



Rep. Keith R. Wheeler

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10100HB2133ham001

LRB101 04899 SLF 56977 a

1 AMENDMENT TO HOUSE BILL 2133

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2133 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Code of 2012 is amended by  
5 changing Sections 11-6.6, 11-20.1, 17-0.5, 17-52.5, 17-55,  
6 28-2 as follows:

7 (720 ILCS 5/11-6.6)

8 Sec. 11-6.6. Solicitation to meet a child.

9 (a) A person of the age of 18 or more years commits the  
10 offense of solicitation to meet a child if the person while  
11 using a computer, cellular telephone, or any other device, with  
12 the intent to meet a child or one whom he or she believes to be  
13 a child, solicits, entices, induces, or arranges with the child  
14 to meet at a location without the knowledge of the child's  
15 parent or guardian and the meeting with the child is arranged  
16 for a purpose other than a lawful purpose under Illinois law.

1 (b) Sentence. Solicitation to meet a child is a Class A  
2 misdemeanor. Solicitation to meet a child is a Class 4 felony  
3 when the solicitor believes he or she is 5 or more years older  
4 than the child.

5 (c) For purposes of this Section, "child" means any person  
6 under 17 years of age; and "computer" has the meaning ascribed  
7 to it in Section 17-0.5 ~~16D-2~~ of this Code.

8 (Source: P.A. 95-983, eff. 6-1-09.)

9 (720 ILCS 5/11-20.1) (from Ch. 38, par. 11-20.1)

10 Sec. 11-20.1. Child pornography.

11 (a) A person commits child pornography who:

12 (1) films, videotapes, photographs, or otherwise  
13 depicts or portrays by means of any similar visual medium  
14 or reproduction or depicts by computer any child whom he or  
15 she knows or reasonably should know to be under the age of  
16 18 or any person with a severe or profound intellectual  
17 disability where such child or person with a severe or  
18 profound intellectual disability is:

19 (i) actually or by simulation engaged in any act of  
20 sexual penetration or sexual conduct with any person or  
21 animal; or

22 (ii) actually or by simulation engaged in any act  
23 of sexual penetration or sexual conduct involving the  
24 sex organs of the child or person with a severe or  
25 profound intellectual disability and the mouth, anus,

1 or sex organs of another person or animal; or which  
2 involves the mouth, anus or sex organs of the child or  
3 person with a severe or profound intellectual  
4 disability and the sex organs of another person or  
5 animal; or

6 (iii) actually or by simulation engaged in any act  
7 of masturbation; or

8 (iv) actually or by simulation portrayed as being  
9 the object of, or otherwise engaged in, any act of lewd  
10 fondling, touching, or caressing involving another  
11 person or animal; or

12 (v) actually or by simulation engaged in any act of  
13 excretion or urination within a sexual context; or

14 (vi) actually or by simulation portrayed or  
15 depicted as bound, fettered, or subject to sadistic,  
16 masochistic, or sadomasochistic abuse in any sexual  
17 context; or

18 (vii) depicted or portrayed in any pose, posture or  
19 setting involving a lewd exhibition of the unclothed or  
20 transparently clothed genitals, pubic area, buttocks,  
21 or, if such person is female, a fully or partially  
22 developed breast of the child or other person; or

23 (2) with the knowledge of the nature or content  
24 thereof, reproduces, disseminates, offers to disseminate,  
25 exhibits or possesses with intent to disseminate any film,  
26 videotape, photograph or other similar visual reproduction

1 or depiction by computer of any child or person with a  
2 severe or profound intellectual disability whom the person  
3 knows or reasonably should know to be under the age of 18  
4 or to be a person with a severe or profound intellectual  
5 disability, engaged in any activity described in  
6 subparagraphs (i) through (vii) of paragraph (1) of this  
7 subsection; or

8 (3) with knowledge of the subject matter or theme  
9 thereof, produces any stage play, live performance, film,  
10 videotape or other similar visual portrayal or depiction by  
11 computer which includes a child whom the person knows or  
12 reasonably should know to be under the age of 18 or a  
13 person with a severe or profound intellectual disability  
14 engaged in any activity described in subparagraphs (i)  
15 through (vii) of paragraph (1) of this subsection; or

16 (4) solicits, uses, persuades, induces, entices, or  
17 coerces any child whom he or she knows or reasonably should  
18 know to be under the age of 18 or a person with a severe or  
19 profound intellectual disability to appear in any stage  
20 play, live presentation, film, videotape, photograph or  
21 other similar visual reproduction or depiction by computer  
22 in which the child or person with a severe or profound  
23 intellectual disability is or will be depicted, actually or  
24 by simulation, in any act, pose or setting described in  
25 subparagraphs (i) through (vii) of paragraph (1) of this  
26 subsection; or

1           (5) is a parent, step-parent, legal guardian or other  
2 person having care or custody of a child whom the person  
3 knows or reasonably should know to be under the age of 18  
4 or a person with a severe or profound intellectual  
5 disability and who knowingly permits, induces, promotes,  
6 or arranges for such child or person with a severe or  
7 profound intellectual disability to appear in any stage  
8 play, live performance, film, videotape, photograph or  
9 other similar visual presentation, portrayal or simulation  
10 or depiction by computer of any act or activity described  
11 in subparagraphs (i) through (vii) of paragraph (1) of this  
12 subsection; or

