

As Introduced

**125th General Assembly
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S. B. No. 146

**Senators Austria, Harris, Randy Gardner, Schuring, Goodman,
Robert Gardner, Jacobson**

A B I L L

To amend sections 2901.04, 2909.01, 2909.04, 2909.07, 1
2913.01, and 2913.04 of the Revised Code to expand 2
"disrupting public services" to specifically 3
prohibit the use of a computer, another specified 4
type of device or the Internet so as to disrupt, 5
interrupt, or impair any police, fire, 6
educational, commercial, or governmental function; 7
to expand "criminal mischief" to specifically 8
include certain conduct related to computer 9
hacking or the introduction of a computer 10
contaminant; to increase the penalty for 11
"unauthorized use of computer, cable, or 12
telecommunication property" when committed under 13
certain specified circumstances and when the value 14
of the involved property, services, or victim's 15
loss is at least \$10,000; to specifically include 16
"computer hacking" within the scope of "criminal 17
mischief" and "unauthorized use of computer, 18
cable, or telecommunication property;" and to 19
provide a rule for interpreting statutory 20
references that define or specify a criminal 21
offense. 22

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2901.04, 2909.01, 2909.04, 2909.07, 23
2913.01, and 2913.04 of the Revised Code be amended to read as 24
follows: 25

Sec. 2901.04. (A) Except as otherwise provided in division 26
(C) or (D) of this section, sections of the Revised Code defining 27
offenses or penalties shall be strictly construed against the 28
state, and liberally construed in favor of the accused. 29

(B) Rules of criminal procedure and sections of the Revised 30
Code providing for criminal procedure shall be construed so as to 31
effect the fair, impartial, speedy, and sure administration of 32
justice. 33

(C) Any provision of a section of the Revised Code that 34
refers to a previous conviction of or plea of guilty to a 35
violation of a section of the Revised Code or of a division of a 36
section of the Revised Code shall be construed to also refer to a 37
previous conviction of or plea of guilty to a substantially 38
equivalent offense under an existing or former law of this state, 39
another state, or the United States or under an existing or former 40
municipal ordinance. 41

(D) Any provision of the Revised Code that refers to a 42
section, or to a division of a section, of the Revised Code that 43
defines or specifies a criminal offense shall be construed to also 44
refer to an existing or former law of this state, another state, 45
or the United States, to an existing or former municipal 46
ordinance, or to an existing or former division of any such 47
existing or former law or ordinance that defines or specifies, or 48
that defined or specified, a substantially equivalent offense. 49

Sec. 2909.01. As used in sections 2909.01 to 2909.07 of the 50
Revised Code: 51

(A) To "create a substantial risk of serious physical harm to any person" includes the creation of a substantial risk of serious physical harm to any emergency personnel.

(B) "Emergency personnel" means any of the following persons:

(1) A peace officer, as defined in section 2935.01 of the Revised Code;

(2) A member of a fire department or other firefighting agency of a municipal corporation, township, township fire district, joint fire district, other political subdivision, or combination of political subdivisions;

(3) A member of a private fire company, as defined in section 9.60 of the Revised Code, or a volunteer firefighter;

(4) A member of a joint ambulance district or joint emergency medical services district;

(5) An emergency medical technician-basic, emergency medical technician-intermediate, emergency medical technician-paramedic, ambulance operator, or other member of an emergency medical service that is owned or operated by a political subdivision or a private entity;

(6) The state fire marshal, the chief deputy state fire marshal, or an assistant state fire marshal;

(7) A fire prevention officer of a political subdivision or an arson, fire, or similar investigator of a political subdivision.

