

NY Electronic Crime Statutes

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ARTICLE 156--OFFENSES INVOLVING COMPUTERS; DEFINITION OF TERMS

Section 156.00 Offenses involving computers; definition of terms

The following definitions are applicable to this chapter except where different meanings are expressly specified:

1. "Computer" means a device or group of devices which, by manipulation of electronic, magnetic, optical or electrochemical impulses, pursuant to a computer program, can automatically perform arithmetic, logical, storage or retrieval operations with or on computer data, and includes any connected or directly related device, equipment or facility which enables such computer to store, retrieve or communicate to or from a person, another computer or another device the results of computer operations, computer programs or computer data.

2. "Computer program" is [property](#) and means an ordered set of data representing coded instructions or statements that, when executed by computer, cause the computer to process data or direct the computer to perform one or more computer operations or both and may be in any form, including magnetic storage media, punched cards, or stored internally in the memory of the computer.

3. "Computer data" is [property](#) and means a representation of information, knowledge, facts, concepts or instructions which are being processed, or have been processed in a computer and may be in any form, including magnetic storage media, punched cards, or stored internally in the memory of the computer.

4. "Computer service" means any and all services provided by or through the facilities of any computer communication system allowing the input, output, examination, or transfer, of computer data or computer programs from one computer to another.

5. "Computer material" is [property](#) and means any computer data or computer program which:

(a) contains records of the medical history or medical treatment of an identified or readily identifiable individual or individuals. This term shall not apply to the gaining access to or duplication solely of the medical history or medical treatment records of a person by that person or by another specifically authorized by the person whose records are gained access to or duplicated; or

(b) contains records maintained by the state or any political subdivision thereof or any governmental instrumentality within the state which contains any information concerning a person, as defined in subdivision seven of section 10.00 of this chapter, which because

of name, number, symbol, mark or other identifier, can be used to identify the person and which is otherwise prohibited by law from being disclosed. This term shall not apply to the gaining access to or duplication solely of records of a person by that person or by another specifically authorized by the person whose records are gained access to or duplicated; or

(c) is not and is not intended to be available to anyone other than the person or persons rightfully in possession thereof or selected persons having access thereto with his or their consent and which accords or may accord such rightful possessors an advantage over competitors or other persons who do not have [knowledge](#) or the benefit thereof.

6. "Uses a computer or computer service without authorization" means the use of a computer or computer service without the permission of, or in excess of the permission of, the owner or lessor or someone licensed or privileged by the owner or lessor after notice to that effect to the user of the computer or computer service has been given by:

(a) giving actual notice in writing or orally to the user; or

(b) prominently posting written notice adjacent to the computer being utilized by the user; or

(c) a notice that is displayed on, printed out on or announced by the computer being utilized by the user. Proof that the computer is programmed to automatically display, print or announce such notice or a notice prohibiting copying, reproduction or duplication shall be presumptive evidence that such notice was displayed, printed or announced.

7. "Felony" as used in this article means any felony defined in the laws of this state or any offense defined in the laws of any other jurisdiction for which a sentence to a term of imprisonment in excess of one year is authorized in this state.

Section 156.05 Unauthorized use of a computer

A person is guilty of unauthorized use of a computer when he [knowingly](#) uses or causes to be used a computer or computer service without authorization and the computer utilized is equipped or programmed with any device or coding system, a function of which is to prevent the unauthorized use of said computer or computer system.

Unauthorized use of a computer is a class A misdemeanor.

Section 156.10 Computer trespass

A person is guilty of computer trespass when he [knowingly](#) uses or causes to be used a computer or computer service without authorization and:

1. he does so with an [intent](#) to commit or attempt to commit or further the commission of any felony; or
2. he thereby [knowingly](#) gains access to computer material.

Computer trespass is a class E felony.

Section 156.20 Computer tampering in the fourth degree

A person is guilty of computer tampering in the fourth degree when he uses or causes to be used a computer or computer service and having no right to do so he [intentionally](#) alters in any manner or destroys computer data or a computer program of another person.

Computer tampering in the fourth degree is a class A misdemeanor.

Section 156.25 Computer tampering in the third degree

A person is guilty of computer tampering in the third degree when he commits the crime of computer tampering in the fourth degree and:

1. he does so with an [intent](#) to commit or attempt to commit or further the commission of any felony; or
2. he has been previously convicted of any crime under this article or subdivision eleven of section 165.15 of this chapter; or
3. he [intentionally](#) alters in any manner or destroys computer material; or
4. he [intentionally](#) alters in any manner or destroys computer data or a computer program so as to cause damages in an aggregate amount exceeding one thousand dollars.

