

**COMPUTER TAMPERING THIRD DEGREE  
(Previous Conviction)  
Penal Law § 156.25(2)  
(Committed on or after Nov. 1, 2006)  
No charge prepared**

No charge has been prepared for this offense, which designates the crimes of Computer Tampering, Unauthorized Use of a Computer, Computer Trespass, Unlawful Duplication of Computer Related Material, Criminal Possession of Computer Related Material, and Theft of Services under Penal Law Section 165.15(11) an E felony when the defendant “has previously been convicted of any crime under this article or subdivision eleven of section 165.15 of this chapter.”

The aggravating element must be charged in a special information. The defendant must be arraigned upon the special information alleging the previous conviction in accordance with the procedure set forth in CPL §200.60(3). If, upon such arraignment, the defendant admits the previous conviction, the court must not make any reference to it in the definition of the offense or in listing the elements of the offense. But if the defendant denies the previous conviction or remains mute, the court must add the element of the previous conviction to the definition of the offense and the list of elements. *See, People v. Cooper*, 78 N.Y.2d 476 (1991).

For the basic charge, see appropriate charges under the specified sections.