(C) "Occupied structure" means any house, building, outbuilding, watercraft, aircraft, railroad car, truck, trailer, tent, or other structure, vehicle, or shelter, or any portion thereof, to which any of the following applies:

(1) It is maintained as a permanent or temporary dwelling, even though it is temporarily unoccupied and whether or not any

person is actually present.	82
(2) At the time, it is occupied as the permanent or temporary habitation of any person, whether or not any person is actually present.	83 84 85
(3) At the time, it is specially adapted for the overnight accommodation of any person, whether or not any person is actually present.	86 87 88
(4) At the time, any person is present or likely to be present in it.	89 90
(D) "Political subdivision" and "state" have the same meanings as in section 2744.01 of the Revised Code.	91 92
<u>(E) "Computer," "computer hacking," "computer network," "computer program," "computer software," "computer system," "data," and "telecommunications device" have the same meanings as in section 2913.01 of the Revised Code.</u>	93 94 95 96
<u>(F) "Computer contaminant" means a computer program designed to modify, damage, destroy, disable, deny or degrade access to, allow unauthorized access to, functionally impair, record, or transmit information within a computer, computer system, or computer network without the express or implied consent of the owner. "Computer contaminant" includes, but is not limited to, any of the following:</u>	97 98 99 100 101 102 103
<u>(1) A group of computer programs commonly known as "viruses" and "worms" that are self-replicating or self-propagating and that are designed to contaminate other computer programs, compromise computer security, consume computer resources, modify, destroy, record, or transmit data, or disrupt the normal operation of the computer, computer system, or computer network;</u>	104 105 106 107 108 109
<u>(2) A group of computer programs commonly known as "Trojans" or "Trojan horses" that are not self-replicating or</u>	110 111

self-propagating and that are designed to compromise computer security, consume computer resources, modify, destroy, record, or transmit data, or disrupt the normal operation of the computer, computer system, or computer network; 112
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(3) A group of computer programs commonly known as "zombies" that are designed to use a computer without the knowledge and consent of the appropriate principal and that are designed to send large quantities of data to a targeted computer network for the purpose of degrading the targeted computer's or network's performance, or denying access through the network to the targeted computer or network, resulting in what is commonly know as "Denial of Service" or "Distributed Denial of Service" attacks; 116
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(4) A group of computer programs commonly know as "trap doors," "back doors," or "root kits" that are designed to bypass standard authentication software and that are designed to allow access to or use of a computer without the knowledge or consent of the appropriate principal. 124
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(G) "Internet" has the same meaning as in section 341.42 of the Revised Code. 129
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Sec. 2909.04. (A) No person, purposely by any means or knowingly by damaging or tampering with any property, shall do any of the following: 131
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(1) Interrupt or impair television, radio, telephone, telegraph, or other mass communications service; police, fire, or other public service communications; radar, loran, radio, or other electronic aids to air or marine navigation or communications; or amateur or citizens band radio communications being used for public service or emergency communications; 134
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(2) Interrupt or impair public transportation, including without limitation school bus transportation, or water supply, 140
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gas, power, or other utility service to the public;	142
(3) Substantially impair the ability of law enforcement officers, firefighters, rescue personnel, emergency medical services personnel, or emergency facility personnel to respond to an emergency or to protect and preserve any person or property from serious physical harm.	143 144 145 146 147
(B) <u>No person shall knowingly use any computer, computer system, computer network, telecommunications device, or other electronic device or system or the internet so as to disrupt, interrupt, or impair the functions of any police, fire, educational, commercial, or governmental operations within this state.</u>	148 149 150 151 152 153
(C) Whoever violates this section is guilty of disrupting public services, a felony of the fourth degree.	154 155
(C) (D) As used in this section:	156
(1) "Emergency medical services personnel" has the same meaning as in section 2133.21 of the Revised Code.	157 158
(2) "Emergency facility personnel" means any of the following:	159 160
(a) Any of the following individuals who perform services in the ordinary course of their professions in an emergency facility:	161 162
(i) Physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;	163 164 165
(ii) Registered nurses and licensed practical nurses licensed under Chapter 4723. of the Revised Code;	166 167
(iii) Physician assistants authorized to practice under Chapter 4730. of the Revised Code;	168 169
(iv) Health care workers;	170

