

Bill No. CS for CS for SB 144

Amendment No. Barcode 313124

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Silver moved the following amendment:

Senate Amendment (with title amendment)

On page 10, between lines 4 and 5,

insert:

Section 5. Section 815.03, Florida Statutes, is amended to read:

815.03 Definitions.--As used in this chapter, unless the context clearly indicates otherwise:

(1) "Access" means to approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, computer system, or computer network~~"Intellectual property" means data, including programs.~~

~~(2) "Computer program" means an ordered set of data representing coded instructions or statements that when executed by a computer cause the computer to process data.~~

~~(2)~~(3) "Computer" means an internally programmed, automatic device that performs data processing.

(3) "Computer contaminant" means any set of computer

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1 instructions designed to modify, damage, destroy, record, or
2 transmit information within a computer, computer system, or
3 computer network without the intent or permission of the owner
4 of the information. The term includes, but is not limited to,
5 a group of computer instructions commonly called viruses or
6 worms which are self-replicating or self-propagating and which
7 are designed to contaminate other computer programs or
8 computer data; consume computer resources; modify, destroy,
9 record, or transmit data; or in some other fashion usurp the
10 normal operation of the computer, computer system, or computer
11 network.

12 (4) "Computer network" means any system that provides
13 communications between one or more computer systems and its
14 input or output devices, including, but not limited to,
15 display terminals and printers that are connected by
16 telecommunication facilities.

17 (5) "Computer program or computer software" means a
18 set of instructions or statements and related data which, when
19 executed in actual or modified form, cause a computer,
20 computer system, or computer network to perform specified
21 functions.

22 (6) "Computer services" include, but are not limited
23 to, computer time; data processing or storage functions; or
24 other uses of a computer, computer system, or computer
25 network.

26 (7) "Computer system" means a device or collection of
27 devices, including support devices, one or more of which
28 contain computer programs, electronic instructions, or input
29 data and output data, and which perform functions, including,
30 but not limited to, logic, arithmetic, data storage,
31 retrieval, communication, or control. The term does not

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1 include calculators that are not programmable and that are not
2 capable of being used in conjunction with external files.

3 (8) "Data" means a representation of information,
4 knowledge, facts, concepts, computer software, computer
5 programs, or instructions. Data may be in any form, in storage
6 media or stored in the memory of the computer, or in transit
7 or presented on a display device.

8 ~~(4) "Computer software" means a set of computer~~
9 ~~programs, procedures, and associated documentation concerned~~
10 ~~with the operation of a computer system.~~

11 ~~(5) "Computer system" means a set of related,~~
12 ~~connected or unconnected, computer equipment, devices, or~~
13 ~~computer software.~~

14 ~~(6) "Computer network" means a set of related,~~
15 ~~remotely connected devices and communication facilities~~
16 ~~including more than one computer system with capability to~~
17 ~~transmit data among them through communication facilities.~~

18 ~~(7) "Computer system services" means providing a~~
19 ~~computer system or computer network to perform useful work.~~

20 (9) "Financial instrument" means any check, draft,
21 money order, certificate of deposit, letter of credit, bill of
22 exchange, credit card, or marketable security.

23 (10) "Intellectual property" means data, including
24 programs.

25 (11)(8) "Property" means anything of value as defined
26 in s. 812.011 and includes, but is not limited to, financial
27 instruments, information, including electronically produced
28 data and computer software and programs in either
29 machine-readable or human-readable form, and any other
30 tangible or intangible item of value.

