



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

**HB4066**

Introduced 2/27/2009, by Rep. Paul D. Froehlich

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/16-20

Amends the Criminal Code of 1961. Provides for enhanced penalties if the defendant at the time of the commission of the offense is a pre-trial detainee at a penal institution or is serving a sentence at a penal institution and obtains or uses a communication service without the authorization of, or compensation paid to, the communication service provider, or assists or instructs any other person in doing so with intent to defraud the communication service provider.

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CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by changing  
5 Section 16-20 as follows:

6 (720 ILCS 5/16-20)

7 Sec. 16-20. Criminal penalties.

8 (a) Except for violations of Section 16-19 as provided for  
9 in subsection (b) or (c) of this Section, a person who violates  
10 Section 16-19 is guilty of a Class A misdemeanor.

11 (b) An offense under Section 16-19 is a Class 4 felony if:

12 (1) the defendant has been convicted previously under  
13 Section 16-19 or convicted of any similar crime in this or  
14 any federal or other state jurisdiction; or

15 (2) the violation of Section 16-19 involves at least  
16 10, but not more than 50, unlawful communication or access  
17 devices; or

18 (3) a person engages in conduct identified in  
19 subdivision (3) of Section 16-19 for the purpose of, and  
20 with the intention of, substantially disrupting and  
21 impairing the ability of a communication service provider  
22 to deliver communication services to its lawful customers  
23 or subscribers; or -

1           (4) the defendant at the time of the commission of the  
2           offense is a pre-trial detainee at a penal institution or  
3           is serving a sentence at a penal institution; or

4           (5) the defendant at the time of the commission of the  
5           offense is a pre-trial detainee at a penal institution or  
6           is serving a sentence at a penal institution and uses any  
7           means of electronic communication as defined in the  
8           Harassing and Obscene Communications Act for fraud, theft,  
9           theft by deception, identity theft, or any other unlawful  
10           purpose.

11           (c) An offense under Section 16-19 is a Class 3 felony if:

12           (1) the defendant has been convicted previously on 2 or  
13           more occasions for offenses under Section 16-19 or for any  
14           similar crime in this or any federal or other state  
15           jurisdiction; or

16           (2) the violation of Section 16-19 involves more than  
17           50 unlawful communication or access devices; or

18           (3) the defendant at the time of the commission of the  
19           offense is a pre-trial detainee at a penal institution or  
20           is serving a sentence at a penal institution and has been  
21           convicted previously of an offense under Section 16-19  
22           committed by the defendant while serving as a pre-trial  
23           detainee in a penal institution or while serving a sentence  
24           at a penal institution; or

25           (4) the defendant at the time of the commission of the  
26           offense is a pre-trial detainee at a penal institution or

1       is serving a sentence at a penal institution and has been  
2       convicted previously of an offense under Section 16-19  
3       committed by the defendant while serving as a pre-trial  
4       detainee in a penal institution or while serving a sentence  
5       at a penal institution and uses any means of electronic  
6       communication as defined in the Harassing and Obscene  
7       Communications Act for fraud, theft, theft by deception,  
8       identity theft, or any other unlawful purpose.

9       (d) For purposes of grading an offense based upon a prior  
10      conviction under Section 16-19 or for any similar crime under  
11      subdivisions (b)(1) and (c)(1) of this Section, a prior  
12      conviction shall consist of convictions upon separate  
13      indictments or criminal complaints for offenses under Section  
14      16-19 or any similar crime in this or any federal or other  
15      state jurisdiction.

16      (e) As provided for in subdivisions (b)(1) and (c)(1) of  
17      this Section, in grading an offense under Section 16-19 based  
18      upon a prior conviction, the term "any similar crime" shall  
19      include, but not be limited to, offenses involving theft of  
20      service or fraud, including violations of the Cable  
21      Communications Policy Act of 1984 (Public Law 98-549, 98 Stat.  
22      2779).

23      (f) Separate offenses. For purposes of all criminal  
24      penalties or fines established for violations of Section 16-19,  
25      the prohibited activity established in Section 16-19 as it  
26      applies to each unlawful communication or access device shall

1 be deemed a separate offense.

2 (g) Fines. For purposes of imposing fines upon conviction  
3 of a defendant for an offense under Section 16-19, all fines  
4 shall be imposed in accordance with Article 9 of Chapter V of  
5 the Unified Code of Corrections.

6 (h) Restitution. The court shall, in addition to any other  
7 sentence authorized by law, sentence a person convicted of  
8 violating Section 16-19 to make restitution in the manner  
9 provided in Article 5 of Chapter V of the Unified Code of  
10 Corrections.

11 (i) Forfeiture of unlawful communication or access  
12 devices. Upon conviction of a defendant under Section 16-19,  
13 the court may, in addition to any other sentence authorized by  
14 law, direct that the defendant forfeit any unlawful  
15 communication or access devices in the defendant's possession  
16 or control which were involved in the violation for which the  
17 defendant was convicted.

18 (j) Venue. An offense under Section 16-19 may be deemed to  
19 have been committed at either the place where the defendant  
20 manufactured or assembled an unlawful communication or access  
21 device, or assisted others in doing so, or the place where the  
22 unlawful communication or access device was sold or delivered  
23 to a purchaser or recipient. It is not a defense to a violation  
24 of Section 16-19 that some of the acts constituting the offense  
25 occurred outside of the State of Illinois.

26 (Source: P.A. 92-728, eff. 1-1-03; 93-701, eff. 7-9-04.)