(v) Clerical staffs.	171
(b) Any individual who is a security officer performing security services in an emergency facility;	172 173
(c) Any individual who is present in an emergency facility, who was summoned to the facility by an individual identified in division (C) <u>(D)</u> (2)(a) or (b) of this section.	174 175 176
(3) "Emergency facility" means a hospital emergency department or any other facility that provides emergency medical services.	177 178 179
(4) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.	180 181
(5) "Health care worker" means an individual, other than an individual specified in division (C) <u>(D)</u> (2)(a), (b), or (c) of this section, who provides medical or other health-related care or treatment in an emergency facility, including medical technicians, medical assistants, orderlies, aides, or individuals acting in similar capacities.	182 183 184 185 186 187
Sec. 2909.07. (A) No person shall:	188
(1) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with the property of another;	189 190 191
(2) With purpose to interfere with the use or enjoyment of property of another, employ a tear gas device, stink bomb, smoke generator, or other device releasing a substance that is harmful or offensive to persons exposed or that tends to cause public alarm;	192 193 194 195 196
(3) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with a bench mark, triangulation station, boundary marker, or other survey station,	197 198 199

monument, or marker;	200
(4) Without privilege to do so, knowingly move, deface,	201
damage, destroy, or otherwise improperly tamper with any safety	202
device, the property of another, or the property of the offender	203
when required or placed for the safety of others, so as to destroy	204
or diminish its effectiveness or availability for its intended	205
purpose;	206
(5) With purpose to interfere with the use or enjoyment of	207
the property of another, set a fire on the land of another or	208
place personal property that has been set on fire on the land of	209
another, which fire or personal property is outside and apart from	210
any building, other structure, or personal property that is on	211
that land;	212
<u>(6) Without privilege to do so, knowingly do any of the</u>	213
<u>following:</u>	214
<u>(a) In any manner or by any means, including, but not limited</u>	215
<u>to, computer hacking, alter, damage, destroy, or modify a</u>	216
<u>computer, computer system, computer network, computer software, or</u>	217
<u>computer program or data contained in a computer, computer system,</u>	218
<u>computer network, computer software, or computer program;</u>	219
<u>(b) Introduce a computer contaminant into a computer,</u>	220
<u>computer system, computer network, computer software, or computer</u>	221
<u>program.</u>	222
(B) As used in this section, "safety device" means any fire	223
extinguisher, fire hose, or fire axe, or any fire escape,	224
emergency exit, or emergency escape equipment, or any life line,	225
life-saving ring, life preserver, or life boat or raft, or any	226
alarm, light, flare, signal, sign, or notice intended to warn of	227
danger or emergency, or intended for other safety purposes, or any	228
guard railing or safety barricade, or any traffic sign or signal,	229
or any railroad grade crossing sign, signal, or gate, or any first	230

aid or survival equipment, or any other device, apparatus, or 231
equipment intended for protecting or preserving the safety of 232
persons or property. 233

(C)(1) Whoever violates division (A) or (B) of this section 234
is guilty of criminal mischief, and shall be punished as provided 235
in division (C)(2) or (3) of this section. 236

(2) Except as otherwise provided in this division, criminal 237
mischief committed in violation of division (A)(1), (2), (3), (4), 238
or (5) of this section is a misdemeanor of the third degree. If 239
Except as otherwise provided in this division, if the violation of 240
division (A)(1), (2), (3), (4), or (5) of this section creates a 241
risk of physical harm to any person, criminal mischief committed 242
in violation of division (A)(1), (2), (3), (4), or (5) of this 243
section is a misdemeanor of the first degree. If the property 244
involved in the violation of division (A)(1), (2), (3), (4), or 245
(5) of this section is an aircraft, an aircraft engine, propeller, 246
appliance, spare part, fuel, lubricant, hydraulic fluid, any other 247
equipment, implement, or material used or intended to be used in 248
the operation of an aircraft, or any cargo carried or intended to 249
be carried in an aircraft and if, criminal mischief committed in 250
violation of division (A)(1), (2), (3), (4), or (5) of this 251
section is one of the following: 252

