

THIRTEENTH CONGRESS OF THE REPUBLIC.  
OF THE PHILIPPINES  
*First Regular Session*



SENATE

S. No. 464

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Introduced by Senator S. R. Osmeña III

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#### EXPLANATORY NOTE

The Internet provides unparalleled opportunities for socially beneficial endeavors, in ways that we may not have imagined.

Many Filipinos with relatives abroad now communicates through electronic mail or through Internet Relay Chat (IRC), finding it relatively faster and cheaper than overseas phone calls, or by writing letters. On the other hand, research on any topic has been made quick and easy by simply accessing the great number of computers connected to the Internet, such as US federal agencies; the Library of Congress; educational institutions; and news sites such as Cable News Network and Time Magazine, to name a few.

We are also able to order and purchase goods-such as flowers, compact discs, and books through the Internet. The Internet likewise allows us to reserve for seats on flights to any destination.

However, the coming of the Information Age has had its downside. While the Internet has nearly boundless potential benefits to society, its potential to serve as a powerful new medium for those who wish to commit unlawful acts has also grown. Individuals who wish to use the computer as a tool to facilitate unlawful activity may find that the Internet provides a vast, inexpensive and potentially anonymous way to commit unlawful acts, such as fraud, the sale or distribution of child pornography, the sale of guns or drugs or other regulated substances without regulatory protection, and the unlawful distribution of computer software or other creative materials protected by intellectual property rights.

Hacker attacks on major sites cripple vital business activity on the Net. Some unscrupulous individuals hack Internet accounts and leave hapless and unsuspecting victims to pay thousands of pesos for Internet time that they did not use in the first place. Inevitably, the Internet Service Provider has no choice but to pass on such costs to the consumers.

Viruses and programs released in cyberspace wreak havoc on computers all over the world. Damages in terms of lost business opportunities and lost man-hours, not to mention the inordinate amount of time and money restoring lost data on these computers, has been estimated in the billions of dollars.

Unlawful conduct involving the use of the Internet is just as intolerable as any other type of illegal activity. No less than the National Bureau of Investigation has publicly asked Congress to enact the necessary legislation to ensure that the Internet does not become a haven for unlawful activity.

Patterned after the United States Computer Fraud and Abuse Act (18 U.S. Code 1030), as amended in 1994 and 1996, as well as Title 18, Section 3933 of the Pennsylvania Consolidated Statutes (Crimes Code), this bill, among others, outlaws:

1. Illegal access to computers, computer systems, computer networks, computer servers, and database;
2. Obtaining information on the financial records of a customer of a financial institution without the proper authorization;
3. Obtaining, publishing, and giving out the password to another person's account; and
4. Unleashing computer viruses.

In view of the foregoing, approval of this bill is earnestly requested.



**SERGIO OSMEÑA III**  
Senator



SENATE

S. No. 464

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**AN ACT  
DEFINING COMPUTER CRIMES, PROVIDING PENALTIES THEREFOR,  
AND FOR OTHER PURPOSES**

*Be it enacted by the Senate and House of Representatives of the  
Philippines in Congress assembled:*

1 SECTION 1. Short Title-This Act shall known and cited as the "Computer  
2 Abuse Act of 2004."

3 SECTION 2. Declaration of Policy-It is hereby declared the policy of the  
4 State to :

5 (a) Protect and safeguard the integrity of computers, computer systems,  
6 computer networks, computer servers, database, and the information and data  
7 stored therein, which are used by any person, natural or juridical, for  
8 communications and/or local and foreign commerce; and

9 (b) Provide an environment conducive to a free exchange of information and  
10 data among persons here and abroad through the use of computers, computer  
11 systems, and computer networks.

