

HOUSE BILL NO. 338

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/4/00

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to crimes involving computers, access devices, other technology,
2 and identification documents; relating to the crime of criminal impersonation;
3 relating to crimes committed by the unauthorized access to or use of
4 communications in electronic storage; and providing for an effective date."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** AS 11.41.455(a) is amended to read:

7 (a) A person commits the crime of unlawful exploitation of a minor if, in the
8 state and with the intent of producing a live performance, film, audio recording,
9 photograph, negative, slide, book, newspaper, magazine, or other printed **or**
10 **electronically recorded** material that visually depicts the conduct listed in (1) - (7) of
11 this subsection, the person knowingly induces or employs a child under 18 years of age
12 to engage in, or photographs, films, records, or televises a child under 18 years of age
13 engaged in, the following actual or simulated conduct:

14 (1) sexual penetration;

- 1 (2) the lewd touching of another person's genitals, anus, or breast;
 2 (3) the lewd touching by another person of the child's genitals, anus,
 3 or breast;
 4 (4) masturbation;
 5 (5) bestiality;
 6 (6) the lewd exhibition of the child's genitals; or
 7 (7) sexual masochism or sadism.

8 * **Sec. 2.** AS 11.41.455(b) is amended to read:

9 (b) A parent, legal guardian, or person having custody or control of a child
 10 under 18 years of age commits the crime of unlawful exploitation of a minor if, in the
 11 state, the person permits the child to engage in conduct described in (a) of this section
 12 knowing that the conduct is intended to be used in producing a live performance, film,
 13 audio recording, photograph, negative, slide, book, newspaper, magazine, or other
 14 printed **or electronically recorded** material that visually depicts the conduct.

15 * **Sec. 3.** AS 11.46.140(a) is amended to read:

16 (a) A person commits the crime of theft in the third degree if the person
 17 commits theft as defined in AS 11.46.100 and

18 (1) the value of the property or services is \$50 or more but less than
 19 \$500;

20 (2) the property is **an access device** [A CREDIT CARD]; or

21 (3) the value of the property is less than \$50 and within the past five
 22 years the person has been convicted and sentenced on two or more separate occasions
 23 in this or another jurisdiction of theft or concealment of merchandise, or an offense
 24 under another law or ordinance with similar elements.

25 * **Sec. 4.** AS 11.46.285 is amended to read:

26 **Sec. 11.46.285. Fraudulent use of an access device** [A CREDIT CARD]. (a)
 27 A person commits the crime of fraudulent use of **an access device** [A CREDIT
 28 CARD] if, with intent to defraud, the person uses **an access device** [A CREDIT
 29 CARD] to obtain property or services with knowledge that

30 (1) the **access device** [CARD] is stolen or forged;

31 (2) the **access device** [CARD] is expired or has been revoked or

1 cancelled; or

2 (3) for any other reason that person's use of the access device [CARD]
3 is unauthorized by either the issuer or the person to whom the access device [CREDIT
4 CARD] is issued.

5 (b) Fraudulent use of an access device [A CREDIT CARD] is

6 (1) a class B felony if the value of the property or services obtained
7 is \$25,000 or more;

8 (2) a class C felony if the value of the property or services obtained is
9 \$500 or more but less than \$25,000;

10 (3)[(2)] a class A misdemeanor if the value of the property or services
11 obtained is \$50 or more but less than \$500;

12 (4)[(3)] a class B misdemeanor if the value of the property or services
13 obtained is less than \$50.

14 * **Sec. 5.** AS 11.46.290 is amended to read:

15 **Sec. 11.46.290. Obtaining an access device or identification document [A**
16 **CREDIT CARD] by fraudulent means.** (a) A person commits the crime of obtaining
17 an access device or identification document [A CREDIT CARD] by fraudulent
18 means if

19 (1) the person buys an access device or identification document [A
20 CREDIT CARD] from a person other than the issuer or, as other than the issuer, the
21 person sells an access device or identification document [A CREDIT CARD];

22 (2) with intent to defraud, the person obtains an access device or
23 identification document [CONTROL OF A CREDIT CARD AS A SECURITY FOR
24 DEBT]; or

25 (3) with intent to defraud, the person makes a false statement in an
26 application for an access device or identification document [A CREDIT CARD].

27 (b) [OBTAINING A CREDIT CARD BY FRAUDULENT MEANS UNDER
28 (a)(1) OR (2) OF THIS SECTION IS A CLASS C FELONY.] Obtaining an access
29 device or identification document [A CREDIT CARD] by fraudulent means [UNDER
30 (a)(3) OF THIS SECTION] is a class A misdemeanor.

31 * **Sec. 6.** AS 11.46 is amended by adding a new section to read:

1 **Sec. 11.46.565. Criminal impersonation in the first degree.** (a) A person
2 commits the crime of criminal impersonation in the first degree if the person

3 (1) possesses an access device or identification document of another
4 person;

5 (2) without authorization of the other person, uses the access device or
6 identification document to obtain a false identification document, open an account at
7 a financial institution, obtain an access device, or obtain property; and

8 (3) with criminal negligence damages the financial reputation of the
9 other person.

10 (b) Criminal impersonation in the first degree is a class B felony.

11 * **Sec. 7.** AS 11.46.570 is amended to read:

12 **Sec. 11.46.570. Criminal impersonation in the second degree.** (a) A person
13 commits the crime of criminal impersonation **in the second degree** if the person

14 (1) assumes a false identity and does an act in the assumed character
15 with intent to **obtain a benefit to which the person is not entitled** [DEFRAUD]; or

16 (2) pretends to be a representative of some person or organization and
17 does an act in the pretended capacity with intent to **obtain a benefit to which the**
18 **person is not entitled** [DEFRAUD].

