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[Start](#)

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CONGRESS OF THE REPUBLIC

Through which the Penal Code is modified, a new protected legal asset is created - called “de la protection of information and data ”- and the systems that use the information and communication technologies, among other provisions.

THE CONGRESS OF COLOMBIA

DECREE:

ARTICLE 1. Add the Penal Code with a Title VII BIS called “On the Protection of the information and data ”, of the following tenor:

CHAPTER I

Of the attacks against the confidentiality, integrity and availability of data and information systems

Article 269A : Abusive access to a computer system . <See Editor's Notes> Whoever, without authorization or by outside of what was agreed, access in whole or in part to a computer system protected or not with a measure of security, or is kept within it against the will of whoever has the legitimate right to exclude it, will incur a prison sentence of forty-eight (48) to ninety-six (96) months and a fine of 100 to 1,000 monthly legal minimum wages in force.

Editor's Notes

Article 269B : Illegitimate obstruction of the computer system or telecommunication network. The one who, without being empowered to do so, prevents or hinders the normal operation or access to a computer system, to the computer data contained therein, or to a telecommunications network, will incur a prison sentence of forty-five (48) to ninety-six (96) months and a fine of 100 to 1000 legal monthly minimum wages in force, provided that the conduct does not constitute a crime punishable by a higher penalty.

Article 269C : Interception of computer data . Whoever, without a prior court order, intercepts data information technology at their origin, destination or inside a computer system, or electromagnetic emissions from a computer system that transports them will incur a prison sentence of thirty-six (36) to seventy-two (72) months.

Article 269D : Computer Damage . Whoever, without being empowered to do so, destroys, damages, deletes, deteriorates, alters or delete computer data, or an information processing system or its logical parts or components, will incur a prison sentence of forty-eight (48) to ninety-six (96) months and a fine of 100 to 1,000 current legal monthly minimum wages.

Article 269E : Use of malicious software . Whoever, without being authorized to do so, produces, traffics, acquires, distributes, sells, sends, introduces or extracts from the national territory malicious software or other programs computation of harmful effects, will incur a prison sentence of forty-eight (48) to ninety-six (96) months and a fine of 100 to 1,000 legal monthly minimum wages in force.

Article 269F : Violation of personal data . He who, without being empowered to do so, for his own benefit or for a third party, obtain, compile, subtract, offer, sell, exchange, send, buy, intercept, disclose, modify or use personal codes, personal data contained in files, archives, databases or media similar, will incur a prison sentence of forty-eight (48) to ninety-six (96) months and a fine of 100 to 1000 monthly legal minimum wages in force.

Article 269G : Impersonation of websites to capture personal data . The one who with an illicit object and without being empowered to do so, design, develop, traffic, sell, execute, schedule or send electronic pages, links or pop-up windows, will incur a prison sentence of forty-eight (48) to ninety-six (96) months and in fine of 100 to 1,000 legal monthly minimum wages in force, provided that the conduct does not constitute offense punishable by a more serious penalty.

Anyone who modifies the domain name resolution system will incur the same penalty, in such a way that makes the user enter a different IP in the belief that they access their bank or another personal site or of trust, provided that the conduct does not constitute a crime punishable by a more serious penalty.

The penalty indicated in the two previous paragraphs will be aggravated by one third to one half, if to consummate it the agent has recruited victims in the crime chain.

Article 269H : Circumstances of punitive aggravation : The penalties imposed in accordance with the articles described in this title, will be increased from half to three-quarters if the conduct is committed:

1. On networks or computer systems or state or official communications or the financial sector, nationals or foreigners.
2. By public servant in exercise of his functions.
3. Taking advantage of the trust placed by the owner of the information or by whoever has a link contractual with it.
4. Revealing or disclosing the content of the information to the detriment of another.
5. Obtaining profit for himself or for a third party.
6. For terrorist purposes or generating risk to national security or defense.
7. Using a third party in good faith as an instrument.
8. If the person who incurs these conducts is responsible for the administration, management or control of said information, it will also be imposed for up to three years, the penalty of disqualification for the exercise of profession related to information systems processed with computer equipment.

CHAPTER II

Of the computer attacks and other infractions

Article 269I : Theft by computer and similar means . The one who, overcoming security measures perform the conduct indicated in article 239 manipulating a computer system, a network of electronic, telematic or other similar means, or impersonating a user before the systems of authentication and authorization established, will incur the penalties indicated in article 240 of this Code.

Article 269J : Non-consensual transfer of assets . The one who, for profit and making use of some computer manipulation or similar artifice, achieve the non-consensual transfer of any asset in detriment to a third party, provided that the conduct does not constitute a crime punishable by a more serious penalty, it will incur in prison terms of forty-eight (48) to one hundred twenty (120) months and a fine of 200 to 1,500 salaries current monthly legal minimums. The same sanction will be imposed on whoever manufactures, introduces, possesses or provide computer program intended for the commission of the crime described in the previous paragraph, or of a scam.

If the conduct described in the two previous paragraphs has an amount greater than 200 legal minimum wages monthly, the penalty indicated there will be increased by half.

ARTICLE 2. Add to article 58 of the Penal Code with a number 17, as follows :

Article 58 . Circumstances of greater punishment . They are circumstances of greater punishment, as long as there are no been foreseen in another way:

(...)

17. When, in order to carry out the punishable behaviors, computer, electronic or telematics.

ARTICLE 3. Add to article 37 of the Code of Criminal Procedure with a number 6, as follows :

Article 37 . Of the Municipal Judges . Municipal criminal judges know:

(...)

6. Of the crimes contained in title VII Bis.

ARTICLE 4. This law governs from its promulgation and repeals all provisions that may be applicable to it. contrary, especially the text of article 195 of the Penal Code.

The President of the honorable Senate of the Republic,

HERNÁN ANDRADE SERRANO.

The Secretary General of the honorable Senate of the Republic,

EMILIO RAMÓN OTERO DAJUD.

The Speaker of the honorable House of Representatives,

GERMÁN MALE COTRINO.

The Secretary General of the honorable House of Representatives,

JESÚS ALFONSO RODRÍGUEZ CAMARGO.

REPUBLIC OF COLOMBIA - NATIONAL GOVERNMENT

Be published and enforced.

Given in Bogotá, DC, on January 5, 2009.

ÁLVARO URIBE VÉLEZ

The Minister of the Interior and Justice,

FABIO VALENCIA COSSIO.

<Consult rule in SUIN JURISCOL: <http://www.suin.gov.co/viewDocument.asp?ruta=Leyes/1676699>>