

Bill No. CS for CS for SB 144

Amendment No.      Barcode 633084

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

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.

Bill No. CS for CS for SB 144

Amendment No. \_\_\_\_ Barcode 633084

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,

Bill No. CS for CS for SB 144

Amendment No. \_\_\_\_ Barcode 633084

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.

Bill No. CS for CS for SB 144

Amendment No. \_\_\_\_ Barcode 633084

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.

Bill No. CS for CS for SB 144

Amendment No. \_\_\_\_ Barcode 633084

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, s. 775.083, or s. 775.084.

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

Bill No. CS for CS for SB 144

Amendment No. \_\_\_\_ Barcode 633084

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.~~

Bill No. CS for CS for SB 144

Amendment No. \_\_\_\_ Barcode 633084

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

Bill No. CS for CS for SB 144

Amendment No. \_\_\_\_ Barcode 633084

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,



Bill No. CS for CS for SB 144

Amendment No. \_\_\_\_ Barcode 633084

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.

Bill No. CS for CS for SB 144  
Amendment No. \_\_\_\_ Barcode 633084

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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.;