

Angelo, Lamberti, Hammond

Succeeded By 2098  
(S) SSB-3009  
Judiciary

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED ATTORNEY GENERAL  
BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the criminal offense of unauthorized computer  
2 access, and providing a penalty.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 716.6B, Code 2001, is amended to read  
2 as follows:

3 716.6B UNAUTHORIZED COMPUTER ACCESS.

4 A person who knowingly and without authorization accesses a  
5 computer, computer system, or computer network commits a  
6 simple-misdemeanor the following:

7 1. A class "D" felony if computer data is accessed that  
8 contains a confidential record, as defined in section 22.7,  
9 operational or support data of a public utility, as defined in  
10 section 476.1, or a trade secret, as defined in section 550.2.

11 2. An aggravated misdemeanor if computer data is copied,  
12 altered, or deleted.

13 3. A serious misdemeanor for any access which is not a  
14 class "D" felony or aggravated misdemeanor.

15 EXPLANATION

16 This bill relates to the criminal offense of unauthorized  
17 computer access.

18 A person commits the crime of unauthorized computer access,  
19 if a person knowingly and without authorization accesses a  
20 computer, computer system, or computer network.

21 The bill provides that a person commits a class "D" felony  
22 if computer data is accessed that contains confidential  
23 records defined in Code section 22.7, operational or support  
24 data of a public utility defined in Code section 476.1, or  
25 trade secrets defined Code section 550.2.

26 The bill provides that a person commits an aggravated  
27 misdemeanor if during the unauthorized access computer data is  
28 copied, altered, or deleted.

29 The bill provides that a person commits a serious  
30 misdemeanor for any other unauthorized access to a computer,  
31 computer system, or computer network.

32 Current law classifies all unauthorized computer access as  
33 a simple misdemeanor.

34 A simple misdemeanor is punishable by confinement for no  
35 more than 30 days or a fine of at least \$50 but not more than

SSB 3009

S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 \$500 or by both. A serious misdemeanor is punishable by  
2 confinement for no more than one year and a fine of at least  
3 \$250 but not more than \$1,500. An aggravated misdemeanor is  
4 punishable by confinement for no more than two years and a  
5 fine of at least \$500 but not more than \$5,000. A class "D"  
6 felony is punishable by confinement for no more than five  
7 years and a fine of at least \$750 but not more than \$7,500.

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REPRINTED

FILED JAN 31 2002

SENATE FILE 2098  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3009)

(p. 206)  
Passed Senate, Date 2-6-02

(p. 282)  
Passed House, Date 3-19-02

Vote: Ayes 47 Nays 0

Vote: Ayes 86 Nays 3

Approved 4-1-02

A BILL FOR

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SF 2098

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5 computer, computer system, or computer network commits a  
6 simple-misdemeanor the following:

7 1. An aggravated misdemeanor if computer data is accessed  
8 that contains a confidential record, as defined in section  
9 22.7, operational or support data of a public utility, as  
10 defined in section 476.1, or a trade secret, as defined in  
11 section 550.2.

12 2. A serious misdemeanor if computer data is copied,  
13 altered, or deleted.

14 3. A simple misdemeanor for any access which is not an  
15 aggravated or serious misdemeanor.

16 EXPLANATION

17 This bill relates to the criminal offense of unauthorized  
18 computer access.

19 A person commits the crime of unauthorized computer access,  
20 if a person knowingly and without authorization accesses a  
21 computer, computer system, or computer network.

22 The bill provides that a person commits an aggravated  
23 misdemeanor if computer data is accessed that contains  
24 confidential records defined in Code section 22.7, operational  
25 or support data of a public utility defined in Code section  
26 476.1, or trade secrets defined in Code section 550.2.

27 The bill provides that a person commits a serious  
28 misdemeanor if during the unauthorized access computer data is  
29 copied, altered, or deleted.

30 The bill provides that a person commits a simple  
31 misdemeanor for any other unauthorized access to a computer,  
32 computer system, or computer network.

33 Current law classifies all unauthorized computer access as  
34 a simple misdemeanor.

35 A simple misdemeanor is punishable by confinement for no

1 more than 30 days or a fine of at least \$50 but not more than  
2 \$500 or by both. A serious misdemeanor is punishable by  
3 confinement for no more than one year and a fine of at least  
4 \$250 but not more than \$1,500. An aggravated misdemeanor is  
5 punishable by confinement for no more than two years and a  
6 fine of at least \$500 but not more than \$5,000.

