



1 in, retrieve data from, intercept data from or otherwise make use  
2 of any computer, computer network, computer program, computer  
3 software, computer data or other computer resources.

4 (b) "Authorization" means the express or implied consent given  
5 by a person to another to access or use said person's computer,  
6 computer network, computer program, computer software, computer  
7 system, password, identifying code or personal identification  
8 number.

9 (c) "Computer" means an electronic, magnetic, optical,  
10 electrochemical or other high-speed data processing device  
11 performing logical, arithmetic or storage functions and includes  
12 any data storage facility or communication facility directly  
13 related to or operating in conjunction with such device. The term  
14 "computer" includes any connected or directly related device,  
15 equipment or facility which enables the computer to store, retrieve  
16 or communicate computer programs, computer data or the results of  
17 computer operations to or from a person, another computer or  
18 another device, file servers, mainframe systems, desktop personal  
19 computers, laptop personal computers, tablet personal computers,  
20 cellular telephones, game consoles and any other electronic data  
21 storage device or equipment, but such term does not include an  
22 automated typewriter or typesetter, a portable hand-held calculator  
23 or other similar device.

24 (d) "Computer contaminant" means any set of computer

1 instructions that are designed to damage or destroy information  
2 within a computer, computer system or computer network without the  
3 consent or permission of the owner of the information. They  
4 include, but are not limited to, a group of computer instructions  
5 commonly called viruses or worms that are self-replicating or self-  
6 propagating and are designed to contaminate other computer programs  
7 or computer data, consume computer resources or damage or destroy  
8 the normal operation of the computer.

9 (e) "Computer data" means any representation of knowledge,  
10 facts, concepts, instruction or other information computed,  
11 classified, processed, transmitted, received, retrieved,  
12 originated, stored, manifested, measured, detected, recorded,  
13 reproduced, handled or utilized by a computer, computer network,  
14 computer program or computer software and may be in any medium,  
15 including, but not limited to, computer printouts, microfilm,  
16 microfiche, magnetic storage media, optical storage media, punch  
17 paper tape or punch cards, or it may be stored internally in read-  
18 only memory or random access memory of a computer or any other  
19 peripheral device.

20 (f) "Computer network" means a set of connected devices and  
21 communication facilities, including more than one computer, with  
22 the capability to transmit computer data among them through such  
23 communication facilities.

24 (g) "Computer operations" means arithmetic, logical, storage,

1 display, monitoring or retrieval functions or any combination  
2 thereof and includes, but is not limited to, communication with,  
3 storage of data in or to, or retrieval of data from any device and  
4 the human manual manipulation of electronic magnetic impulses. A  
5 "computer operation" for a particular computer shall also mean any  
6 function for which that computer was designed.

7 (h) "Computer program" means an ordered set of computer data  
8 representing instructions or statements, in a form readable by a  
9 computer, which controls, directs or otherwise influences the  
10 functioning of a computer or computer network.

11 (I) "Computer software" means a set of computer programs,  
12 procedures and associated documentation concerned with computer  
13 data or with the operation of a computer, computer program or  
14 computer network.

15 (j) "Computer services" means computer access time, computer  
16 data processing or computer data storage and the computer data  
17 processed or stored in connection therewith.

18 (k) "Computer supplies" means punch cards, paper tape,  
19 magnetic tape, magnetic disks or diskettes, optical disks or  
20 diskettes, disk or diskette packs, paper, microfilm and any other  
21 tangible input, output or storage medium used in connection with a  
22 computer, computer network, computer data, computer software or  
23 computer program.

24 (l) "Computer resources" includes, but is not limited to,

1 information retrieval; computer data processing, transmission and  
2 storage; and any other functions performed, in whole or in part, by  
3 the use of a computer, computer network, computer software or  
4 computer program.

5 (m) "Owner" means any person who owns or leases or is a  
6 licensee of a computer, computer network, computer data, computer  
7 program, computer software, computer resources or computer  
8 supplies.

9 (n) "Person" means any natural person, general partnership,  
10 limited partnership, trust, association, corporation, joint venture  
11 or any state, county or municipal government and any subdivision,  
12 branch, department or agency thereof.

13 (o) "Property" includes:

14 (1) Real property;

15 (2) Computers and computer networks;

16 (3) Financial instruments, computer data, computer programs,  
17 computer software and all other personal property regardless of  
18 whether they are:

19 (I) Tangible or intangible;

20 (ii) In a format readable by humans or by a computer;

21 (iii) In transit between computers or within a computer  
22 network or between any devices which comprise a computer; or

23 (iv) Located on any paper or in any device on which it is  
24 stored by a computer or by a human; and

1 (4) Computer services.

2 (p) "Value" means having any potential to provide any direct  
3 or indirect gain or advantage to any person.

4 (q) "Financial instrument" includes, but is not limited to,  
5 any check, draft, warrant, money order, note, certificate of  
6 deposit, letter of credit, bill of exchange, credit or debit card,  
7 transaction authorization mechanism, marketable security or any  
8 computerized representation thereof.