Computer tampering in the third degree is a class E felony.

Section 156.26 Computer tampering in the second degree

A person is guilty of computer tampering in the second degree when he commits the crime of computer tampering in the fourth degree and he [intentionally](#) alters in any manner or destroys computer data or a computer program so as to cause damages in an aggregate amount exceeding three thousand dollars.

Computer tampering in the second degree is a class D felony.

Section 156.27 Computer tampering in the first degree

A person is guilty of computer tampering in the first degree when he commits the crime of computer tampering in the fourth degree and he [intentionally](#) alters in any manner or destroys computer data or a computer program so as to cause damages in an aggregate amount exceeding fifty thousand dollars.

Computer tampering in the first degree is a class C felony.

Section 156.30 Unlawful duplication of computer related material

A person is guilty of unlawful duplication of computer related material when having no right to do so, he copies, reproduces or duplicates in any manner:

1. any computer data or computer program and thereby [intentionally](#) and wrongfully [deprives](#) or [appropriates](#) from an [owner](#) thereof an economic value or benefit in excess of two thousand five hundred dollars; or
2. any computer data or computer program with an [intent](#) to commit or attempt to commit or further the commission of any felony.

Unlawful duplication of computer related material is a class E felony.

Section 156.35 Criminal possession of computer related material

A person is guilty of criminal possession of computer related material when having no right to do so, he [knowingly](#) possesses, in any form, any copy, reproduction or duplicate of any computer data or computer program which was copied, reproduced or duplicated in violation of section 156.30 of this article, with [intent](#) to benefit himself or a person other than an [owner](#) thereof.

Criminal possession of computer related material is a class E felony.

Section 156.50 Offenses involving computers; defenses

In any prosecution:

1. under section 156.05 or 156.10 of this article, it shall be a defense that the defendant had reasonable grounds to believe that he had authorization to use the computer;
2. under section 156.20, 156.25, 156.26 or 156.27 of this article it shall be a defense that the defendant had reasonable grounds to believe that he had the right to alter in any manner or destroy the computer data or the computer program;

3. under section 156.30 of this article it shall be a defense that the defendant had reasonable grounds to believe that he had the right to copy, reproduce or duplicate in any manner the computer data or the computer program.

Section 165.15 Theft of services

A person is guilty of theft of services when:

1. He obtains or attempts to obtain a service, or induces or attempts to induce the supplier of a rendered service to agree to payment therefor on a credit basis, by the use of a credit card or debit card which he knows to be stolen.

2. With intent to avoid payment for restaurant services rendered, or for services rendered to him as a transient guest at a hotel, motel, inn, tourist cabin, rooming house or comparable establishment, he avoids or attempts to avoid such payment by unjustifiable failure or refusal to pay, by stealth, or by any misrepresentation of fact which he knows to be false. A person who fails or refuses to pay for such services is presumed to have intended to avoid payment therefor; or

3. With intent to obtain railroad, subway, bus, air, taxi or any other public transportation service without payment of the lawful charge therefor, or to avoid payment of the lawful charge for such transportation service which has been rendered to him, he obtains or attempts to obtain such service or avoids or attempts to avoid payment therefor by force, intimidation, stealth, deception or mechanical tampering, or by unjustifiable failure or refusal to pay; or

4. With intent to avoid payment by himself or another person of the lawful charge for any telecommunications service, including, without limitation, cable television service, or any gas, steam, sewer, water, electrical, telegraph or telephone service which is provided for a charge or compensation, he obtains or attempts to obtain such service for himself or another person or avoids or attempts to avoid payment therefor by himself or another person by means of (a) tampering or making connection with the equipment of the supplier, whether by mechanical, electrical, acoustical or other means, or (b) offering for sale or otherwise making available, to anyone other than the provider of a telecommunications service for such service provider's own use in the provision of its service, any telecommunications decoder or descrambler, a principal function of which defeats a mechanism of electronic signal encryption, jamming or individually addressed switching imposed by the provider of any such telecommunications service to restrict the delivery of such service, or (c) any misrepresentation of fact which he knows to be false, or (d) any other artifice, trick, deception, code or device. For the purposes of this subdivision the telecommunications decoder or descrambler described in paragraph (b) above or the device described in paragraph (d) above shall not include any non-decoding and non-descrambling channel frequency converter or any television receiver-type accepted by the federal communications commission. In any prosecution under this subdivision, proof that telecommunications equipment, including, without limitation, any cable television converter, descrambler, or related equipment, has been tampered with or