(a) If the violation creates a risk of physical harm to any 253
person, eriminal mischieif except as otherwise provided in division 254
(C)(2)(b) of this section, criminal mischief committed in 255
violation of division (A)(1), (2), (3), (4), or (5) of this 256
section is a felony of the fifth degree. If the property involved 257
in violation of this section is an aircraft, an aircraft engine, 258
propeller, appliance, spare part, fuel, lubricant, hydraulic 259
fluid, any other equipment, implement, or material used or 260
intended to be used in the operation of an aircraft, or any cargo 261
carried or intended to be carried in an aircraft and if 262

(b) If the violation creates a substantial risk of physical 263
harm to any person or if the property involved in a violation of 264
this section is an occupied aircraft, criminal mischief committed 265
in violation of division (A)(1), (2), (3), (4), or (5) of this 266
section is a felony of the fourth degree. 267

(3) Except as otherwise provided in this division, criminal 268
mischief committed in violation of division (A)(6) of this section 269
is a misdemeanor of the first degree. Except as otherwise provided 270
in this division, if the value of the computer, computer system, 271
computer network, computer software, computer program, or data 272
involved in the violation of division (A)(6) of this section or 273
the loss to the victim resulting from the violation is one 274
thousand dollars or more and less than ten thousand dollars, or if 275
the computer, computer system, computer network, computer 276
software, computer program, or data involved in the violation of 277
division (A)(6) of this section is used or intended to be used in 278
the operation of an aircraft and the violation creates a risk of 279
physical harm to any person, criminal mischief committed in 280
violation of division (A)(6) of this section is a felony of the 281
fifth degree. If the value of the computer, computer system, 282
computer network, computer software, computer program, or data 283
involved in the violation of division (A)(6) of this section or 284
the loss to the victim resulting from the violation is ten 285
thousand dollars or more, or if the computer, computer system, 286
computer network, computer software, computer program, or data 287
involved in the violation of division (A)(6) of this section is 288
used or intended to be used in the operation of an aircraft and 289
the violation creates a substantial risk of physical harm to any 290
person or the aircraft in question is an occupied aircraft, 291
criminal mischief committed in violation of division (A)(6) of 292
this section is a felony of the fourth degree. 293

Sec. 2913.01. As used in this chapter, unless the context	294
requires that a term be given a different meaning:	295
(A) "Deception" means knowingly deceiving another or causing	296
another to be deceived by any false or misleading representation,	297
by withholding information, by preventing another from acquiring	298
information, or by any other conduct, act, or omission that	299
creates, confirms, or perpetuates a false impression in another,	300
including a false impression as to law, value, state of mind, or	301
other objective or subjective fact.	302
(B) "Defraud" means to knowingly obtain, by deception, some	303
benefit for oneself or another, or to knowingly cause, by	304
deception, some detriment to another.	305
(C) "Deprive" means to do any of the following:	306
(1) Withhold property of another permanently, or for a period	307
that appropriates a substantial portion of its value or use, or	308
with purpose to restore it only upon payment of a reward or other	309
consideration;	310
(2) Dispose of property so as to make it unlikely that the	311
owner will recover it;	312
(3) Accept, use, or appropriate money, property, or services,	313
with purpose not to give proper consideration in return for the	314
money, property, or services, and without reasonable justification	315
or excuse for not giving proper consideration.	316
(D) "Owner" means, unless the context requires a different	317
meaning, any person, other than the actor, who is the owner of,	318
who has possession or control of, or who has any license or	319
interest in property or services, even though the ownership,	320
possession, control, license, or interest is unlawful.	321
(E) "Services" include labor, personal services, professional	322
services, public utility services, common carrier services, and	323

food, drink, transportation, entertainment, and cable television 324
services and, for purposes of section 2913.04 of the Revised Code, 325
include cable services as defined in that section. 326