13           (6) with knowledge of the nature or content thereof,  
14 possesses any film, videotape, photograph or other similar  
15 visual reproduction or depiction by computer of any child  
16 or person with a severe or profound intellectual disability  
17 whom the person knows or reasonably should know to be under  
18 the age of 18 or to be a person with a severe or profound  
19 intellectual disability, engaged in any activity described  
20 in subparagraphs (i) through (vii) of paragraph (1) of this  
21 subsection; or

22           (7) solicits, or knowingly uses, persuades, induces,  
23 entices, or coerces, a person to provide a child under the  
24 age of 18 or a person with a severe or profound  
25 intellectual disability to appear in any videotape,  
26 photograph, film, stage play, live presentation, or other

1 similar visual reproduction or depiction by computer in  
2 which the child or person with a severe or profound  
3 intellectual disability will be depicted, actually or by  
4 simulation, in any act, pose, or setting described in  
5 subparagraphs (i) through (vii) of paragraph (1) of this  
6 subsection.

7 (a-5) The possession of each individual film, videotape,  
8 photograph, or other similar visual reproduction or depiction  
9 by computer in violation of this Section constitutes a single  
10 and separate violation. This subsection (a-5) does not apply to  
11 multiple copies of the same film, videotape, photograph, or  
12 other similar visual reproduction or depiction by computer that  
13 are identical to each other.

14 (b)(1) It shall be an affirmative defense to a charge of  
15 child pornography that the defendant reasonably believed,  
16 under all of the circumstances, that the child was 18 years of  
17 age or older or that the person was not a person with a severe  
18 or profound intellectual disability but only where, prior to  
19 the act or acts giving rise to a prosecution under this  
20 Section, he or she took some affirmative action or made a  
21 bonafide inquiry designed to ascertain whether the child was 18  
22 years of age or older or that the person was not a person with a  
23 severe or profound intellectual disability and his or her  
24 reliance upon the information so obtained was clearly  
25 reasonable.

26 (1.5) Telecommunications carriers, commercial mobile

1 service providers, and providers of information services,  
2 including, but not limited to, Internet service providers and  
3 hosting service providers, are not liable under this Section by  
4 virtue of the transmission, storage, or caching of electronic  
5 communications or messages of others or by virtue of the  
6 provision of other related telecommunications, commercial  
7 mobile services, or information services used by others in  
8 violation of this Section.

9 (2) (Blank).

10 (3) The charge of child pornography shall not apply to the  
11 performance of official duties by law enforcement or  
12 prosecuting officers or persons employed by law enforcement or  
13 prosecuting agencies, court personnel or attorneys, nor to  
14 bonafide treatment or professional education programs  
15 conducted by licensed physicians, psychologists or social  
16 workers.

17 (4) If the defendant possessed more than one of the same  
18 film, videotape or visual reproduction or depiction by computer  
19 in which child pornography is depicted, then the trier of fact  
20 may infer that the defendant possessed such materials with the  
21 intent to disseminate them.

22 (5) The charge of child pornography does not apply to a  
23 person who does not voluntarily possess a film, videotape, or  
24 visual reproduction or depiction by computer in which child  
25 pornography is depicted. Possession is voluntary if the  
26 defendant knowingly procures or receives a film, videotape, or

1 visual reproduction or depiction for a sufficient time to be  
2 able to terminate his or her possession.

3 (6) Any violation of paragraph (1), (2), (3), (4), (5), or  
4 (7) of subsection (a) that includes a child engaged in,  
5 solicited for, depicted in, or posed in any act of sexual  
6 penetration or bound, fettered, or subject to sadistic,  
7 masochistic, or sadomasochistic abuse in a sexual context shall  
8 be deemed a crime of violence.

9 (c) If the violation does not involve a film, videotape, or  
10 other moving depiction, a violation of paragraph (1), (4), (5),  
11 or (7) of subsection (a) is a Class 1 felony with a mandatory  
12 minimum fine of \$2,000 and a maximum fine of \$100,000. If the  
13 violation involves a film, videotape, or other moving  
14 depiction, a violation of paragraph (1), (4), (5), or (7) of  
15 subsection (a) is a Class X felony with a mandatory minimum  
16 fine of \$2,000 and a maximum fine of \$100,000. If the violation  
17 does not involve a film, videotape, or other moving depiction,  
18 a violation of paragraph (3) of subsection (a) is a Class 1  
19 felony with a mandatory minimum fine of \$1500 and a maximum  
20 fine of \$100,000. If the violation involves a film, videotape,  
21 or other moving depiction, a violation of paragraph (3) of  
22 subsection (a) is a Class X felony with a mandatory minimum  
23 fine of \$1500 and a maximum fine of \$100,000. If the violation  
24 does not involve a film, videotape, or other moving depiction,  
25 a violation of paragraph (2) of subsection (a) is a Class 1  
26 felony with a mandatory minimum fine of \$1000 and a maximum



1 fine of \$100,000. If the violation involves a film, videotape,  
2 or other moving depiction, a violation of paragraph (2) of  
3 subsection (a) is a Class X felony with a mandatory minimum  
4 fine of \$1000 and a maximum fine of \$100,000. If the violation  
5 does not involve a film, videotape, or other moving depiction,  
6 a violation of paragraph (6) of subsection (a) is a Class 3  
7 felony with a mandatory minimum fine of \$1000 and a maximum  
8 fine of \$100,000. If the violation involves a film, videotape,  
9 or other moving depiction, a violation of paragraph (6) of  
10 subsection (a) is a Class 2 felony with a mandatory minimum  
11 fine of \$1000 and a maximum fine of \$100,000.