otherwise intentionally prevented from performing its functions of control of service delivery without the consent of the supplier of the service, or that telecommunications equipment, including, without limitation, any cable television converter, descrambler, receiver, or related equipment, has been connected to the equipment of the supplier of the service without the consent of the supplier of the service, shall be presumptive evidence that the resident to whom the service which is at the time being furnished by or through such equipment has, with intent to avoid payment by himself or another person for a prospective or already rendered service, created or caused to be created with reference to such equipment, the condition so existing. A person who tampers with such a device or equipment without the consent of the supplier of the service is presumed to do so with intent to avoid, or to enable another to avoid, payment for the service involved. In any prosecution under this subdivision, proof that any telecommunications decoder or descrambler, a principal function of which defeats a mechanism of electronic signal encryption, jamming or individually addressed switching imposed by the provider of any such telecommunications service to restrict the delivery of such service, has been offered for sale or otherwise made available by anyone other than the supplier of such service shall be presumptive evidence that the person offering such equipment for sale or otherwise making it available has, with intent to avoid payment by himself or another person of the lawful charge for such service, obtained or attempted to obtain such service for himself or another person or avoided or attempted to avoid payment therefor by himself or another person; or

5. With intent to avoid payment by himself or another person of the lawful charge for any telephone service which is provided for a charge or compensation he (a) sells, offers for sale or otherwise makes available, without consent, an existing, canceled or revoked access device; or (b) uses, without consent, an existing, canceled or revoked access device; or (c) knowingly obtains any telecommunications service with fraudulent intent by use of an unauthorized, false, or fictitious name, identification, telephone number, or access device. For purposes of this subdivision access device means any telephone calling card number, credit card number, account number, mobile identification number, electronic serial number or personal identification number that can be used to obtain telephone service.

6. With intent to avoid payment by himself or another person for a prospective or already rendered service the charge or compensation for which is measured by a meter or other mechanical device, he tampers with such device or with other equipment related thereto, or in any manner attempts to prevent the meter or device from performing its measuring function, without the consent of the supplier of the service. In any prosecution under this subdivision, proof that a meter or related equipment has been tampered with or otherwise intentionally prevented from performing its measuring function without the consent of the supplier of the service shall be presumptive evidence that the person to whom the service which is at the time being furnished by or through such meter or related equipment has, with intent to avoid payment by himself or another person for a prospective or already rendered service, created or caused to be created with reference to such meter or related equipment, the condition so existing. A person who tampers with such a device or equipment without the consent of the supplier of the service is presumed

to do so [with intent](#) to avoid, or to enable another to avoid, payment for the service involved; or

7. He [knowingly](#) accepts or receives the use and benefit of service, including gas, steam or electricity service, which should pass through a meter but has been diverted therefrom, or which has been prevented from being correctly registered by a meter provided therefor, or which has been diverted from the pipes, wires or conductors of the supplier thereof. In any prosecution under this subdivision proof that service has been [intentionally](#) diverted from passing through a meter, or has been intentionally prevented from being correctly registered by a meter provided therefor, or has been intentionally diverted from the pipes, wires or conductors of the supplier thereof, shall be presumptive evidence that the person who accepts or receives the use and benefit of such service has done so [with knowledge](#) of the condition so existing; or

8. [With intent](#) to obtain, without the consent of the supplier thereof, gas, electricity, water, steam or telephone service, he tampers with any equipment designed to supply or to prevent the supply of such service either to the community in general or to particular premises; or

9. [With intent](#) to avoid payment of the lawful charge for admission to any theatre or concert hall, or with intent to avoid payment of the lawful charge for admission to or use of a chair lift, gondola, rope-tow or similar mechanical device utilized in assisting skiers in transportation to a point of ski arrival or departure, he obtains or attempts to obtain such admission without payment of the lawful charge therefor.

10. Obtaining or having control over labor in the employ of another person, or of business, commercial or industrial equipment or facilities of another person, [knowing](#) that he is not entitled to the use thereof, and [with intent](#) to derive a commercial or other substantial benefit for himself or a third person, he uses or diverts to the use of himself or a third person such labor, equipment or facilities.