19 (b) Criminal impersonation **in the second degree** is a class A misdemeanor.

20 * **Sec. 8.** AS 11.46.630(b)(1) is amended to read:

21 (1) "business record" means a writing, **electronic recording**, or article
22 kept or maintained by an enterprise for the purpose of evidencing or reflecting its
23 condition or activity;

24 * **Sec. 9.** AS 11.46.710(c) is amended to read:

25 (c) **Except as provided in (d) of this section, deceptive** [DECEPTIVE]
26 business practices is a class A misdemeanor.

27 * **Sec. 10.** AS 11.46.710 is amended by adding a new subsection to read:

28 (d) Deceptive business practices is a class C felony if the person uses a
29 computer, computer system, computer program, computer network, or any part of a
30 computer system or network in the commission of the offense.

31 * **Sec. 11.** AS 11.46.740(a) is amended to read:

1 (a) A person commits the offense of criminal use of a computer if, having no
 2 right to do so or any reasonable ground to believe the person has such a right, the
 3 person knowingly accesses, [OR] causes to be accessed, **or exceeds the person's**
 4 **authorized access to** a computer, computer system, computer program, computer
 5 network, or any part of a computer system or network, and as a result of **or in the**
 6 **course of** that access

7 (1) obtains information concerning a person; [OR]

8 (2) introduces false **or misleading** information into a computer,
 9 **computer program,** computer system, or computer network with the intent to damage
 10 or enhance the data record **or the financial reputation** of a person;

11 **(3) introduces false or misleading information into a computer,**
 12 **computer program, computer system, or computer network and, with criminal**
 13 **negligence, damages or enhances the data record or the financial reputation of a**
 14 **person;**

15 **(4) obtains proprietary information of another person;**

16 **(5) obtains information that is only available to the public for a fee;**

17 **(6) introduces instructions, a computer program, or other**
 18 **information that tampers with, disrupts, disables, or destroys a computer,**
 19 **computer system, computer program, computer network, or any part of a**
 20 **computer system or network; or**

21 **(7) encrypts or decrypts data.**

22 * **Sec. 12.** AS 11.46.740 is amended by adding a new subsection to read:

23 (c) In this section, "proprietary information" means scientific, technical, or
 24 commercial information, including a design, process, procedure, customer list, supplier
 25 list, or customer records that the holder of the information has not made available to
 26 the public.

27 * **Sec. 13.** AS 11.46.990 is amended by adding a new paragraph to read:

28 (14) "financial reputation" means a person's

29 (A) ability to obtain a loan from a financial institution, open an
 30 account with a financial institution, obtain property or services on credit, or
 31 obtain an access device; or

1 (B) creditworthiness in a credit report.

2 * **Sec. 14.** AS 11.61.125(d) is amended to read:

3 (d) In this section, "distribution" includes delivering, selling, renting, leasing,
4 lending, giving, circulating, exhibiting, presenting, providing, [AND] exchanging, **and**
5 **placing on a computer network or computer system,** whether or not for monetary
6 or other consideration.

7 * **Sec. 15.** AS 11.81.900(b)(48) is amended to read:

8 (48) "property" means an article, substance, or thing of value, including
9 money, tangible and intangible personal property including data or information stored
10 in a computer program, system, or network, real property, **an access device** [A
11 CREDIT CARD], a domestic pet or livestock regardless of value, choses-in-action, and
12 evidence of debt or of contract; a commodity of a public utility such as gas, electricity,
13 steam, or water constitutes property but the supplying of such a commodity to
14 premises from an outside source by means of wires, pipes, conduits, or other
15 equipment is considered a rendition of a service rather than a sale or delivery of
16 property;

17 * **Sec. 16.** AS 11.81.900(b) is amended by adding new paragraphs to read:

18 (61) "access device" means a card, credit card, plate, code, account
19 number, key, identification number including a social security number, electronic serial
20 number, or password that is capable of being used, alone or in conjunction with
21 another access device or identification document, to obtain property or services, or that
22 can be used to initiate a transfer of property;

23 (62) "identification document" means a paper, instrument, or other
24 article used to establish the identity of a person; "identification document" includes a
25 social security card, driver's license, non-driver's identification, birth certificate,
26 passport, employee identification, or hunting or fishing license.

27 * **Sec. 17.** AS 42.20 is amended by adding a new section to read:

28 **Sec. 42.20.322. Unauthorized access to or use of communications in**
29 **electronic storage.** (a) A person may not access a wire or electronic communication
30 that is in electronic storage or is in the process of being placed in electronic storage
31 if the access is without authorization or exceeds the person's authority.

1 (b) A person who, without authorization or by exceeding the person's
2 authorization, accesses or receives a communication in electronic storage may not

3 (1) use any information in the communication to benefit or injure any
4 person; or

5 (2) divulge the existence, contents, substance, purport, effect, or
6 meaning of any part of the communication.

7 * **Sec. 18.** AS 42.20.330 is amended to read:

8 **Sec. 42.20.330. Penalty.** A person who violates any of the provisions of
9 AS 42.20.300, [AND] 42.20.310, **or 42.20.322** is guilty of a class A misdemeanor.

10 * **Sec. 19.** AS 42.20.390 is amended by adding a new paragraph to read:

11 (11) "electronic storage" has the meaning given in AS 12.37.900 and
12 specifically includes storage of electronic mail and telephone voicemail.

13 * **Sec. 20.** The uncodified law of the State of Alaska is amended by adding a new section
14 to read:

15 **APPLICABILITY.** This Act applies to offenses committed or completed on or after
16 the effective date of this Act.

17 * **Sec. 21.** This Act takes effect immediately under AS 01.10.070(c).