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**SENATE FILE 2098****S-5017**

1 Amend Senate File 2098 as follows:  
 2 1. Page 1 by inserting before line 1 the  
 3 following:  
 4 "Sec. \_\_\_\_ . Section 716.1, Code 2001, is amended to  
 5 read as follows:  
 6 716.1 CRIMINAL MISCHIEF DEFINED.  
 7 Any damage, defacing, alteration, or destruction of  
 8 ~~tangible~~ property is criminal mischief when done  
 9 intentionally by one who has no right to so act."  
 10 2. Page 1, line 4, by inserting before the words  
 11 "A person" the following: "1.".  
 12 3. Page 1, line 7, by striking the figure "1" and  
 13 inserting the following: "a".  
 14 4. Page 1, line 10, by inserting after the figure  
 15 "476.1," the following: "operational or support data  
 16 of a public airport,".  
 17 5. Page 1, line 12, by striking the figure "2"  
 18 and inserting the following: "b".  
 19 6. Page 1, line 14, by striking the figure "3"  
 20 and inserting the following: "c".  
 21 7. Page 1, by inserting after line 15 the  
 22 following:  
 23 "2. The prosecuting attorney may institute civil  
 24 proceedings against any person in district court  
 25 seeking relief from conduct constituting a violation  
 26 of this section or to prevent, restrain, or remedy  
 27 such a violation."  
 28 8. Title page, line 1, by striking the word  
 29 "offense" and inserting the following: "offenses".  
 30 9. Title page, line 2, by inserting after the  
 31 word "access" the following: "and criminal mischief".

By JEFF ANGELO

**S-5017** FILED FEBRUARY 6, 2002

ADOPTED

(P. 205)

**SENATE FILE 2098****S-5022**

1 Amend the amendment, S-5017, to Senate File 2098 as  
 2 follows:  
 3 1. Page 1, line 23, by inserting after the word  
 4 "attorney" the following: "or an aggrieved person".

By THOMAS FIEGEN

**S-5022** FILED FEBRUARY 6, 2002

ADOPTED

(P. 205)

SENATE FILE 2098  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3009)

(AS AMENDED AND PASSED BY THE SENATE FEBRUARY 6, 2002)

\_\_\_\_\_ - New Language by the Senate

Passed Senate, Date \_\_\_\_\_ Passed House, <sup>(p.883)</sup> Date 3-19-02  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes 86 Nays 3  
Approved 4-1-02

A BILL FOR

1 An Act relating to the criminal offenses of unauthorized computer  
2 access and criminal mischief, and providing a penalty.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 2098

1 Section 1. Section 716.1, Code 2001, is amended to read as  
2 follows:

3 716.1 CRIMINAL MISCHIEF DEFINED.

4 Any damage, defacing, alteration, or destruction of  
5 tangible property is criminal mischief when done intentionally  
6 by one who has no right to so act.

7 Sec. 2. Section 716.6B, Code 2001, is amended to read as  
8 follows:

9 716.6B UNAUTHORIZED COMPUTER ACCESS.

10 1. A person who knowingly and without authorization  
11 accesses a computer, computer system, or computer network  
12 commits a simple misdemeanor the following:

13 a. An aggravated misdemeanor if computer data is accessed  
14 that contains a confidential record, as defined in section  
15 22.7, operational or support data of a public utility, as  
16 defined in section 476.1, operational or support data of a  
17 public airport, or a trade secret, as defined in section  
18 550.2.

19 b. A serious misdemeanor if computer data is copied,  
20 altered, or deleted.

21 c. A simple misdemeanor for any access which is not an  
22 aggravated or serious misdemeanor.

23 2. The prosecuting attorney or an aggrieved person may  
24 institute civil proceedings against any person in district  
25 court seeking relief from conduct constituting a violation of  
26 this section or to prevent, restrain, or remedy such a  
27 violation.

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# Legislative Fiscal Bureau

## Fiscal Note

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SF 2098 - Computer Theft and Damages (LSB 5340 SV)

Analyst: Beth Lenstra (Phone: (515) 281-6301) (Beth.Lenstra@legis.state.ia.us)

Fiscal Note Version - New

Requested by Senator Jeff Angelo

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### Description

Senate File 2098 amends the definition of "criminal mischief" to include all classes of property. The Bill amends Section 716.6B, Code of Iowa, to enhance penalties for the various acts involved in unauthorized computer access. A person commits an aggravated misdemeanor for unauthorized access to data that contains certain confidential information, operational or support data of a public utility, or trade secrets. A person commits a serious misdemeanor if during the commission of unauthorized computer access, data is copied, altered, or deleted. A person commits a simple misdemeanor for any other unauthorized computer access. Current law classifies all unauthorized computer access as a simple misdemeanor. Senate File 2098 also permits civil proceedings for unauthorized computer access.

