

Bill No. CS for CS for SB 144

Amendment No. Barcode 574872

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 Senator Silver moved the following amendment to amendment
 12 (044792):

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 14 **Senate Amendment (with title amendment)**

15 On page 9, between lines 17 and 18,
 16
 17 insert:

18 Section 9. Section 815.03, Florida Statutes, is
 19 amended to read:

20 815.03 Definitions.--As used in this chapter, unless
 21 the context clearly indicates otherwise:

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

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

30 (2)~~(3)~~ "Computer" means an internally programmed,
 31 automatic device that performs data processing.

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

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

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

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

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

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1 retrieval, communication, or control. The term does not
2 include calculators that are not programmable and that are not
3 capable of being used in conjunction with external files.

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

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

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

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

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

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

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

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

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1 ~~(9) "Financial instrument" means any check, draft,~~
2 ~~money order, certificate of deposit, letter of credit, bill of~~
3 ~~exchange, credit card, or marketable security.~~

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

8 Section 10. Section 815.05, Florida Statutes, is
9 repealed.

10 Section 11. Section 815.06, Florida Statutes, is
11 amended to read:

12 815.06 Offenses against computer users.--

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

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

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

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

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

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

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31 commits an offense against computer users.

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

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

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

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

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

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

19 (c) Whoever violates subsection (1) and the violation
20 endangers human life commits a felony of the first degree,
21 punishable as provided in s. 775.082, s. 775.083, or s.
22 775.084.

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

28 (4) (a) In addition to any other civil remedy
29 available, the owner or lessee of the computer, computer
30 system, computer network, computer program, computer
31 equipment, computer supplies, or computer data may bring a

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1 civil action against any person convicted under this section
2 for compensatory damages.

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

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

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

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

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

27 ~~(b) If the offense is committed for the purposes of~~
28 ~~devising or executing any scheme or artifice to defraud or to~~
29 ~~obtain any property, then the offender is guilty of a felony~~
30 ~~of the second degree, punishable as provided in s. 775.082, s.~~
31 ~~775.083, or s. 775.084.~~

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1 Section 12. Subsection (1) of section 16.56, Florida
2 Statutes, is amended to read:

3 16.56 Office of Statewide Prosecution.--

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

8 (a) Investigate and prosecute the offenses of:

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

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

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

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

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

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

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

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1 related to a violation of s. 847.0135; or;
2 8. Any violation of the provision of chapter 815;
3
4 or any attempt, solicitation, or conspiracy to commit any of
5 the crimes specifically enumerated above. The office shall
6 have such power only when any such offense is occurring, or
7 has occurred, in two or more judicial circuits as part of a
8 related transaction, or when any such offense is connected
9 with an organized criminal conspiracy affecting two or more
10 judicial circuits.

11 (b) Upon request, cooperate with and assist state
12 attorneys and state and local law enforcement officials in
13 their efforts against organized crimes.

14 (c) Request and receive from any department, division,
15 board, bureau, commission, or other agency of the state, or of
16 any political subdivision thereof, cooperation and assistance
17 in the performance of its duties.

18 Section 13. Section 905.34, Florida Statutes, is
19 amended to read:

20 905.34 Powers and duties; law applicable.--The
21 jurisdiction of a statewide grand jury impaneled under this
22 chapter shall extend throughout the state. The subject matter
23 jurisdiction of the statewide grand jury shall be limited to
24 the offenses of:

25 (1) Bribery, burglary, carjacking, home-invasion
26 robbery, criminal usury, extortion, gambling, kidnapping,
27 larceny, murder, prostitution, perjury, and robbery;

28 (2) Crimes involving narcotic or other dangerous
29 drugs;

30 (3) Any violation of the provisions of the Florida
31 RICO (Racketeer Influenced and Corrupt Organization) Act,

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

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

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

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

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

16
17 or any attempt, solicitation, or conspiracy to commit any
18 violation of the crimes specifically enumerated above, when
19 any such offense is occurring, or has occurred, in two or more
20 judicial circuits as part of a related transaction or when any
21 such offense is connected with an organized criminal
22 conspiracy affecting two or more judicial circuits. The
23 statewide grand jury may return indictments and presentments
24 irrespective of the county or judicial circuit where the
25 offense is committed or triable. If an indictment is
26 returned, it shall be certified and transferred for trial to
27 the county where the offense was committed. The powers and
28 duties of, and law applicable to, county grand juries shall
29 apply to a statewide grand jury except when such powers,
30 duties, and law are inconsistent with the provisions of ss.
31 905.31-905.40.

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(Redesignate subsequent sections.)

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

And the title is amended as follows:

On page 10, line 20, after "severability;"

insert:

amending s. 815.03, F.S.; providing definitions; repealing s. 815.05, F.S., relating to definitions; amending s. 815.06, F.S.; creating offenses against computer equipment or supplies, computers, computer system, and computer networks; providing penalties; amending s. 16.56, F.S., adding violations of computer and computer-related crimes under chapter 815, F.S., expanding prosecutorial jurisdiction of the Office of Statewide Prosecution; amending s. 905.34, F.S.; expanding subject matter jurisdiction of the statewide grand jury to include violations of computer and computer-related crimes under chapter 815, F.S.;