(F) "Writing" means any computer software, document, letter, 327
memorandum, note, paper, plate, data, film, or other thing having 328
in or upon it any written, typewritten, or printed matter, and any 329
token, stamp, seal, credit card, badge, trademark, label, or other 330
symbol of value, right, privilege, license, or identification. 331

(G) "Forge" means to fabricate or create, in whole or in part 332
and by any means, any spurious writing, or to make, execute, 333
alter, complete, reproduce, or otherwise purport to authenticate 334
any writing, when the writing in fact is not authenticated by that 335
conduct. 336

(H) "Utter" means to issue, publish, transfer, use, put or 337
send into circulation, deliver, or display. 338

(I) "Coin machine" means any mechanical or electronic device 339
designed to do both of the following: 340

(1) Receive a coin, bill, or token made for that purpose; 341

(2) In return for the insertion or deposit of a coin, bill, 342
or token, automatically dispense property, provide a service, or 343
grant a license. 344

(J) "Slug" means an object that, by virtue of its size, 345
shape, composition, or other quality, is capable of being inserted 346
or deposited in a coin machine as an improper substitute for a 347
genuine coin, bill, or token made for that purpose. 348

(K) "Theft offense" means any of the following: 349

(1) A violation of section 2911.01, 2911.02, 2911.11, 350
2911.12, 2911.13, 2911.31, 2911.32, 2913.02, 2913.03, 2913.04, 351
2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 352
2913.33, 2913.34, 2913.40, 2913.42, 2913.43, 2913.44, 2913.45, 353

2913.47, former section 2913.47 or 2913.48, or section 2913.51, 354
2915.05, or 2921.41 of the Revised Code; 355

(2) A violation of an existing or former municipal ordinance 356
or law of this or any other state, or of the United States, 357
substantially equivalent to any section listed in division (K)(1) 358
of this section or a violation of section 2913.41, 2913.81, or 359
2915.06 of the Revised Code as it existed prior to July 1, 1996; 360

(3) An offense under an existing or former municipal 361
ordinance or law of this or any other state, or of the United 362
States, involving robbery, burglary, breaking and entering, theft, 363
embezzlement, wrongful conversion, forgery, counterfeiting, 364
deceit, or fraud; 365

(4) A conspiracy or attempt to commit, or complicity in 366
committing, any offense under division (K)(1), (2), or (3) of this 367
section. 368

(L) "Computer services" includes, but is not limited to, the 369
use of a computer system, computer network, computer program, data 370
that is prepared for computer use, or data that is contained 371
within a computer system or computer network. 372

(M) "Computer" means an electronic device that performs 373
logical, arithmetic, and memory functions by the manipulation of 374
electronic or magnetic impulses. "Computer" includes, but is not 375
limited to, all input, output, processing, storage, computer 376
program, or communication facilities that are connected, or 377
related, in a computer system or network to an electronic device 378
of that nature. 379

(N) "Computer system" means a computer and related devices, 380
whether connected or unconnected, including, but not limited to, 381
data input, output, and storage devices, data communications 382
links, and computer programs and data that make the system capable 383
of performing specified special purpose data processing tasks. 384

(O) "Computer network" means a set of related and remotely 385
connected computers and communication facilities that includes 386
more than one computer system that has the capability to transmit 387
among the connected computers and communication facilities through 388
the use of computer facilities. 389

(P) "Computer program" means an ordered set of data 390
representing coded instructions or statements that, when executed 391
by a computer, cause the computer to process data. 392

(Q) "Computer software" means computer programs, procedures, 393
and other documentation associated with the operation of a 394
computer system. 395

(R) "Data" means a representation of information, knowledge, 396
facts, concepts, or instructions that are being or have been 397
prepared in a formalized manner and that are intended for use in a 398
computer, computer system, or computer network. For purposes of 399
section 2913.47 of the Revised Code, "data" has the additional 400
meaning set forth in division (A) of that section. 401

(S) "Cable television service" means any services provided by 402
or through the facilities of any cable television system or other 403
similar closed circuit coaxial cable communications system, or any 404
microwave or similar transmission service used in connection with 405
any cable television system or other similar closed circuit 406
coaxial cable communications system. 407

