

2/13/85

Approved

Jayne Aylward
Date

MINUTES OF THE HOUSE COMMITTEE ON COMMUNICATION, COMPUTERS AND TECHNOLOGY.

The meeting was called to order by Representative Jayne Aylward at
Chairperson

3:30 ~~xxx~~ p.m. on February 11, 1985 in room 522-S of the Capitol.

All members were present except:

Representative Brown (excused) Representative Helgerson (excused)
Representative Campbell (excused)
Representative Goossen (excused)

Committee staff present:

Ray Hauke, Research Department
Scott Rothe, Research Department
James A. Wilson, III, Senior Assistant Revisor
Jean Mellinger, Secretary to the Committee

Conferees appearing before the committee:

Brenda Hoyt, Attorney General's Office

Chairman Jayne Aylward opened the meeting for continued hearings and some input from the Attorney General's office on HB 2044.

Brenda Hoyt stated that after checking, they definitely support the concept of the bill. They feel this may be stopgap and in a year or two, when there is more data, it may need to be expanded or changed. Currently there is a theft statute whereby a person running a terminal that is managing to rip off small amounts of money could be prosecuted, but the problem would be in proving this. It would cost more than could be recovered. They were specifically concerned about lines 53 and 54 and while they may need to be left in, what is an "item of value," who determines the value. Also, there is a question on lines 58 to 60, because you sometimes would not deprive someone of something but would have a copy of it. On line 62, "by color or aid of deception" is not clear.

Representative Friedeman asked if color does not have a meaning in the law. She said it does more or less, but this is a criminal theft which assumes you are telling someone who has no ability to judge right or wrong and it has to be clear enough that they understand it.

Brenda Hoyt said there was a problem in lines 77 to 80 in that a computer crime might be proved but no loss amount could be shown to prove a misdemeanor or felony. They recommend removing (line 60) "deprive such person of such property or services" and inserting "willful and intentional access of a computer for information without authorization."

Representative Green asked if this would stop ignorance of the law is no excuse if you accidentally accessed. She said that was why it was that way.

Representative Sallee inquired if you didn't put a value on this willful and intentional access, and if you could prove it was \$100 or more, would that matter. She replied it wouldn't.

Representative Erne asked how difficult it is to prove willful and intentional. She thought it would be tough. He asked if this makes it more difficult in the bill. She replied she didn't think so because in the other you have to show an intent to deprive and in this you have to show an intentional unauthorized act.

Representative Friedeman asked if unauthorized access is a crime all by itself. She said it would make that a crime without any limitations. She suggested that this be broken down so that unauthorized access is a misdemeanor and if there is any damage or loss or punitive value you could put on, of \$100 or \$150, this would be consistent with the theft statute.

Representative Sallee asked if on the felony, hours you put into a project or anything you put in would bring up a value to a claim. She said as long as it was something you would reasonably understand had a value, it would.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON COMMUNICATION, COMPUTERS AND TECHNOLOGY,

room 522-S, Statehouse, at 3:30 ~~am~~ p.m. on February 11, 1985

Representative Dean inquired if this person is brought to trial, if you have to prove willful and intentional and if accidental is not a crime. She replied that was right. He said if they weren't messing around with the files, then they wouldn't make that accident. She said that this was complicated enough that a lot of prosecutors are going to have trouble understanding what they can prosecute and what they can't. Representative Dean said he thought if they get into it, it should be a felony. She said a presumption could be put in.

Chairman Aylward appointed a subcommittee to work on this and report back on Wednesday. The subcommittee is Representatives Friedeman, Sifers, and Dean.

The hearing on HB 2044 was concluded.

Representative Green moved that the minutes of January 30, February 4 and 5 be approved. Representative Chronister seconded the motion. The motion carried.

The meeting adjourned at 4:00 p.m.

The next meeting of the committee will be held at 3:30 p.m. on Tuesday, February 12, 1985.