FOURTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

S E N A T E
S. No. __2412__

INTRODUCED BY THE HONORABLE MAR ROXAS

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, and other search engines such as Google, Yahoo, and Wikipedia.

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.

The attacks made by computer hackers on major sites cripple vital business activities 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 manhours, 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 relative to 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.

MAR ROXAS
Senator

FOURTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

S E N A T E

S. No. 2412

INTRODUCED BY THE HONORABLE MAR ROXAS

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 Abuse Act

2   of 2008."

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

4   (a) Protect and safeguard the integrity of computers, computer systems, computer

5   networks, computer servers, database, and the information and data stored therein, which

6   are used by any person, natural or juridical, for communications and/or local and foreign

7   commerce; and

8   (b) Provide an environment conducive to a free exchange of information and data

9   among persons here and abroad through the use of computers, computer systems, and

10   computer networks.

11   SEC. 3. *Definition of terms.* -As used in this Act:

12   (a) "**Access**" refers to the interception, instruction, communication with, storing data

13   in, retrieving data from, or otherwise making use of any resources of a computer, computer

14   system, computer network, or database;

15   (b) "**Computer**" refers to an electronic, magnetic, optical, electrochemical, or other

16   high speed data processing device performing logical, arithmetic, or storage facility or

1 communications facility related to, or operating in conjunction with such device, but

2 excluding an automated typewriter or typesetter, a portable hand-held calculator, and the

3 like;

4   (c) "**Computer network**" refers to the interconnection of two (2) or more computers

5 through the use of a satellite, microwave, line, or other communication medium;

6   (d) "**Computer program**" refers to an ordered set of instructions or statements and

7 related data that, when automatically executed in actual form in a computer system, causes it

8 to perform specified functions;

9   (e) "**Computer software**" refers to a set computer programs, procedures, system; and

10 associated documentation concerned with the operation of a computer system;

11   (f) "**Computer system**" refers to a set of related, connected, or unconnected computer

12 equipment, devices, and software;

13   (g) "**Computer virus**" refers to a computer program copied to or installed on a

14 computer, computer network, computer program, computer software, or computer system

15 without the informed consent of the owner of the computer, computer network, computer

16 program, computer software, or computer system that may replicate itself and that causes

17 unauthorized activities within or by the computer, computer network, computer program,

18 computer software, or computer system;

19   (h) "**Damage**" refers to any impairment to the integrity or availability of data, a

20 program, a system, or information that:

21   (1) Causes loss aggregating to not less that Ten thousand pesos (P10,000.00) in

22   value to one (1) or more persons, natural or juridical, during any one (1) year period;

23   (2) Modifies, impairs, or potentially modifies or impairs, the medical

24   examination, diagnosis, treatment, or case of one (1) or more persons;

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

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

2   (i) "**Database**" refers to a representation of information, knowledge, facts, concepts, or

3 instruction which are being prepared or processed or have been prepared or processed in a

4 formalized manner and which are intended for use in a computer, computer system,

5 computer server, or database, which the accesser is not entitled to obtain or later;

6   (j) "**Financial institution**" refers to:

7   (1)   Any institution whose deposits are insured by the Philippine Deposit

8   Insurance Corporation (PDIC);

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

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

11   (4)   Brokers or dealers in securities registered as such with the Securities

12   and Exchange Commission;

13   (5)   Mutual fund managers and the like;

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

15   (7)   The Social Security System (SSS)

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

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

18   (k) "**Financial record**" refers to any information derived from any record held by a

19 financial institution pertaining to a customer's relationship with that financial institution;

20   (l) "**Government**" or **Government entity**" refers to any agency of the Government of

21 the Republic of the Philippines, or any of its agencies or instrumentalities, including Local

22 Government Units (LGUs) and government-owned or controlled corporations; any foreign

23 country; and any state, province, municipality, or other political subdivision, agency, or

24 instrumentality of any foreign country; and

25   (m) "**Protected computer**" refers to a computer, which is:

1   (1) Used exclusively by a financial institution, the government, or in the

2   case of a computer not exclusively used for such use, is used by (i) or

3   for a financial institution; (ii) or a government; and any person, natural

4   or juridical, and the conduct constituting the offense affects that use by

5   or for the financial institution, government, or person; or

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

7 (n) **"Services"** refers, but shall not be limited, to computer time, data processing, and

8 storage functions.