12 SECTION 3. Definition of terms. -As used in this Act:

13 (a) "Access" refers to the interception, instruction, communication with,  
14 storing data in, retrieving data from, or otherwise making use of any resources of a  
15 computer, computer system, computer network, or database;

1 (b) "Computer" refers to an electronic, magnetic, optical, electrochemical, or  
2 other high speed data processing device performing logical, arithmetic, or storage  
3 facility or communications facility related to, or operating in conjunction with such  
4 device, but excluding an automated typewriter or typesetter, a portable hand-held  
5 calculator, and the like;

6 (c) "Computer network" refers to the interconnection of two (2) or more  
7 computers through the use of a satellite, microwave, line, or other communication  
8 medium;

9 (d) "Computer program" refers to an ordered set of instructions or  
10 statements and related data that, when automatically executed in actual form in a  
11 computer system, causes it to perform specified functions;

12 (e) "Computer software" refers to a set computer programs, procedures,  
13 and associated documentation concerned with the operation of a computer  
14 system;

15 (f) "Computer system" refers to a set of related, connected, or unconnected  
16 computer equipment, devices, and software;

17 (g) "Computer virus" refers to a computer program copied to or installed on  
18 a computer, computer network, computer program, computer software, or  
19 computer system without the informed consent of the owner of the computer,  
20 computer network, computer program, computer software, or computer system  
21 that may replicate itself and that causes unauthorized activities within or by the  
22 computer, computer network, computer program, computer software, or computer  
23 system;

24 (h) "Damage" refers to any impairment to the integrity or availability of data,  
25 a program, a system, or information that:

26 (1) Causes loss aggregating to not less that Ten thousand pesos (P  
27 10,000.00) in value to one (1) or more persons, natural or juridical, during  
28 any one (1) year period;

1 (2) Modifies, impairs, or potentially modifies or impairs, the medical  
2 examination, diagnosis, treatment, or case of one (1) or more persons;

3 (3) Causes physical injury to any person; or

4 (4) Threatens public health and/or safety.

5 (i) "Database refers to a representation of information, knowledge, facts,  
6 concepts, or instruction which are being prepared or processed or have been  
7 prepared or processed in a formalized manner and which are intended for use in a  
8 computer, computer system, computer server, or database, which the accesser is  
9 not entitled to obtain or later;

10 (k) "Financial institution" refers to:

11 (1) Any institution whose deposits are insured by the Philippine  
12 Deposit Insurance Corporation (PDIC);

13 (2) The Bangko Sentral ng Pilipinas (BSP);

14 (3) A credit information and/or rating agency;

15 (4) Brokers or dealers in securities registered as such with the  
16 Securities and Exchange Commission;

17 (5) Mutual fund managers and the like;

18 (6) A branch or agency of a foreign bank;

19 (7) The Social Security System (SSS)

20 (8) The Government Service Insurance System (GSIS); and

21 (9) Investment houses and pre-need entities.

22 (l) "Financial record" refers to any information derived from any record held  
23 by a financial institution pertaining to a customer's relationship with that financial  
24 institution;

25 (m) "Government" or Government entity" refers to any agency of the  
26 Government of the Republic of the Philippines, or any of its agencies or  
27 instrumentalities, including Local Government Units (LGUs) and government-  
28 owned or controlled corporations; any foreign country; and any state, province,

1 municipality, or other political subdivision, agency, or instrumentality of any foreign  
2 country; and

3 (n) "Protected computer" refers to a computer which is:

4 (l) Used exclusively by a financial institution, the government, or in  
5 the case of a computer not exclusively used for such use, is used by

6 (i) or for a financial institution; (ii) or a government; and any person,  
7 natural or juridical, and the conduct constituting the offense affects  
8 that use by or for the financial institution, government, or person; or

9 (2) Used in domestic or foreign commerce or communications.

10 (o) "Services" refers, but shall not be limited, to computer time, data  
11 processing, and storage functions.

12 SECTION 4. Prohibited Acts.-It shall be unlawful for any person to:

13 (a) Intentionally access a computer, computer network, computer system,  
14 computer server, or database, without authorization or exceed authorized access,  
15 and thereby obtain:

16 (l) Information contained in a financial record of a financial institution,  
17 or contained in a file of a financial institution on a consumer;

18 (2) Information from any department or agency of the Government; or

19 (3) Information from any protected computer if the conduct involves a  
20 domestic or foreign communication.

