of § 18.2-186.3. Any person who violates this section is guilty of a Class 6 felony.

B. Any person who violates this section and sells or distributes such information to another is guilty of a Class 5 felony.

C. Any person who violates this section and uses such information in the commission of another crime is guilty of a Class 5 felony.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

HOUSE

SUBSTITUTE

HB2631H1