(T) "Gain access" means to approach, instruct, communicate 408
with, store data in, retrieve data from, or otherwise make use of 409
any resources of a computer, computer system, or computer network, 410
or any cable service or cable system both as defined in section 411
2913.04 of the Revised Code. 412

(U) "Credit card" includes, but is not limited to, a card, 413
code, device, or other means of access to a customer's account for 414
the purpose of obtaining money, property, labor, or services on 415

credit, or for initiating an electronic fund transfer at a 416
point-of-sale terminal, an automated teller machine, or a cash 417
dispensing machine. 418

(V) "Electronic fund transfer" has the same meaning as in 92 419
Stat. 3728, 15 U.S.C.A. 1693a, as amended. 420

(W) "Rented property" means personal property in which the 421
right of possession and use of the property is for a short and 422
possibly indeterminate term in return for consideration; the 423
rentee generally controls the duration of possession of the 424
property, within any applicable minimum or maximum term; and the 425
amount of consideration generally is determined by the duration of 426
possession of the property. 427

(X) "Telecommunication" means the origination, emission, 428
dissemination, transmission, or reception of data, images, 429
signals, sounds, or other intelligence or equivalence of 430
intelligence of any nature over any communications system by any 431
method, including, but not limited to, a fiber optic, electronic, 432
magnetic, optical, digital, or analog method. 433

(Y) "Telecommunications device" means any instrument, 434
equipment, machine, or other device that facilitates 435
telecommunication, including, but not limited to, a computer, 436
computer network, computer chip, computer circuit, scanner, 437
telephone, cellular telephone, pager, personal communications 438
device, transponder, receiver, radio, modem, or device that 439
enables the use of a modem. 440

(Z) "Telecommunications service" means the providing, 441
allowing, facilitating, or generating of any form of 442
telecommunication through the use of a telecommunications device 443
over a telecommunications system. 444

(AA) "Counterfeit telecommunications device" means a 445
telecommunications device that, alone or with another 446

telecommunications device, has been altered, constructed, 447
manufactured, or programmed to acquire, intercept, receive, or 448
otherwise facilitate the use of a telecommunications service or 449
information service without the authority or consent of the 450
provider of the telecommunications service or information service. 451
"Counterfeit telecommunications device" includes, but is not 452
limited to, a clone telephone, clone microchip, tumbler telephone, 453
or tumbler microchip; a wireless scanning device capable of 454
acquiring, intercepting, receiving, or otherwise facilitating the 455
use of telecommunications service or information service without 456
immediate detection; or a device, equipment, hardware, or software 457
designed for, or capable of, altering or changing the electronic 458
serial number in a wireless telephone. 459

(BB)(1) "Information service" means, subject to division 460
(BB)(2) of this section, the offering of a capability for 461
generating, acquiring, storing, transforming, processing, 462
retrieving, utilizing, or making available information via 463
telecommunications, including, but not limited to, electronic 464
publishing. 465

(2) "Information service" does not include any use of a 466
capability of a type described in division (BB)(1) of this section 467
for the management, control, or operation of a telecommunications 468
system or the management of a telecommunications service. 469

(CC) "Elderly person" means a person who is sixty-five years 470
of age or older. 471

(DD) "Disabled adult" means a person who is eighteen years of 472
age or older and has some impairment of body or mind that makes 473
the person unfit to work at any substantially remunerative 474
employment that the person otherwise would be able to perform and 475
that will, with reasonable probability, continue for a period of 476
at least twelve months without any present indication of recovery 477
from the impairment, or who is eighteen years of age or older and 478

has been certified as permanently and totally disabled by an 479
agency of this state or the United States that has the function of 480
so classifying persons. 481

(EE) "Firearm" and "dangerous ordnance" have the same 482
meanings as in section 2923.11 of the Revised Code. 483

(FF) "Motor vehicle" has the same meaning as in section 484
4501.01 of the Revised Code. 485