31 ~~(9) "Financial instrument" means any check, draft,~~

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1 ~~money order, certificate of deposit, letter of credit, bill of~~
2 ~~exchange, credit card, or marketable security.~~

3 ~~(10) "Access" means to approach, instruct, communicate~~
4 ~~with, store data in, retrieve data from, or otherwise make use~~
5 ~~of any resources of a computer, computer system, or computer~~
6 ~~network.~~

7 Section 6. Section 815.05, Florida Statutes, is
8 repealed.

9 Section 7. Section 815.06, Florida Statutes, is
10 amended to read:

11 815.06 Offenses against computer users.--

12 (1) Whoever willfully, knowingly, and without
13 authorization:

14 (a) Accesses or causes to be accessed any computer,
15 computer system, or computer network; or whoever willfully,
16 knowingly, and without authorization

17 (b) Disrupts or denies or causes the denial of
18 computer system services to an authorized user of such
19 computer system services, which, in whole or part, is owned
20 by, under contract to, or operated for, on behalf of, or in
21 conjunction with another;

22
23 commits an offense against computer users.

24 (c) Destroys, takes, injures, or damages equipment or
25 supplies used or intended to be used in a computer, computer
26 system or computer network;

27 (d) Destroys, injures, or damages any computer,
28 computer system, or computer network; or

29 (e) Introduces any computer contaminant into any
30 computer, computer system, or computer network;

31 (2)(a) Except as provided in paragraphs (b) and (c),

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1 whoever violates subsection (1) commits a felony of the third
2 degree, punishable as provided in s. 775.082, s. 775.083, or
3 s. 775.084.

4 (b) Whoever violates subsection (1) and:

5 1. Damages a computer, computer equipment, computer
6 supplies, a computer system, or a computer network, and the
7 monetary damage or loss incurred as a result of the violation
8 is \$5,000 or greater;

9 2. Commits the offense for the purpose of devising or
10 executing any scheme or artifice to defraud or obtain
11 property; or

12 3. Interrupts or impairs a governmental operation or
13 public communication, transportation, or supply of water, gas,
14 or other public service.

15
16 commits a felony of the second degree, punishable as provided
17 in s. 775.082, s. 775.083, or s. 775.084.

18 (c) Whoever violates subsection (1) and the violation
19 endangers human life commits a felony of the first degree,
20 punishable as provided in s. 775.082, s. 775.083, or s.
21 775.084.

22 (3) Whoever willfully, knowingly, and without
23 authorization modifies equipment or supplies used or intended
24 to be used in a computer, computer system, or computer network
25 commits a misdemeanor of the first degree, punishable as
26 provided in s. 775.082, s. 775.083, or s. 775.084.

27 (4) (a) In addition to any other civil remedy
28 available, the owner or lessee of the computer, computer
29 system, computer network, computer program, computer
30 equipment, computer supplies, or computer data may bring a
31 civil action against any person convicted under this section

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1 for compensatory damages.

2 (b) In any action brought under this subsection, the
3 court may award reasonable attorney's fees to the prevailing
4 party.

5 (5) Any computer, computer system, computer network,
6 computer software, or computer data owned by a defendant which
7 is used during the commission of any violation of this section
8 or any computer owned by the defendant which is used as a
9 repository for the storage of software or data obtained in
10 violation of this section is subject to forfeiture as provided
11 under sections 932.701-932.704, Florida Statutes.

12 (6) This section does not apply to any person who
13 accesses his or her employer's computer system, computer
14 network, computer program, or computer data when acting within
15 the scope of his or her lawful employment.

16 (7) For purposes of bringing a civil or criminal
17 action under this section, a person who causes, by any means,
18 the access to a computer, computer system, or computer network
19 in one jurisdiction from another jurisdiction is deemed to
20 have personally accessed the computer, computer system, or
21 computer network in both jurisdictions.