### Assumptions

1. Charge, conviction, and sentencing patterns and trends will not change over the projection period.
2. Prisoner length of stay, revocation rates, and other corrections' practices and policies will not change over the projection period.
3. The law will become effective July 1, 2002. A lag effect of six months is assumed, from the effective date of the change in the law to the date of first entry of affected offenders into the correctional system.
4. The analysis is based on information obtained from the Justice Data Warehouse, which includes statewide court information. There have been no convictions under Section 716.6B, Code of Iowa, in recent years.
5. There were 4,316 people convicted of various levels of criminal mischief during FY 2001. The majority of the convictions were for simple misdemeanors. There is no available information with which to predict the impact of the expanded definition of criminal mischief.
6. The marginal cost per day for county jails ranges from \$15 to \$25 per offender.
7. The median cost per case for indigent defense for a simple misdemeanor case is \$200; for a serious misdemeanor case, \$500; and an aggravated misdemeanor case, \$1,000.
8. The average court cost for a simple misdemeanor case ranges from \$20 to \$29. This figure includes expenses for a Magistrate or a District Associate Judge, Clerk of Court, court attendant, and court reporter.
9. The average court cost for a serious misdemeanor case ranges from \$70 to \$74. This figure includes expenses for a District Associate Judge or a District Court Judge, Clerk of Court, court attendant, and court reporter.
10. The average court cost for an aggravated misdemeanor case ranges from \$70 to \$460. This figure includes expenses for a District Associate Judge, Clerk of Court, court attendant, court reporter, plus a jury if applicable.
11. During Calendar Year 2000, there were 68,858 civil filings and 82,356 criminal filings in the Iowa District Court. To the extent that civil remedies permitted under this Bill are pursued, the demand for services from the Judicial Branch will increase. There is no readily available information with which to predict the impact.
12. The marginal cost per day for Community-Based Corrections (CBC) per probation and parole offender is \$1.55. The average length of stay under CBC supervision for an aggravated misdemeanor offender is 12.3 months. The average length of stay under

CBC supervision for a serious misdemeanor offender is 11.8 months. Simple misdemeanor offenders are rarely supervised.

13. The marginal cost per day for a CBC residential facility is \$16 per offender. The average length of stay is four months.
14. The marginal cost per day for State prisons is \$16 per inmate. Offenders whose lead offense is an aggravated or serious misdemeanor infrequently are sentenced to prison. For those that are sentenced to prison, the average length of stay is nine months for an aggravated misdemeanor offense and eight months for a serious misdemeanor offense.

### **Correctional Impact**

There is no data with which to estimate the correctional impact of these enhanced penalties and the expanded definition of criminal mischief. However, the enhanced penalties and increased emphasis placed on cyber crime by local law enforcement may result in increased convictions under Section 716.6B, Code of Iowa. There will be a correctional impact to the extent that convictions under this statute occur.

### **Fiscal Impact**

The fiscal impact of SF 2098 cannot be determined due to insufficient information.

The fiscal impact for one aggravated misdemeanor conviction ranges from \$1,600 to \$6,000, depending on whether a jury trial occurs and a conviction results in a prison term. The fiscal impact for one serious misdemeanor conviction ranges from \$1,100 to \$5,000, depending on whether a jury trial occurs and a conviction results in a prison term. The fiscal impact for one simple misdemeanor conviction is \$200. These figures include costs for indigent defense, Judicial Branch, CBC supervision, and prisons, if applicable.

While the fiscal impact on counties cannot be estimated, it does not appear to be significant.

### **Sources**

Department of Human Rights, Criminal and Juvenile Justice Planning Division  
Department of Corrections  
State Public Defender's Office  
Iowa Supreme Court

\_\_\_\_\_/s/ Dennis C Prouty\_\_\_\_\_

February 12, 2002

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The fiscal note and correction impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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SENATE FILE 2098

AN ACT

RELATING TO THE CRIMINAL OFFENSES OF UNAUTHORIZED COMPUTER ACCESS AND CRIMINAL MISCHIEF, AND PROVIDING A PENALTY.

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

Section 1. Section 716.1, Code 2001, is amended to read as follows:

716.1 CRIMINAL MISCHIEF DEFINED.

Any damage, defacing, alteration, or destruction of tangible property is criminal mischief when done intentionally by one who has no right to so act.

Sec. 2. Section 716.6B, Code 2001, is amended to read as follows:

716.6B UNAUTHORIZED COMPUTER ACCESS.

1. A person who knowingly and without authorization accesses a computer, computer system, or computer network commits a simple misdemeanor the following:

a. An aggravated misdemeanor if computer data is accessed that contains a confidential record, as defined in section 22.7, operational or support data of a public utility, as defined in section 476.1, operational or support data of a public airport, or a trade secret, as defined in section 550.2.

b. A serious misdemeanor if computer data is copied, altered, or deleted.

c. A simple misdemeanor for any access which is not an aggravated or serious misdemeanor.

2. The prosecuting attorney or an aggrieved person may institute civil proceedings against any person in district court seeking relief from conduct constituting a violation of

this section or to prevent, restrain, or remedy such a violation.

\_\_\_\_\_  
MARY E. KRAMER  
President of the Senate

\_\_\_\_\_  
BRENT SIEGRIST  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2098, Seventy-ninth General Assembly.

\_\_\_\_\_  
MICHAEL E. MARSHALL  
Secretary of the Senate

Approved 4/1, 2002

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THOMAS J. VILSACK  
Governor