(GG) "Dangerous drug" has the same meaning as in section 486
4729.01 of the Revised Code. 487

(HH) "Drug abuse offense" has the same meaning as in section 488
2925.01 of the Revised Code. 489

(II)(1) "Computer hacking" means any of the following: 490

(a) Gaining access or attempting to gain access to all or 491
part of a computer, computer system, or a computer network without 492
express or implied authorization for the purpose of establishing 493
contact only, with the intent to defraud or with malicious intent 494
to commit a crime after the contact is established; 495

(b) Misusing computer or network services including, but not 496
limited to, mail transfer programs, file transfer programs, proxy 497
servers, and web servers by performing functions not authorized by 498
the appropriate principal of the computer, computer system, or 499
computer network. As used in this division, "misuse of computer 500
and network services" includes, but is not limited to, the 501
unauthorized use of any of the following: 502

(i) Mail transfer programs to send mail to persons other than 503
the authorized users of that computer or computer network; 504

(ii) File transfer program proxy services or proxy servers to 505
access other computers, computer systems, or computer networks; 506

(iii) Web servers to redirect users to other web pages or web 507
servers. 508

(c)(i) Subject to division (II)(1)(c)(ii) of this section, 509
using a group of computer programs commonly known as "port 510
scanners" or "probes" to intentionally access any computer, 511
computer system, or computer network without the permission of the 512
appropriate principal of the computer, computer system, or 513
computer network. The group of computer programs referred to in 514
this division includes, but is not limited to, those computer 515
programs that use a computer network to access a computer, 516
computer system, or another computer network to determine any of 517
the following: the presence or types of computers or computer 518
systems on a network; the computer network's facilities and 519
capabilities; the availability of computer or network services; 520
the presence or versions of computer software including, but not 521
limited to, operating systems, computer services, or computer 522
contaminants; the presence of a known computer software deficiency 523
that can be used to gain unauthorized access to a computer, 524
computer system, or computer network; or any other information 525
about a computer, computer system, or computer network not 526
necessary for the normal and lawful operation of the computer 527
initiating the access. 528

(ii) The group of computer programs referred to in division 529
(II)(1)(c)(i) of this section does not include standard computer 530
software used for the normal operation, administration, 531
management, and test of a computer, computer system, or computer 532
network including, but not limited to, domain name services, mail 533
transfer services, and other operating system services, computer 534
programs commonly called "ping," "tcpdump," and "traceroute" and 535
other network monitoring and management computer software, and 536
computer programs commonly known as "nslookup" and "whois" and 537
other systems administration computer software. 538

(d) The intentional use of a computer, computer system, or a 539
computer network in a manner that exceeds any right or permission 540

granted by the appropriate principal of the computer, computer system, or computer network. 541
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(2) "Computer hacking" does not include the introduction of a computer contaminant, as defined in section 2909.02 of the Revised Code, into a computer, computer system, computer program, or computer network. 543
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Sec. 2913.04. (A) No person shall knowingly use or operate the property of another without the consent of the owner or person authorized to give consent. 547
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(B) No person, in any manner and by any means including but not limited to, computer hacking, shall knowingly gain access to, attempt to gain access to, or cause access to be gained to any computer, computer system, computer network, cable service, cable system, telecommunications device, telecommunications service, or information service without the consent of, or beyond the scope of the express or implied consent of, the owner of the computer, computer system, computer network, cable service, cable system, telecommunications device, telecommunications service, or information service or other person authorized to give consent by the owner. 550
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(C) The affirmative defenses contained in division (C) of section 2913.03 of the Revised Code are affirmative defenses to a charge under this section. 561
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(D)(1) Whoever violates division (A) of this section is guilty of unauthorized use of property. 564
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(2) Except as otherwise provided in division (D)(3) or (4) of this section, unauthorized use of property is a misdemeanor of the fourth degree. 566
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(3) Except as otherwise provided in division (D)(4) of this section, if unauthorized use of property is committed for the 569
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purpose of devising or executing a scheme to defraud or to obtain 571
property or services, unauthorized use of property is whichever of 572
the following is applicable: 573