12 (c-5) Where the child depicted is under the age of 13, a  
13 violation of paragraph (1), (2), (3), (4), (5), or (7) of  
14 subsection (a) is a Class X felony with a mandatory minimum  
15 fine of \$2,000 and a maximum fine of \$100,000. Where the child  
16 depicted is under the age of 13, a violation of paragraph (6)  
17 of subsection (a) is a Class 2 felony with a mandatory minimum  
18 fine of \$1,000 and a maximum fine of \$100,000. Where the child  
19 depicted is under the age of 13, a person who commits a  
20 violation of paragraph (1), (2), (3), (4), (5), or (7) of  
21 subsection (a) where the defendant has previously been  
22 convicted under the laws of this State or any other state of  
23 the offense of child pornography, aggravated child  
24 pornography, aggravated criminal sexual abuse, aggravated  
25 criminal sexual assault, predatory criminal sexual assault of a  
26 child, or any of the offenses formerly known as rape, deviate

1 sexual assault, indecent liberties with a child, or aggravated  
2 indecent liberties with a child where the victim was under the  
3 age of 18 years or an offense that is substantially equivalent  
4 to those offenses, is guilty of a Class X felony for which the  
5 person shall be sentenced to a term of imprisonment of not less  
6 than 9 years with a mandatory minimum fine of \$2,000 and a  
7 maximum fine of \$100,000. Where the child depicted is under the  
8 age of 13, a person who commits a violation of paragraph (6) of  
9 subsection (a) where the defendant has previously been  
10 convicted under the laws of this State or any other state of  
11 the offense of child pornography, aggravated child  
12 pornography, aggravated criminal sexual abuse, aggravated  
13 criminal sexual assault, predatory criminal sexual assault of a  
14 child, or any of the offenses formerly known as rape, deviate  
15 sexual assault, indecent liberties with a child, or aggravated  
16 indecent liberties with a child where the victim was under the  
17 age of 18 years or an offense that is substantially equivalent  
18 to those offenses, is guilty of a Class 1 felony with a  
19 mandatory minimum fine of \$1,000 and a maximum fine of  
20 \$100,000. The issue of whether the child depicted is under the  
21 age of 13 is an element of the offense to be resolved by the  
22 trier of fact.

23 (d) If a person is convicted of a second or subsequent  
24 violation of this Section within 10 years of a prior  
25 conviction, the court shall order a presentence psychiatric  
26 examination of the person. The examiner shall report to the

1 court whether treatment of the person is necessary.

2 (e) Any film, videotape, photograph or other similar visual  
3 reproduction or depiction by computer which includes a child  
4 under the age of 18 or a person with a severe or profound  
5 intellectual disability engaged in any activity described in  
6 subparagraphs (i) through (vii) or paragraph 1 of subsection  
7 (a), and any material or equipment used or intended for use in  
8 photographing, filming, printing, producing, reproducing,  
9 manufacturing, projecting, exhibiting, depiction by computer,  
10 or disseminating such material shall be seized and forfeited in  
11 the manner, method and procedure provided by Section 36-1 of  
12 this Code for the seizure and forfeiture of vessels, vehicles  
13 and aircraft.

14 In addition, any person convicted under this Section is  
15 subject to the property forfeiture provisions set forth in  
16 Article 124B of the Code of Criminal Procedure of 1963.

17 (e-5) Upon the conclusion of a case brought under this  
18 Section, the court shall seal all evidence depicting a victim  
19 or witness that is sexually explicit. The evidence may be  
20 unsealed and viewed, on a motion of the party seeking to unseal  
21 and view the evidence, only for good cause shown and in the  
22 discretion of the court. The motion must expressly set forth  
23 the purpose for viewing the material. The State's attorney and  
24 the victim, if possible, shall be provided reasonable notice of  
25 the hearing on the motion to unseal the evidence. Any person  
26 entitled to notice of a hearing under this subsection (e-5) may

1 object to the motion.

2 (f) Definitions. For the purposes of this Section:

3 (1) "Disseminate" means (i) to sell, distribute,  
4 exchange or transfer possession, whether with or without  
5 consideration or (ii) to make a depiction by computer  
6 available for distribution or downloading through the  
7 facilities of any telecommunications network or through  
8 any other means of transferring computer programs or data  
9 to a computer.

10 (2) "Produce" means to direct, promote, advertise,  
11 publish, manufacture, issue, present or show.