9 SEC. 4. *Prohibited Acts.* - It shall be unlawful for any person to:

10 (a) intentionally access a computer, computer network, computer system, computer

11 server, or database, without authorization or exceed authorized access, and thereby obtain:

12   (1) Information contained in a financial record of a financial institution,

13   or contained in a file of a financial institution on a consumer;

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

15   (3) Information from any protected computer if the conduct involves a

16   domestic or foreign communication.

17 (b) Intentionally, without authorization, access a non-public computer of a

18 department or agency of the Government, access such a computer of that department or

19 agency of the Government, access such a computer of that department or agency that is

20 exclusively for the use of the Government or, in the case of a computer not exclusively for

21 such use, is used by or for the Government and such conduct affects that use by or for the

22 Government;

23 (c) Knowingly and with intent to defraud, access a protected computer without

24 authorization, or exceeds authorized access, and by means of such conduct furthers the

25 intended fraud and obtains anything value: Provided, That the object of the fraud and the

1   thing obtained consists only of the use of the computer: Provided, further, That the value of

2   such use is not more than Fifty Thousand Pesos (P50,000.00) in any one (1) year period;

3   (d) Knowingly cause the transmission of a program, information, code, or command,

4   and as result thereof, intentionally causes damage without authorization, to a protected

5   computer;

6   (e) Intentionally access a protected computer without authorization, and as a result

7   thereof, causes damage;

8   (f) Knowingly and with intent to defraud, traffic in any password or any similar

9   information through which a computer, computer network, computer system, computer

10 server, or database, may be accessed without authorization;

11 (g) Transmit any communication containing any threat to cause damage to a

12 protected computer, with the intent to extort from any person, natural or juridical, or

13 government entity, any money or other thing of value.

14 (h) Electronically distribute, or through intentional distribution of a computer

15 virus:

16   (1)   Access, exceed authorization to access, alter, damage, or destroy any

17   computer, computer network, computer software, computer system,

18   computer program, computer server, or database, with the intent to:

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

20   (ii)   Devise or execute any scheme or artifice to defraud, deceive, or

21   control property or services by means of false or fraudulent

22   pretenses, representations, or promises;

23   (2)   Intentionally and without authorization, access, alter, interfere with

24   the operation of, damage, or destroy or damage any computer,

computer system, computer network, computer software, computer program, or computer data base, or any part or parts thereof;

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

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

SEC. 5. *Penalties.* (a) Violation of Section 4 (a). - The penalty of prison mayor or an fine ranging from Twenty-Five Thousand Pesos (P 25,000.00) to Forty-Five Thousand Pesos (P 45,000.00), or both, at the discretion of the court, shall be imposed on any person found guilty of violating Section 4 (a) hereof.

(b) Violation of Section 4 (b) and (c). - The penalty of prison mayor in its maximum period, or a fine ranging from Fifty Thousand Pesos (P50,000.00) to One Hundred Thousand Pesos (P100,000.00), or both, at the discretion of the court, shall be imposed on any person found guilty of violating Section 4 (b) and 4 (c) hereof.

(c) Violation of Section 4 (d) and (e). - The penalty of reclusion temporal in its minimum period, or a fine ranging from One Hundred and Fifty Thousand Pesos (P

1   150,000.00) to Two Hundred and Fifty Thousand Pesos (P250,000.00), or both, at the

2   discretion of the court, shall be imposed on any person found guilty of violating Section 4 (d)

3   and 4 (e) hereof.

4   (d) Violation of Section 4 (f). - The penalty of reclusion temporal in its medium

5   period, or a fine ranging from Three Hundred Thousand Pesos (P300,000.00) to Four

6   Hundred and Fifty Thousand Pesos (P 450,000.00), or both, at the discretion of the court,

7   shall be imposed on any person found guilty of violating Section 4 (f) hereof.