(a) Except as otherwise provided in division (D)(3)(b), (c), 574
or (d) of this section, a misdemeanor of the first degree. 575

(b) If the value of the property or services or the loss to 576
the victim is five hundred dollars or more and is less than five 577
thousand dollars, a felony of the fifth degree. 578

(c) If the value of the property or services or the loss to 579
the victim is five thousand dollars or more and is less than one 580
hundred thousand dollars, a felony of the fourth degree. 581

(d) If the value of the property or services or the loss to 582
the victim is one hundred thousand dollars or more, a felony of 583
the third degree. 584

(4) If the victim of the offense is an elderly person or 585
disabled adult, unauthorized use of property is whichever of the 586
following is applicable: 587

(a) Except as otherwise provided in division (D)(4)(b), (c), 588
(d), or (e) of this section, a felony of the fifth degree; 589

(b) If the value of the property or services or loss to the 590
victim is five hundred dollars or more and is less than five 591
thousand dollars, a felony of the fourth degree; 592

(c) If the value of the property or services or loss to the 593
victim is five thousand dollars or more and is less than 594
twenty-five thousand dollars, a felony of the third degree; 595

(d) If the value of the property or services or loss to the 596
victim is twenty-five thousand dollars or more, a felony of the 597
second degree. 598

(E)(1) Whoever violates division (B) of this section is 599
guilty of unauthorized use of computer, cable, or 600

telecommunication property, and shall be punished as provided in 601
division (E)(2) or (3) of this section. 602

(2) Except as otherwise provided in division (E)(3) of this 603
section, unauthorized use of computer, cable, or telecommunication 604
property is a felony of the fifth degree. 605

(3) If unauthorized use of computer, cable, or 606
telecommunication property is committed for the purpose of 607
devising or executing a scheme to defraud or to obtain property or 608
services, for obtaining money, property, or services by false or 609
fraudulent pretenses, or for committing any other criminal offense 610
and if the value of the property or services involved or the loss 611
to the victim is ten thousand dollars or more, unauthorized use of 612
computer, cable, or telecommunication property is a felony of the 613
fourth degree. 614

(F) As used in this section: 615

(1) "Cable operator" means any person or group of persons 616
that does either of the following: 617

(a) Provides cable service over a cable system and directly 618
or through one or more affiliates owns a significant interest in 619
that cable system; 620

(b) Otherwise controls or is responsible for, through any 621
arrangement, the management and operation of a cable system. 622

(2) "Cable service" means any of the following: 623

(a) The one-way transmission to subscribers of video 624
programming or of information that a cable operator makes 625
available to all subscribers generally; 626

(b) Subscriber interaction, if any, that is required for the 627
selection or use of video programming or of information that a 628
cable operator makes available to all subscribers generally, both 629
as described in division (F)(2)(a) of this section; 630

(c) Any cable television service. 631

(3) "Cable system" means any facility, consisting of a set of 632
closed transmission paths and associated signal generation, 633
reception, and control equipment that is designed to provide cable 634
service that includes video programming and that is provided to 635
multiple subscribers within a community. "Cable system" does not 636
include any of the following: 637

(a) Any facility that serves only to retransmit the 638
television signals of one or more television broadcast stations; 639

(b) Any facility that serves subscribers without using any 640
public right-of-way; 641

(c) Any facility of a common carrier that, under 47 U.S.C.A. 642
522(7)(c), is excluded from the term "cable system" as defined in 643
47 U.S.C.A. 522(7); 644

(d) Any open video system that complies with 47 U.S.C.A. 573; 645

(e) Any facility of any electric utility used solely for 646
operating its electric utility system. 647

Section 2. That existing sections 2901.04, 2909.01, 2909.04, 648
2909.07, 2913.01, and 2913.04 of the Revised Code are hereby 649
repealed. 650