12 (3) "Reproduce" means to make a duplication or copy.

13 (4) "Depict by computer" means to generate or create,  
14 or cause to be created or generated, a computer program or  
15 data that, after being processed by a computer either alone  
16 or in conjunction with one or more computer programs,  
17 results in a visual depiction on a computer monitor,  
18 screen, or display.

19 (5) "Depiction by computer" means a computer program or  
20 data that, after being processed by a computer either alone  
21 or in conjunction with one or more computer programs,  
22 results in a visual depiction on a computer monitor,  
23 screen, or display.

24 (6) "Computer", "computer program", and "data" have  
25 the meanings ascribed to them in Section 17.05 ~~16D-2~~ of  
26 this Code.

1           (7) For the purposes of this Section, "child  
2 pornography" includes a film, videotape, photograph, or  
3 other similar visual medium or reproduction or depiction by  
4 computer that is, or appears to be, that of a person,  
5 either in part, or in total, under the age of 18 or a  
6 person with a severe or profound intellectual disability,  
7 regardless of the method by which the film, videotape,  
8 photograph, or other similar visual medium or reproduction  
9 or depiction by computer is created, adopted, or modified  
10 to appear as such. "Child pornography" also includes a  
11 film, videotape, photograph, or other similar visual  
12 medium or reproduction or depiction by computer that is  
13 advertised, promoted, presented, described, or distributed  
14 in such a manner that conveys the impression that the film,  
15 videotape, photograph, or other similar visual medium or  
16 reproduction or depiction by computer is of a person under  
17 the age of 18 or a person with a severe or profound  
18 intellectual disability.

19           (g) Re-enactment; findings; purposes.

20           (1) The General Assembly finds and declares that:

21           (i) Section 50-5 of Public Act 88-680, effective  
22 January 1, 1995, contained provisions amending the  
23 child pornography statute, Section 11-20.1 of the  
24 Criminal Code of 1961. Section 50-5 also contained  
25 other provisions.

26           (ii) In addition, Public Act 88-680 was entitled

1 "AN ACT to create a Safe Neighborhoods Law". (A)  
2 Article 5 was entitled JUVENILE JUSTICE and amended the  
3 Juvenile Court Act of 1987. (B) Article 15 was entitled  
4 GANGS and amended various provisions of the Criminal  
5 Code of 1961 and the Unified Code of Corrections. (C)  
6 Article 20 was entitled ALCOHOL ABUSE and amended  
7 various provisions of the Illinois Vehicle Code. (D)  
8 Article 25 was entitled DRUG ABUSE and amended the  
9 Cannabis Control Act and the Illinois Controlled  
10 Substances Act. (E) Article 30 was entitled FIREARMS  
11 and amended the Criminal Code of 1961 and the Code of  
12 Criminal Procedure of 1963. (F) Article 35 amended the  
13 Criminal Code of 1961, the Rights of Crime Victims and  
14 Witnesses Act, and the Unified Code of Corrections. (G)  
15 Article 40 amended the Criminal Code of 1961 to  
16 increase the penalty for compelling organization  
17 membership of persons. (H) Article 45 created the  
18 Secure Residential Youth Care Facility Licensing Act  
19 and amended the State Finance Act, the Juvenile Court  
20 Act of 1987, the Unified Code of Corrections, and the  
21 Private Correctional Facility Moratorium Act. (I)  
22 Article 50 amended the WIC Vendor Management Act, the  
23 Firearm Owners Identification Card Act, the Juvenile  
24 Court Act of 1987, the Criminal Code of 1961, the  
25 Wrongs to Children Act, and the Unified Code of  
26 Corrections.

1 (iii) On September 22, 1998, the Third District  
2 Appellate Court in *People v. Dainty*, 701 N.E. 2d 118,  
3 ruled that Public Act 88-680 violates the single  
4 subject clause of the Illinois Constitution (Article  
5 IV, Section 8 (d)) and was unconstitutional in its  
6 entirety. As of the time this amendatory Act of 1999  
7 was prepared, *People v. Dainty* was still subject to  
8 appeal.

9 (iv) Child pornography is a vital concern to the  
10 people of this State and the validity of future  
11 prosecutions under the child pornography statute of  
12 the Criminal Code of 1961 is in grave doubt.

13 (2) It is the purpose of this amendatory Act of 1999 to  
14 prevent or minimize any problems relating to prosecutions  
15 for child pornography that may result from challenges to  
16 the constitutional validity of Public Act 88-680 by  
17 re-enacting the Section relating to child pornography that  
18 was included in Public Act 88-680.

19 (3) This amendatory Act of 1999 re-enacts Section  
20 11-20.1 of the Criminal Code of 1961, as it has been  
21 amended. This re-enactment is intended to remove any  
22 question as to the validity or content of that Section; it  
23 is not intended to supersede any other Public Act that  
24 amends the text of the Section as set forth in this  
25 amendatory Act of 1999. The material is shown as existing  
26 text (i.e., without underscoring) because, as of the time

1           this amendatory Act of 1999 was prepared, People v. Dainty  
2           was subject to appeal to the Illinois Supreme Court.