8   (e) Violation of Section 4 (g) and (h). - The penalty of reclusion temporal in its

9   maximum period, or a fine ranging from Five Hundred Thousand Pesos (P 500,000.00) to

10 One Million Pesos (P1,000,000,000.00), or both, at the discretion of the court, shall be

11 imposed on any person found guilty of violating Section 4 (g) and (h) hereof.

12   (f) Violation of Section 4. - In addition to the penalties in subsections (a), (b), (c), (d),

13 (e), (f), (g), and (h), of Section 4, any person found guilty of violating this Act shall be barred

14 from working in any computer-related profession, corporation, industry, or concern,

15 including any government agency, instrumentality, LGU, and/or government-owned or

16 controlled corporation for a period of five (5) to fifteen (15) years, at the discretion of the

17 court, and shall be perpetually disqualified from holding public office.

18   (g) If, in committing any of the acts enumerated in Section 4 hereof, any of the other

19 acts as enumerated is also committed, then the penalty next higher in degree as provided

20 herein shall be imposed.

21   SEC. 6. *Remedies.* - Any person, natural or juridical, who shall suffer loss or damage

22 in its business or property by reason of violation of Section 4 of this Act, may file an action

23 with the Regional Trail Court having jurisdiction to recover damages, injunctive relief, and

24 he costs of the suit with the Regional Trail Court: provided, That damages for violations

25 involving damage as defined in Section 4 (h) of this Act shall include an order by the court

1   for the accused to reimburse the victim for: (a) the cost of repairing, or if necessary, replacing

2   the affected computer, computer system, computer network, computer software, computer

3   program, or database; (b) lost profit for the period that the computer, computer system,

4   computer network, computer software, computer program, or database in unusable; or (c)

5   the cost of replacing or restoring the data lost or damaged as a result of violation of Section 4

6   (h) of this Act: Provided, finally: That no action may be brought under this Section unless:

7   (a) such action is begun within two (2) years of the date of the act complained of; or (b) the

8   date of the discovery of the damage.

9   SEC. 7. *Appropriations.* - The amount necessary for the initial implementation of this

10   Act shall be charged against the current year's appropriations of the National Bureau of

11   Investigation (NBI). Thereafter, such sums as may be necessary for the effective

12   implementation of this Act shall be included in the annual General Appropriations Act.

13   SEC. 8. *Implementing Rules and Regulations.* - The Department of Justice (DOJ), the

14   NBI, and the National Computer Center (NCC), shall jointly formulate and issue the

15   necessary implementing rules and regulations within sixty (60) days after the effectivity of

16   this Act.

17   SEC. 9. *Public Information Campaign* - The Commission on Higher Education

18   (CHED), the Department of Education, Culture and Sports (DECS), the DOJ, the NBI,: and

19   the NCC shall, in coordination with the Philippine Information Agency (PIA), undertake a

20   public information campaign to educate the student population and the general public on the

21   salient provisions of this Act.

22   SEC. 10. *Annual Report.* - At the end of every year, the DOJ, the NBI, and the NCC

23   shall jointly submit a report to the President, the Senate, and the House of Representatives,

24   on the implementation of this Act; any recommendation for additional and/or remedial

1   legislation; and to provide for the publication of reports in such form and manner as may be

2   best adapted for public information and use.

3   SEC. 11. *Separability Clause* - If, for any reason, any section or provision of this Act is

4   declared unconstitutional or valid, such parts not affected thereby shall remain in full force

5   and effect.

6   SEC. 12. *Repealing Clause* - All laws, decrees, executive orders, issuances, rules and

7   regulations, or parts thereof, which are inconsistent with the provision of this Act are hereby

8   repealed or immediately modified accordingly

9   SEC. 13. *Effectivity*. - This Act shall take effect immediately upon its complete

10   publication in at least two (2) national newspapers of general circulation.

     Approved,