21 (b) Intentionally, without authorization, access a non-public computer of a  
22 department or agency of the Government, access such a computer of that  
23 department or agency of the Government, access such a computer of that  
24 department or agency that is exclusively for the use of the Government or, in the  
25 case of a computer not exclusively for such use, is used by or for the Government  
26 and such conduct affects that use by or for the Government;

27 (c) Knowingly and with intent to defraud, access a protected computer  
28 without authorization, or exceeds authorized access, and by means of such  
29 conduct furthers the intended fraud and obtains anything value: Provided, That the

1 object of the fraud and the thing obtained consists only of the use of the computer:  
2 Provided, further, That the value of such use is not more than Fifty Thousand  
3 Pesos (P50,000.00) in any one (1) year period;

4 (d) Knowingly cause the transmission of a program, information, code, or  
5 command, and as result thereof, intentionally causes damage without  
6 authorization, to a protected computer;

7 (e) Intentionally access a protected computer without authorization, and as  
8 a result thereof, causes damage;

9 (f) Knowingly and with intent to defraud, traffic in any password or any  
10 similar information through which a computer, computer network, computer  
11 system, computer server, or database, may be accessed without authorization;

12 (g) Transmit any communication containing any threat to cause damage to  
13 a protected computer, with the intent to extort from any person, natural or juridical,  
14 or government entity, any money or other thing of value.

15 (h) Electronically distribute, or through intentional distribution of a computer  
16 virus:

17 (1) Access, exceed authorization to access, alter, damage, or destroy  
18 any computer, computer network, computer software, computer  
19 system, computer program, computer server, or database, with the  
20 intent to:

21 (i) Interrupt the normal functioning of an organization; or

22 (ii) Devise or execute any scheme or artifice to defraud, deceive,  
23 or control property or services by means of false or fraudulent  
24 pretenses, representations, or promises;

25 (2) Intentionally and without authorization, access, alter, interfere with  
26 the operation of, damage, or destroy or damage any computer,  
27 computer system, computer network, computer software, computer  
28 program, or computer data base, or any part or parts thereof;

1 (3) Intentionally or knowingly and without authorization, give,  
2 publicize, or publish a password, identifying code, personal  
3 identification number, or other confidential information about a  
4 computer, computer system, computer network, computer server, or  
5 database; or

6 (4) Intentionally, or knowingly engage in a scheme or artifice,  
7 including, but not limited to, a denial of service attack upon any  
8 computer, computer system, computer network, computer software,  
9 computer program, computer server, or database, or any parts  
10 thereof that is designated to block, impede, or deny the access of  
11 *information or initiation, or completion of any sale, transaction, or*  
12 *communication by users of that computer, computer system,*  
13 *computer network, computer software, computer program, computer*  
14 *server, or database, or any part or parts thereof.*

15 SECTION 5. Penalties. (a) Violation of Section 4 (a). -The penalty of prision  
16 mayor or an fine ranging from Twenty Five Thousand Pesos (P 25,000.00) to Forty  
17 Five Thousand Pesos (P 45,000.00), or both, at the discretion of the court, shall be  
18 imposed on any person found guilty of violating Section 4 (a) hereto (b) Violation of  
19 Section 4 (b) and (c).-The penalty of prision mayor in its maximum period, or a fine  
20 ranging from Fifty Thousand Pesos (P50,000.00) to One Hundred Thousand  
21 Pesos (P 100,000.00), or both, at the discretion of the court, shall be imposed on  
22 any person found guilty of violating Section 4 (b) and 4 (c) hereof. (c) Violation of  
23 Section 4 (d) and (e).-The penalty of reclusion temporal in its minimum period, or a  
24 fine ranging from One Hundred and Fifty Thousand Pesos (P 150,000.00) to Two  
25 Hundred and Fifty Thousand Pesos (P250,000.00), or both, at the discretion of the  
26 court, shall be imposed on any person found guilty of violating Section 4 (d) and 4  
27 (e) hereof. (d) Violation of Section 4 (f)-The penalty of reclusion temporal in its  
28 medium period, or a fine ranging from Three Hundred Thousand Pesos  
29 (P300,000.00) to Four Hundred and Fifty Thousand Pesos (P 450,000.00), or both,