3           (4) The re-enactment by this amendatory Act of 1999 of  
4           Section 11-20.1 of the Criminal Code of 1961 relating to  
5           child pornography that was amended by Public Act 88-680 is  
6           not intended, and shall not be construed, to imply that  
7           Public Act 88-680 is invalid or to limit or impair any  
8           legal argument concerning whether those provisions were  
9           substantially re-enacted by other Public Acts.

10          (Source: P.A. 98-437, eff. 1-1-14; 99-143, eff. 7-27-15.)

11           (720 ILCS 5/17-0.5)

12           Sec. 17-0.5. Definitions. In this Article:

13           "Altered credit card or debit card" means any instrument or  
14           device, whether known as a credit card or debit card, which has  
15           been changed in any respect by addition or deletion of any  
16           material, except for the signature by the person to whom the  
17           card is issued.

18           "Cardholder" means the person or organization named on the  
19           face of a credit card or debit card to whom or for whose  
20           benefit the credit card or debit card is issued by an issuer.

21           "Computer" means a device that accepts, processes, stores,  
22           retrieves, or outputs data and includes, but is not limited to,  
23           auxiliary storage, including cloud-based networks of remote  
24           services hosted on the Internet, and telecommunications  
25           devices connected to computers.



1 "Computer network" means a set of related, remotely  
2 connected devices and any communications facilities including  
3 more than one computer with the capability to transmit data  
4 between them through the communications facilities.

5 "Computer program" or "program" means a series of coded  
6 instructions or statements in a form acceptable to a computer  
7 which causes the computer to process data and supply the  
8 results of the data processing.

9 "Computer services" means computer time or services,  
10 including data processing services, Internet services,  
11 electronic mail services, electronic message services, or  
12 information or data stored in connection therewith.

13 "Counterfeit" means to manufacture, produce or create, by  
14 any means, a credit card or debit card without the purported  
15 issuer's consent or authorization.

16 "Credit card" means any instrument or device, whether known  
17 as a credit card, credit plate, charge plate or any other name,  
18 issued with or without fee by an issuer for the use of the  
19 cardholder in obtaining money, goods, services or anything else  
20 of value on credit or in consideration or an undertaking or  
21 guaranty by the issuer of the payment of a check drawn by the  
22 cardholder.

23 "Data" means a representation in any form of information,  
24 knowledge, facts, concepts, or instructions, including program  
25 documentation, which is prepared or has been prepared in a  
26 formalized manner and is stored or processed in or transmitted

1 by a computer or in a system or network. Data is considered  
2 property and may be in any form, including, but not limited to,  
3 printouts, magnetic or optical storage media, punch cards, or  
4 data stored internally in the memory of the computer.

5 "Debit card" means any instrument or device, known by any  
6 name, issued with or without fee by an issuer for the use of  
7 the cardholder in obtaining money, goods, services, and  
8 anything else of value, payment of which is made against funds  
9 previously deposited by the cardholder. A debit card which also  
10 can be used to obtain money, goods, services and anything else  
11 of value on credit shall not be considered a debit card when it  
12 is being used to obtain money, goods, services or anything else  
13 of value on credit.

14 "Document" includes, but is not limited to, any document,  
15 representation, or image produced manually, electronically, or  
16 by computer.

17 "Electronic fund transfer terminal" means any machine or  
18 device that, when properly activated, will perform any of the  
19 following services:

20 (1) Dispense money as a debit to the cardholder's  
21 account; or

22 (2) Print the cardholder's account balances on a  
23 statement; or

24 (3) Transfer funds between a cardholder's accounts; or

25 (4) Accept payments on a cardholder's loan; or

26 (5) Dispense cash advances on an open end credit or a

1 revolving charge agreement; or

2 (6) Accept deposits to a customer's account; or

3 (7) Receive inquiries of verification of checks and  
4 dispense information that verifies that funds are  
5 available to cover such checks; or

6 (8) Cause money to be transferred electronically from a  
7 cardholder's account to an account held by any business,  
8 firm, retail merchant, corporation, or any other  
9 organization.

10 "Electronic funds transfer system", hereafter referred to  
11 as "EFT System", means that system whereby funds are  
12 transferred electronically from a cardholder's account to any  
13 other account.

14 "Electronic mail service provider" means any person who (i)  
15 is an intermediary in sending or receiving electronic mail and  
16 (ii) provides to end-users of electronic mail services the  
17 ability to send or receive electronic mail.

18 "Expired credit card or debit card" means a credit card or  
19 debit card which is no longer valid because the term on it has  
20 elapsed.

21 "False academic degree" means a certificate, diploma,  
22 transcript, or other document purporting to be issued by an  
23 institution of higher learning or purporting to indicate that a  
24 person has completed an organized academic program of study at  
25 an institution of higher learning when the person has not  
26 completed the organized academic program of study indicated on

1 the certificate, diploma, transcript, or other document.

