

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.)