

A-Engrossed
Senate Bill 377

Ordered by the Senate April 3
Including Senate Amendments dated April 3

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Modifies crime of [*invasion of personal privacy*] **computer crime**. Creates manner of committing crime [*in which nudity of person viewed or recorded is not required*] by **committing theft of intimate image**. [*Expands*] **Adds** certain definitions related to crime. [*Elevates crime to Class C felony, punishable*] **Punishes** by maximum of five years' imprisonment, \$125,000 fine, or both[, *if victim is under 12 years of age*].

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to crime; amending ORS 164.377; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 164.377 is amended to read:

5 164.377. (1) As used in this section:

6 (a) To "access" means to instruct, communicate with, store data in, retrieve data from or otherwise make use of any resources of a computer, computer system or computer network.

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8 (b) "Computer" means, but is not limited to, an electronic, magnetic, optical electrochemical or other high-speed data processing device that performs logical, arithmetic or memory functions by the manipulations of electronic, magnetic or optical signals or impulses, and includes the components of a computer and all input, output, processing, storage, software or communication facilities that are connected or related to such a device in a system or network.

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12 (c) "Computer network" means, but is not limited to, the interconnection of communication lines, including microwave or other means of electronic communication, with a computer through remote terminals or a complex consisting of two or more interconnected computers.

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15 (d) "Computer program" means, but is not limited to, a series of instructions or statements, in a form acceptable to a computer, which permits the functioning of a computer system in a manner designed to provide appropriate products from or usage of such computer system.

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17 (e) "Computer software" means, but is not limited to, computer programs, procedures and associated documentation concerned with the operation of a computer system.

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19 (f) "Computer system" means, but is not limited to, a set of related, connected or unconnected, computer equipment, devices and software. "Computer system" also includes any computer, device or software owned or operated by the Oregon State Lottery or rented, owned or operated by another person or entity under contract to or at the direction of the Oregon State Lottery.

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24 (g) "Data" means a representation of information, knowledge, facts, concepts, computer software,

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NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 computer programs or instructions. "Data" may be in any form, in storage media, or as stored in the
 2 memory of the computer, or in transit, or presented on a display device. "Data" includes, but is not
 3 limited to, computer or human readable forms of numbers, text, stored voice, graphics and images.

4 **(h) "Intimate image" means a photograph, film, video, recording, digital picture or other**
 5 **visual reproduction of a person whose intimate parts are visible or who is engaged in sexual**
 6 **conduct.**

7 **(i) "Intimate parts" means uncovered human genitals, pubic areas or female nipples.**

8 [(h)] **(j) "Property"** includes, but is not limited to, financial instruments, information, including
 9 electronically produced data, and computer software and programs in either computer or human
 10 readable form, intellectual property and any other tangible or intangible item of value.

11 [(i)] **(k) "Proprietary information"** includes any scientific, technical or commercial information
 12 including any design, process, procedure, list of customers, list of suppliers, customers' records or
 13 business code or improvement thereof that is known only to limited individuals within an organiza-
 14 tion and is used in a business that the organization conducts. The information must have actual or
 15 potential commercial value and give the user of the information an opportunity to obtain a business
 16 advantage over competitors who do not know or use the information.

17 [(j)] **(L) "Services" [include] includes,** but [(are)] **is** not limited to, computer time, data processing
 18 and storage functions.

19 **(m) "Sexual conduct" means sexual intercourse or deviate sexual intercourse, as those**
 20 **terms are defined in ORS 163.305, or masturbation.**

21 (2) Any person commits computer crime who knowingly accesses, attempts to access or uses, or
 22 attempts to use, any computer, computer system, computer network or any part thereof for the
 23 purpose of:

24 (a) Devising or executing any scheme or artifice to defraud;

25 (b) Obtaining money, property or services by means of false or fraudulent pretenses, represen-
 26 tations or promises; or

27 (c) Committing theft, including, but not limited to, theft of proprietary information **or theft of**
 28 **an intimate image.**

29 (3) Any person who knowingly and without authorization alters, damages or destroys any com-
 30 puter, computer system, computer network, or any computer software, program, documentation or
 31 data contained in such computer, computer system or computer network, commits computer crime.

32 (4) Any person who knowingly and without authorization uses, accesses or attempts to access
 33 any computer, computer system, computer network, or any computer software, program, documen-
 34 tation or data contained in such computer, computer system or computer network, commits com-
 35 puter crime.

36 (5)(a) A violation of the provisions of subsection (2) or (3) of this section shall be a Class C
 37 felony. Except as provided in paragraph (b) of this subsection, a violation of the provisions of sub-
 38 section (4) of this section shall be a Class A misdemeanor.

39 (b) Any violation of this section relating to a computer, computer network, computer program,
 40 computer software, computer system or data owned or operated by the Oregon State Lottery or
 41 rented, owned or operated by another person or entity under contract to or at the direction of the
 42 Oregon State Lottery Commission shall be a Class C felony.

43 **SECTION 2. This 2015 Act being necessary for the immediate preservation of the public**
 44 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
 45 **on its passage.**