2 "False claim" means any statement made to any insurer,  
3 purported insurer, servicing corporation, insurance broker, or  
4 insurance agent, or any agent or employee of one of those  
5 entities, and made as part of, or in support of, a claim for  
6 payment or other benefit under a policy of insurance, or as  
7 part of, or in support of, an application for the issuance of,  
8 or the rating of, any insurance policy, when the statement does  
9 any of the following:

10 (1) Contains any false, incomplete, or misleading  
11 information concerning any fact or thing material to the  
12 claim.

13 (2) Conceals (i) the occurrence of an event that is  
14 material to any person's initial or continued right or  
15 entitlement to any insurance benefit or payment or (ii) the  
16 amount of any benefit or payment to which the person is  
17 entitled.

18 "Financial institution" means any bank, savings and loan  
19 association, credit union, or other depository of money or  
20 medium of savings and collective investment.

21 "Governmental entity" means: each officer, board,  
22 commission, and agency created by the Constitution, whether in  
23 the executive, legislative, or judicial branch of State  
24 government; each officer, department, board, commission,  
25 agency, institution, authority, university, and body politic  
26 and corporate of the State; each administrative unit or

1 corporate outgrowth of State government that is created by or  
2 pursuant to statute, including units of local government and  
3 their officers, school districts, and boards of election  
4 commissioners; and each administrative unit or corporate  
5 outgrowth of the foregoing items and as may be created by  
6 executive order of the Governor.

7 "Incomplete credit card or debit card" means a credit card  
8 or debit card which is missing part of the matter other than  
9 the signature of the cardholder which an issuer requires to  
10 appear on the credit card or debit card before it can be used  
11 by a cardholder, and this includes credit cards or debit cards  
12 which have not been stamped, embossed, imprinted or written on.

13 "Institution of higher learning" means a public or private  
14 college, university, or community college located in the State  
15 of Illinois that is authorized by the Board of Higher Education  
16 or the Illinois Community College Board to issue post-secondary  
17 degrees, or a public or private college, university, or  
18 community college located anywhere in the United States that is  
19 or has been legally constituted to offer degrees and  
20 instruction in its state of origin or incorporation.

21 "Insurance company" means "company" as defined under  
22 Section 2 of the Illinois Insurance Code.

23 "Issuer" means the business organization or financial  
24 institution which issues a credit card or debit card, or its  
25 duly authorized agent.

26 "Merchant" has the meaning ascribed to it in Section 16-0.1

1 of this Code.

2 "Person" means any individual, corporation, government,  
3 governmental subdivision or agency, business trust, estate,  
4 trust, partnership or association or any other entity.

5 "Receives" or "receiving" means acquiring possession or  
6 control.

7 "Record of charge form" means any document submitted or  
8 intended to be submitted to an issuer as evidence of a credit  
9 transaction for which the issuer has agreed to reimburse  
10 persons providing money, goods, property, services or other  
11 things of value.

12 "Revoked credit card or debit card" means a credit card or  
13 debit card which is no longer valid because permission to use  
14 it has been suspended or terminated by the issuer.

15 "Sale" means any delivery for value.

16 "Scheme or artifice to defraud" includes a scheme or  
17 artifice to deprive another of the intangible right to honest  
18 services.

19 "Self-insured entity" means any person, business,  
20 partnership, corporation, or organization that sets aside  
21 funds to meet his, her, or its losses or to absorb fluctuations  
22 in the amount of loss, the losses being charged against the  
23 funds set aside or accumulated.

24 "Social networking website" means an Internet website  
25 containing profile web pages of the members of the website that  
26 include the names or nicknames of such members, photographs

1 placed on the profile web pages by such members, or any other  
2 personal or personally identifying information about such  
3 members and links to other profile web pages on social  
4 networking websites of friends or associates of such members  
5 that can be accessed by other members or visitors to the  
6 website. A social networking website provides members of or  
7 visitors to such website the ability to leave messages or  
8 comments on the profile web page that are visible to all or  
9 some visitors to the profile web page and may also include a  
10 form of electronic mail for members of the social networking  
11 website.

12 "Statement" means any assertion, oral, written, or  
13 otherwise, and includes, but is not limited to: any notice,  
14 letter, or memorandum; proof of loss; bill of lading; receipt  
15 for payment; invoice, account, or other financial statement;  
16 estimate of property damage; bill for services; diagnosis or  
17 prognosis; prescription; hospital, medical, or dental chart or  
18 other record, x-ray, photograph, videotape, or movie film; test  
19 result; other evidence of loss, injury, or expense;  
20 computer-generated document; and data in any form.

21 "Universal Price Code Label" means a unique symbol that  
22 consists of a machine-readable code and human-readable  
23 numbers.

24 "With intent to defraud" means to act knowingly, and with  
25 the specific intent to deceive or cheat, for the purpose of  
26 causing financial loss to another or bringing some financial

1 gain to oneself, regardless of whether any person was actually  
2 defrauded or deceived. This includes an intent to cause another  
3 to assume, create, transfer, alter, or terminate any right,  
4 obligation, or power with reference to any person or property.

5 (Source: P.A. 96-1551, eff. 7-1-11; 97-597, eff. 1-1-12.)