9 (r) "Value of property or computer services" shall be: (1)  
10 The market value of the property or computer services at the time  
11 of a violation of this article; or (2) if the property or computer  
12 services are unrecoverable, damaged or destroyed as a result of a  
13 violation of section six or seven of this article, the cost of  
14 reproducing or replacing the property or computer services at the  
15 time of the violation.

16 **ARTICLE 8A. PREPARATION, DISTRIBUTION OR EXHIBITION OF OBSCENE**

17 **MATTER TO MINORS.**

18 **§61-8A-1. Definitions.**

19 When used in this article, the following words, and any  
20 variations thereof required by the context, shall have the meaning  
21 ascribed to them in this section:

22 (a) "Adult" means a person eighteen years of age or older.

23 (b) "Computer" means an electronic, magnetic, optical,  
24 electrochemical or other high-speed data processing device

1 performing logical, arithmetic or storage functions and includes  
2 any data storage facility or communication facility directly  
3 related to or operating in conjunction with such device. As used  
4 in this article, computer includes file servers, mainframe systems,  
5 desktop personal computers, laptop personal computers, tablet  
6 personal computers, cellular telephones, game consoles and any  
7 electronic data storage device or equipment. The term "computer"  
8 includes any connected or directly related device, equipment or  
9 facility which enables the computer to store, retrieve or  
10 communicate computer programs, computer data or the results of  
11 computer operations to or from a person, another computer or  
12 another device, but such term does not include an automated  
13 typewriter or typesetter, a portable hand-held calculator or other  
14 similar device.

15       ~~(b)~~ (c) "Computer network" means the interconnection of  
16 hardware or wireless communication lines with a computer through  
17 remote terminals, or a complex consisting of two or more  
18 interconnected computers.

19       ~~(c)~~ (d) "Display" means to show, exhibit or expose matter, in  
20 a manner visible to general or invited public, including minors.  
21 As used in this article, display shall include the placing or  
22 exhibiting of matter on or in a billboard, viewing screen, theater,  
23 marquee, newsstand, display rack, window, showcase, display case or  
24 similar public place.

1       ~~(d)~~ (e) "Distribute" means to transfer possession, transport,  
2 transmit, sell or rent, whether with or without consideration.

3       ~~(e)~~ (f) "Employee" means any individual who renders personal  
4 services in the course of a business, who receives compensation and  
5 who has no financial interest in the ownership or operation of the  
6 business other than his or her salary or wages.

7       ~~(f)~~ (g) "Internet" means the international computer network of  
8 both federal and nonfederal interoperable packet switched data  
9 networks.

10       ~~(g)~~ (h) "Knowledge of the character of the matter" means  
11 having awareness of or notice of the overall sexual content and  
12 character of matter as depicting, representing or describing  
13 obscene matter.

14       ~~(h)~~ (I) "Matter" means any visual, audio, or physical item,  
15 article, production transmission, publication, exhibition, or live  
16 performance, or reproduction thereof, including any two- or three-  
17 dimensional visual or written material, film, picture, drawing,  
18 video, graphic, or computer generated or reproduced image; or any  
19 book, magazine, newspaper or other visual or written material; or  
20 any motion picture or other pictorial representation; or any statue  
21 or other figure; or any recording, transcription, or mechanical,  
22 chemical, or electrical reproduction; or any other articles, video  
23 laser disc, computer hardware and software, or computer generated  
24 images or message recording, transcription, or object, or any



1 public or commercial live exhibition performed for consideration or  
2 before an audience of one or more.

3 ~~(i)~~ (j) "Minor" means an unemancipated person under eighteen  
4 years of age.

5 ~~(j)~~ (k) "Obscene matter" means matter that:

6 (1) An average person, applying contemporary adult community  
7 standards, would find, taken as a whole, appeals to the prurient  
8 interest, is intended to appeal to the prurient interest, or is  
9 pandered to a prurient interest;

10 (2) An average person, applying community standards, would  
11 find depicts or describes, in a patently offensive way, sexually  
12 explicit conduct; and

13 (3) A reasonable person would find, taken as a whole, lacks  
14 serious literary, artistic, political or scientific value.

15 ~~(k)~~ (l) "Parent" includes a biological or adoptive parent,  
16 legal guardian or legal custodian.

17 ~~(l)~~ (m) "Person" means any adult, partnership, firm,  
18 association, corporation or other legal entity.

19 ~~(m)~~ (n) "Sexually explicit conduct" means an ultimate sexual  
20 act, normal or perverted, actual or simulated, including sexual  
21 intercourse, sodomy, oral copulation, sexual bestiality, sexual  
22 sadism and masochism, masturbation, excretory functions and lewd  
23 exhibition of the genitals.

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(NOTE: The purpose of this bill is to update and expand the definition of computer as it relates to certain crimes.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)