1 at the discretion of the court, shall be imposed on any person found guilty of  
2 violating Section 4 (f) hereof. (e) Violation of Section 4 (g) and (h).-The penalty of  
3 reclusion temporal in its maximum period, or a fine ranging from Five Hundred  
4 Thousand Pesos (P 500,000.00) to One Million Pesos (P 1,000,000.00), or both, at  
5 the discretion of the court, shall be imposed on any person found guilty of violating  
6 Section 4 (g) and (h) hereof. (f) Violation of Section 4.-In addition to the penalties  
7 in subsections (a), (b), (c), (d), (e), (f), (g), and (h), of Section 4, any person found  
8 guilty of violating this Act shall be barred from working in any computer-related  
9 profession, corporation, industry, or concern, including any government agency,  
10 instrumentality, LGU, and/or government-owned or controlled corporation for a  
11 period of five (5) to fifteen (15) years, at the discretion of the court, and shall be  
12 perpetually disqualified from holding public office. (g) If, in committing any of the  
13 acts enumerated in Section 4 hereof, any of the other acts as enumerated is also  
14 committed, then the penalty next higher in degree as provided herein shall be  
15 imposed.

16 SECTION 6. Remedies.- Any person, natural or juridical, who shall suffer  
17 loss or damage in its business or property by reason of violation of Section 4 of  
18 this Act, may file an action with the Regional Trial Court having jurisdiction to  
19 recover damages, injunctive relief, and he costs of the suit with the Regional Trial  
20 Court: provided, That damages for violations involving damage as defined in  
21 Section 4 (h) of this Act shall include an order by the court for the accused to  
22 reimburse the victim for: (a) the cost of repairing, or if necessary, replacing the  
23 affected computer, computer system, computer network, computer software,  
24 computer program, or database; (b) lost profit for the period that the computer,  
25 computer system, computer network, computer software, computer program, or  
26 database in unusable; or © the cost of replacing or restoring the data lost or  
27 damaged as a result of violation of Section 4 (h) of this Act: Provided, finally: That  
28 no action may be brought under this Section unless: (a) such action is begun

1 within two (2) years of the date of the act complained of; or (b) the date of the  
2 discovery of the damage.

3 SECTION 7. Appropriations.- The amount necessary for the initial  
4 implementation of this Act shall be charged against the current year's  
5 appropriations of the National Bureau of Investigation (NBI). Thereafter, such sums  
6 as may be necessary for the effective implementation of this Act shall be included  
7 in the annual General Appropriations Act.

8 SECTION 8. Implementing Rules and Regulations. -The Department of  
9 Justice (DOJ), the NBI, and the National Computer Center (NCC), shall jointly  
10 formulate and issue the necessary implementing rules and regulations within sixty  
11 (60) days after the effectivity of this Act.

12 SECTION 9. Public Information Campaign-The Commission on Higher  
13 Education (CHED), the Department of Education, Culture and Sports (DECS), the  
14 DOJ, the NBI, and the NCC shall, in coordination with the Philippine Information  
15 Agency (PIA), undertake a public information campaign to educate the student  
16 population and the general public on the salient provisions of this Act.

17 SECTION 10. Annual Report- At the end of every year, the DOJ, the NBI,  
18 and the NCC shall jointly submit a report to the President, the Senate, and the  
19 House of Representatives, on the implementation of this Act; any recommendation  
20 for additional and/or remedial legislation; and to provide for the publication of  
21 reports in such form and manner as may be best adapted for public information  
22 and use.

23 SECTION 11. Separability Clause-If, for any reason, any section or  
24 provision of this Act is declared unconstitutional or valid, such parts not affected  
25 thereby shall remain in full force and effect.

26 SECTION 12. Repealing Clause-All laws, decrees, executive orders,  
27 issuances, rules and regulations, or parts thereof, which are inconsistent with the  
28 provisions of this Act are hereby repealed or immediately modified accordingly.

1 SECTION 13. Effectivity-This Act shall take effect upon its complete  
2 publication in at least two (2) national newspapers of general circulation.

3 Approved,