6 (720 ILCS 5/17-52.5) (was 720 ILCS 5/16D-5.5)

7 Sec. 17-52.5. Unlawful use of encryption.

8 (a) For the purpose of this Section:

9 "Computer" has the meaning ascribed to the term in  
10 Section 17-0.5 ~~means an electronic device which performs~~  
11 ~~logical, arithmetic, and memory functions by manipulations~~  
12 ~~of electronic or magnetic impulses and includes all~~  
13 ~~equipment related to the computer in a system or network.~~

14 ~~"Computer contaminant" means any data, information,~~  
15 ~~image, program, signal, or sound that is designated or has~~  
16 ~~the capability to: (1) contaminate, corrupt, consume,~~  
17 ~~damage, destroy, disrupt, modify, record, or transmit; or~~  
18 ~~(2) cause to be contaminated, corrupted, consumed,~~  
19 ~~damaged, destroyed, disrupted, modified, recorded, or~~  
20 ~~transmitted, any other data, information, image, program,~~  
21 ~~signal, or sound contained in a computer, system, or~~  
22 ~~network without the knowledge or consent of the person who~~  
23 ~~owns the other data, information, image, program, signal,~~  
24 ~~or sound or the computer, system, or network.~~

25 ~~"Computer contaminant" includes, without limitation:~~



1 ~~(1) a virus, worm, or Trojan horse; (2) spyware that tracks~~  
2 ~~computer activity and is capable of recording and~~  
3 ~~transmitting such information to third parties; or (3) any~~  
4 ~~other similar data, information, image, program, signal,~~  
5 ~~or sound that is designed or has the capability to prevent,~~  
6 ~~impede, delay, or disrupt the normal operation or use of~~  
7 ~~any component, device, equipment, system, or network.~~

8 "Encryption" means the use of any protective or  
9 disruptive measure, including, without limitation,  
10 cryptography, enciphering, encoding, or a computer  
11 contaminant, to: (1) prevent, impede, delay, or disrupt  
12 access to any data, information, image, program, signal, or  
13 sound; (2) cause or make any data, information, image,  
14 program, signal, or sound unintelligible or unusable; or  
15 (3) prevent, impede, delay, or disrupt the normal operation  
16 or use of any component, device, equipment, system, or  
17 network.

18 "Network" means a set of related, remotely connected  
19 devices and facilities, including more than one system,  
20 with the capability to transmit data among any of the  
21 devices and facilities. The term includes, without  
22 limitation, a local, regional, or global computer network.

23 "Program" means an ordered set of data representing  
24 coded instructions or statements which can be executed by a  
25 computer and cause the computer to perform one or more  
26 tasks.

1           "System" means a set of related equipment, whether or  
2           not connected, which is used with or for a computer.

3           (b) A person shall not knowingly use or attempt to use  
4           encryption, directly or indirectly, to:

5                 (1) commit, facilitate, further, or promote any  
6                 criminal offense;

7                 (2) aid, assist, or encourage another person to commit  
8                 any criminal offense;

9                 (3) conceal evidence of the commission of any criminal  
10                offense; or

11                (4) conceal or protect the identity of a person who has  
12                committed any criminal offense.

13           (c) Telecommunications carriers and information service  
14           providers are not liable under this Section, except for willful  
15           and wanton misconduct, for providing encryption services used  
16           by others in violation of this Section.

17           (d) Sentence. A person who violates this Section is guilty  
18           of a Class A misdemeanor, unless the encryption was used or  
19           attempted to be used to commit an offense for which a greater  
20           penalty is provided by law. If the encryption was used or  
21           attempted to be used to commit an offense for which a greater  
22           penalty is provided by law, the person shall be punished as  
23           prescribed by law for that offense.

24           (e) A person who violates this Section commits a criminal  
25           offense that is separate and distinct from any other criminal  
26           offense and may be prosecuted and convicted under this Section

1 whether or not the person or any other person is or has been  
2 prosecuted or convicted for any other criminal offense arising  
3 out of the same facts as the violation of this Section.

4 (Source: P.A. 95-942, eff. 1-1-09; 96-1551, eff. 7-1-11.)

5 (720 ILCS 5/17-55)

6 Sec. 17-55. Definitions. For the purposes of this  
7 subdivision 30 ~~Sections 17-50 through 17-53~~:

8 In addition to its meaning as defined in Section 15-1 of  
9 this Code, "property" means: (1) electronic impulses; (2)  
10 electronically produced data; (3) confidential, copyrighted,  
11 or proprietary information; (4) private identification codes  
12 or numbers which permit access to a computer by authorized  
13 computer users or generate billings to consumers for purchase  
14 of goods and services, including but not limited to credit card  
15 transactions and telecommunications services or permit  
16 electronic fund transfers; (5) software or programs in either  
17 machine or human readable form; or (6) any other tangible or  
18 intangible item relating to a computer or any part thereof.

19 "Access" means to use, instruct, communicate with, store  
20 data in, retrieve or intercept data from, or otherwise utilize  
21 any services of, a computer, a network, or data.

22 "Services" includes but is not limited to computer time,  
23 data manipulation, or storage functions.