11. [With intent](#) to avoid payment by himself or another person of the lawful charge for use of any computer or computer service which is provided for a charge or compensation he uses, causes to be used or attempts to use a computer or computer service and avoids or attempts to avoid payment therefor. In any prosecution under this subdivision proof that a person overcame or attempted to overcome any device or coding system a function of which is to prevent the unauthorized use of said computer or computer service shall be presumptive evidence of an [intent](#) to avoid payment for the computer or computer service.

Theft of services is a class A misdemeanor, provided, however, that theft of cable television service as defined by the provisions of paragraphs (a), (c) and (d) of subdivision four of this section, and having a value not in excess of one hundred dollars by a person who has not been previously convicted of theft of services under subdivision four of this section is a violation, that theft of services under subdivision nine of this section by a person who has not been previously convicted of theft of services under

subdivision nine of this section is a violation and provided further, however, that theft of services of any telephone service under paragraph (a) or (b) of subdivision five of this section having a value in excess of one thousand dollars or by a person who has been previously convicted within five years of theft of services under paragraph (a) of subdivision five of this section is a class E felony.

Section 170.00 Forgery; definitions of terms

1. "Written instrument" means any instrument or article, including computer data or a computer program, containing written or printed matter or the equivalent thereof, used for the purpose of reciting, embodying, conveying or recording information, or constituting a symbol or evidence of value, right, privilege or identification, which is capable of being used to the advantage or disadvantage of some person.

2. "Complete written instrument" means one which purports to be a genuine written instrument fully drawn with respect to every essential feature thereof. An endorsement, attestation, acknowledgment or other similar signature or statement is deemed both a complete written instrument in itself and a part of the main instrument in which it is contained or to which it attaches.

3. "Incomplete written instrument" means one which contains some matter by way of content or authentication but which requires additional matter in order to render it a complete written instrument.

4. "Falsely make." A person "falsely makes" a written instrument when he makes or draws a complete written instrument in its entirety, or an incomplete written instrument, which purports to be an authentic creation of its ostensible maker or drawer, but which is not such either because the ostensible maker or drawer is fictitious or because, if real, he did not authorize the making or drawing thereof.

5. "Falsely complete." A person "falsely completes" a written instrument when, by adding, inserting or changing matter, he transforms an incomplete written instrument into a complete one, without the authority of anyone entitled to grant it, so that such complete instrument appears or purports to be in all respects an authentic creation of or fully authorized by its ostensible maker or drawer.

6. "Falsely alter." A person "falsely alters" a written instrument when, without the authority of anyone entitled to grant it, he changes a written instrument, whether it be in complete or incomplete form, by means of erasure, obliteration, deletion, insertion of new matter, transposition of matter, or in any other manner, so that such instrument in its thus altered form appears or purports to be in all respects an authentic creation of or fully authorized by its ostensible maker or drawer.

7. "Forged instrument" means a written instrument which has been falsely made, completed or altered.

8. "Electronic access device" means a mobile identification number or electronic serial number that can be used to obtain telephone service.

S 170.75 Fraudulent making of an electronic access device in the second degree.

A person is guilty of fraudulent making of an electronic access device in the second degree when, with intent to defraud, deceive or injure another, he falsely makes, completes or alters two or more electronic access devices, as that term is defined in subdivision eight of section 170.00 of this article.

Fraudulent making of an electronic access device in the second degree is a class D felony.

Section 250.30 Unlawfully obtaining communications information

A person is guilty of unlawfully obtaining communications information when, knowing that he does not have the authorization of a telephone or telegraph corporation, he obtains or attempts to obtain, by deception, stealth or in any other manner, from such corporation or from any employee, officer or representative thereof:

1. Information concerning identification or location of any wires, cables, lines, terminals or other apparatus used in furnishing telephone or telegraph service; or
2. Information concerning a record of any communication passing over telephone or telegraph lines of any such corporation.

Unlawfully obtaining communications information is a class B misdemeanor.

Section 250.35 Failing to report criminal communications

1. It shall be the duty of a telephone or telegraph corporation, or an entity operating an electronic communications service, and of any employee, officer or representative thereof having knowledge that the facilities of such corporation or entity are being used to conduct any criminal business, traffic or transaction, to furnish or attempt to furnish to an appropriate law enforcement officer or agency all pertinent information within his possession relating to such matter, and to cooperate fully with any law enforcement officer or agency investigating such matter.

2. A person is guilty of failing to report criminal communications when he knowingly violates any duty prescribed in subdivision one of this section.