22 ~~(2)(a) Except as provided in this subsection, an~~
23 ~~offense against computer users is a felony of the third~~
24 ~~degree, punishable as provided in s. 775.082, s. 775.083, or~~
25 ~~s. 775.084.~~

26 ~~(b) If the offense is committed for the purposes of~~
27 ~~devising or executing any scheme or artifice to defraud or to~~
28 ~~obtain any property, then the offender is guilty of a felony~~
29 ~~of the second degree, punishable as provided in s. 775.082, s.~~
30 ~~775.083, or s. 775.084.~~

31 Section 8. Subsection (1) of section 16.56, Florida

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1 Statutes, is amended to read:

2 16.56 Office of Statewide Prosecution.--

3 (1) There is created in the Department of Legal
4 Affairs an Office of Statewide Prosecution. The office shall
5 be a separate "budget entity" as that term is defined in
6 chapter 216. The office may:

7 (a) Investigate and prosecute the offenses of:

8 1. Bribery, burglary, criminal usury, extortion,
9 gambling, kidnapping, larceny, murder, prostitution, perjury,
10 robbery, carjacking, and home-invasion robbery;

11 2. Any crime involving narcotic or other dangerous
12 drugs;

13 3. Any violation of the provisions of the Florida RICO
14 (Racketeer Influenced and Corrupt Organization) Act, including
15 any offense listed in the definition of racketeering activity
16 in s. 895.02(1)(a), providing such listed offense is
17 investigated in connection with a violation of s. 895.03 and
18 is charged in a separate count of an information or indictment
19 containing a count charging a violation of s. 895.03, the
20 prosecution of which listed offense may continue independently
21 if the prosecution of the violation of s. 895.03 is terminated
22 for any reason;

23 4. Any violation of the provisions of the Florida
24 Anti-Fencing Act;

25 5. Any violation of the provisions of the Florida
26 Antitrust Act of 1980, as amended;

27 6. Any crime involving, or resulting in, fraud or
28 deceit upon any person; ~~or~~

29 7. Any violation of s. 847.0135, relating to computer
30 pornography and child exploitation prevention, or any offense
31 related to a violation of s. 847.0135; or~~7~~

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1 activity in s. 895.02(1)(a), providing such listed offense is
2 investigated in connection with a violation of s. 895.03 and
3 is charged in a separate count of an information or indictment
4 containing a count charging a violation of s. 895.03, the
5 prosecution of which listed offense may continue independently
6 if the prosecution of the violation of s. 895.03 is terminated
7 for any reason;

8 (4) Any violation of the provisions of the Florida
9 Anti-Fencing Act;

10 (5) Any violation of the provisions of the Florida
11 Antitrust Act of 1980, as amended;

12 (6) Any violation of the provision of chapter 815;

13 (7)~~(6)~~ Any crime involving, or resulting in, fraud or
14 deceit upon any person;

15
16 or any attempt, solicitation, or conspiracy to commit any
17 violation of the crimes specifically enumerated above, when
18 any such offense is occurring, or has occurred, in two or more
19 judicial circuits as part of a related transaction or when any
20 such offense is connected with an organized criminal
21 conspiracy affecting two or more judicial circuits. The
22 statewide grand jury may return indictments and presentments
23 irrespective of the county or judicial circuit where the
24 offense is committed or triable. If an indictment is
25 returned, it shall be certified and transferred for trial to
26 the county where the offense was committed. The powers and
27 duties of, and law applicable to, county grand juries shall
28 apply to a statewide grand jury except when such powers,
29 duties, and law are inconsistent with the provisions of ss.
30 905.31-905.40.

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1 (Redesignate subsequent sections.)

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4 ===== T I T L E A M E N D M E N T =====

5 And the title is amended as follows:

6 On page 1, line 16, delete

7

8 insert:

9 amending s. 815.03, F.S.; providing
10 definitions; repealing s. 815.05, F.S.,
11 relating to definitions; amending s. 815.06,
12 F.S.; creating offenses against computer
13 equipment or supplies, computers, computer
14 system, and computer networks; providing
15 penalties; amending s. 16.56, F.S., adding
16 violations of computer and computer-related
17 crimes under chapter 815, F.S., expanding
18 prosecutorial jurisdiction of the Office of
19 Statewide Prosecution; amending s. 905.34,
20 F.S.; expanding subject matter jurisdiction of
21 the statewide grand jury to include violations
22 of computer and computer-related crimes under
23 chapter 815, F.S.;

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