24 "Vital services or operations" means those services or  
25 operations required to provide, operate, maintain, and repair

1 network cabling, transmission, distribution, or computer  
2 facilities necessary to ensure or protect the public health,  
3 safety, or welfare. Those services or operations include, but  
4 are not limited to, services provided by medical personnel or  
5 institutions, fire departments, emergency services agencies,  
6 national defense contractors, armed forces or militia  
7 personnel, private and public utility companies, or law  
8 enforcement agencies.

9 (Source: P.A. 96-1551, eff. 7-1-11.)

10 (720 ILCS 5/28-2) (from Ch. 38, par. 28-2)

11 Sec. 28-2. Definitions.

12 (a) A "gambling device" is any clock, tape machine, slot  
13 machine or other machines or device for the reception of money  
14 or other thing of value on chance or skill or upon the action  
15 of which money or other thing of value is staked, hazarded,  
16 bet, won or lost; or any mechanism, furniture, fixture,  
17 equipment or other device designed primarily for use in a  
18 gambling place. A "gambling device" does not include:

19 (1) A coin-in-the-slot operated mechanical device  
20 played for amusement which rewards the player with the  
21 right to replay such mechanical device, which device is so  
22 constructed or devised as to make such result of the  
23 operation thereof depend in part upon the skill of the  
24 player and which returns to the player thereof no money,  
25 property or right to receive money or property.

1           (2) Vending machines by which full and adequate return  
2 is made for the money invested and in which there is no  
3 element of chance or hazard.

4           (3) A crane game. For the purposes of this paragraph  
5 (3), a "crane game" is an amusement device involving skill,  
6 if it rewards the player exclusively with merchandise  
7 contained within the amusement device proper and limited to  
8 toys, novelties and prizes other than currency, each having  
9 a wholesale value which is not more than \$25.

10          (4) A redemption machine. For the purposes of this  
11 paragraph (4), a "redemption machine" is a single-player or  
12 multi-player amusement device involving a game, the object  
13 of which is throwing, rolling, bowling, shooting, placing,  
14 or propelling a ball or other object that is either  
15 physical or computer generated on a display or with lights  
16 into, upon, or against a hole or other target that is  
17 either physical or computer generated on a display or with  
18 lights, or stopping, by physical, mechanical, or  
19 electronic means, a moving object that is either physical  
20 or computer generated on a display or with lights into,  
21 upon, or against a hole or other target that is either  
22 physical or computer generated on a display or with lights,  
23 provided that all of the following conditions are met:

24           (A) The outcome of the game is predominantly  
25 determined by the skill of the player.

26           (B) The award of the prize is based solely upon the

1 player's achieving the object of the game or otherwise  
2 upon the player's score.

3 (C) Only merchandise prizes are awarded.

4 (D) The wholesale value of prizes awarded in lieu  
5 of tickets or tokens for single play of the device does  
6 not exceed \$25.

7 (E) The redemption value of tickets, tokens, and  
8 other representations of value, which may be  
9 accumulated by players to redeem prizes of greater  
10 value, for a single play of the device does not exceed  
11 \$25.

12 (5) Video gaming terminals at a licensed  
13 establishment, licensed truck stop establishment, licensed  
14 fraternal establishment, or licensed veterans  
15 establishment licensed in accordance with the Video Gaming  
16 Act.

17 (a-5) "Internet" means an interactive computer service or  
18 system or an information service, system, or access software  
19 provider that provides or enables computer access by multiple  
20 users to a computer server, and includes, but is not limited  
21 to, an information service, system, or access software provider  
22 that provides access to a network system commonly known as the  
23 Internet, or any comparable system or service and also  
24 includes, but is not limited to, a World Wide Web page,  
25 newsgroup, message board, mailing list, or chat area on any  
26 interactive computer service or system or other online service.

1           (a-6) "Access" has the meaning ascribed to the term in  
2 Section 17-55 ~~and "computer" have the meanings ascribed to them~~  
3 ~~in Section 16D-2 of this Code.~~

4           (a-7) "Computer" has the meaning ascribed to the term in  
5 Section 17-0.5.

6           (b) A "lottery" is any scheme or procedure whereby one or  
7 more prizes are distributed by chance among persons who have  
8 paid or promised consideration for a chance to win such prizes,  
9 whether such scheme or procedure is called a lottery, raffle,  
10 gift, sale or some other name, excluding savings promotion  
11 raffles authorized under Section 5g of the Illinois Banking  
12 Act, Section 7008 of the Savings Bank Act, Section 42.7 of the  
13 Illinois Credit Union Act, Section 5136B of the National Bank  
14 Act (12 U.S.C. 25a), or Section 4 of the Home Owners' Loan Act  
15 (12 U.S.C. 1463).

16           (c) A "policy game" is any scheme or procedure whereby a  
17 person promises or guarantees by any instrument, bill,  
18 certificate, writing, token or other device that any particular  
19 number, character, ticket or certificate shall in the event of  
20 any contingency in the nature of a lottery entitle the  
21 purchaser or holder to receive money, property or evidence of  
22 debt.

23           (Source: P.A. 98-31, eff. 6-24-13; 99-149, eff. 1-1-16.)".