

AN ACT concerning criminal law.

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

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

(720 ILCS 5/16-20)

Sec. 16-20. Criminal penalties.

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

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

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

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

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

(4) 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; or

(5) 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 uses any means of electronic communication as defined in the Harassing and Obscene Communications Act for fraud, theft, theft by deception, identity theft, or any other unlawful purpose.

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

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

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

(3) 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 has been convicted previously of an offense under Section 16-19 committed by the defendant while serving as a pre-trial detainee in a penal institution or while serving a sentence at a penal institution; or

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

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

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

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

be deemed a separate offense.

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

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

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

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

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