

By Senator Silver

38-36B-01

1 A bill to be entitled
2 An act relating to computer crimes; providing a
3 short title; providing legislative intent and
4 findings; providing definitions; prohibiting
5 specified activities that, if performed
6 knowingly and without permission, constitute
7 the offense of computer interference;
8 specifying penalties to be imposed for the
9 offense of computer interference; authorizing
10 an action for compensatory damages against a
11 person convicted of the offense of computer
12 interference; providing that certain actions of
13 a minor be imputed to the minor's parent or
14 legal guardian for purposes of obtaining a
15 civil remedy; providing for an award of
16 attorney's fees to the prevailing party;
17 requiring colleges and universities to include
18 computer-related crime as a violation of rules
19 governing student conduct; providing for
20 disciplinary sanctions; providing that property
21 used in connection with an offense of computer
22 interference is subject to forfeiture under the
23 Florida Contraband Forfeiture Act; providing
24 circumstances under which a person may be
25 convicted under the act in multiple
26 jurisdictions; providing an effective date.

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28 Be It Enacted by the Legislature of the State of Florida:

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30 Section 1. Protection against computer crimes.--
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1 (1) SHORT TITLE.--This section may be cited as the
2 "Computer Crimes Control Act."

3 (2) LEGISLATIVE INTENT AND FINDINGS.--

4 (a) It is the intent of the Legislature to expand the
5 protection afforded to individuals, businesses, and
6 governmental agencies from tampering, interference, damage,
7 and unauthorized access to lawfully created computer data and
8 computer systems.

9 (b) The Legislature finds that the proliferation of
10 computer technology has resulted in a concomitant
11 proliferation of computer crime and other forms of
12 unauthorized access to computers, computer systems, and
13 computer data.

14 (c) The Legislature finds that it is necessary to
15 protect the integrity of all types and forms of lawfully
16 created computers, computer systems, and computer data in
17 order to protect the privacy of individuals and to protect the
18 well-being of financial institutions, business concerns,
19 governmental agencies, and others within this state who
20 lawfully use computers, computer systems, and data.

21 (3) DEFINITIONS.--As used in this section, the term:

22 (a) "Access" means to gain entry to, instruct, or
23 communicate with the logical, arithmetical, or memory function
24 resources of a computer, computer system, or computer network.

25 (b) "Computer contaminant" means any set of computer
26 instructions designed to modify, damage, destroy, record, or
27 transmit information within a computer, computer system, or
28 computer network without the intent or permission of the owner
29 of the information. The term includes, but is not limited to,
30 a group of computer instructions commonly called viruses or
31 worms which are self-replicating or self-propagating and which

1 are designed to contaminate other computer programs or
2 computer data; consume computer resources; modify, destroy,
3 record, or transmit data; or in some other fashion usurp the
4 normal operation of the computer, computer system, or computer
5 network.

6 (c) "Computer network" means any system that provides
7 communications between one or more computer systems and its
8 input or output devices, including, but not limited to,
9 display terminals and printers that are connected by
10 telecommunication facilities.

11 (d) "Computer program or computer software" means a
12 set of instructions or statements and related data which, when
13 executed in actual or modified form, cause a computer,
14 computer system, or computer network to perform specified
15 functions.

16 (e) "Computer services" include, but are not limited
17 to, computer time; data processing or storage functions; or
18 other uses of a computer, computer system, or computer
19 network.

20 (f) "Computer system" means a device or collection of
21 devices, including support devices, one or more of which
22 contain computer programs, electronic instructions, or input
23 data and output data, and which perform functions, including,
24 but not limited to, logic, arithmetic, data storage,
25 retrieval, communication, or control. The term does not
26 include calculators that are not programmable and that are not
27 capable of being used in conjunction with external files.

28 (g) "Data" means a representation of information,
29 knowledge, facts, concepts, computer software, computer
30 programs, or instructions. Data may be in any form, in storage
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1 media or stored in the memory of the computer, or in transit
2 or presented on a display device.

3 (h) "Injury" means any alteration, deletion, damage,
4 or destruction of a computer system, computer network,
5 computer program, or data which is created by the access.

6 (i) "Supporting documentation" includes, but is not
7 limited to, all information, in any form, which pertains to
8 the design, construction, classification, implementation, use,
9 or modification of a computer, computer system, computer
10 network, computer program, or computer software, which
11 information is not generally available to the public and which
12 is necessary for the operation of a computer, computer system,
13 computer network, computer program, or computer software.

14 (j) "Victim expenditure" means any costs that are
15 reasonably and necessarily incurred by the owner or lessee to
16 verify that a computer system, a computer network, a computer
17 program, or computer data was or was not altered, deleted,
18 damaged, or destroyed by the access.

19 (4) COMPUTER INTERFERENCE.--A person commits the
20 offense of computer interference if he or she:

21 (a) Knowingly accesses and without permission alters,
22 damages, deletes, destroys, or otherwise uses any data,
23 computer, computer system, or computer network in order to:

24 1. Devise or execute any scheme or artifice to
25 defraud, deceive, or extort; or

26 2. Wrongfully control or obtain money, property, or
27 data.

28 (b) Knowingly accesses and without permission takes,
29 copies, or makes use of any data from a computer, computer
30 system, or computer network or takes or copies any supporting
31 documentation, regardless of whether the data or documentation

1 exists or resides internally or externally to a computer,
2 computer system, or computer network.

3 (c) Knowingly accesses and without permission adds,
4 alters, damages, deletes, or destroys any data, computer
5 software, or computer programs that reside or exist internally
6 or externally to a computer, computer system, or computer
7 network.

8 (d) Knowingly and without permission disrupts or
9 causes the disruption of computer services or denies or causes
10 the denial of computer services to an authorized user of a
11 computer, computer system, or computer network.

12 (e) Knowingly and without permission provides or
13 assists in providing a means of accessing a computer, computer
14 system, or computer network in violation of this section.

15 (f) Knowingly and without permission accesses or
16 causes to be accessed any computer, computer system, or
17 computer network.

18 (g) Knowingly introduces any computer contaminant into
19 any computer, computer system, or computer network.

20 (5) PENALTIES.--

21 (a) Any person who violates paragraph (4)(a),
22 paragraph (4)(b), paragraph (4)(c), or paragraph (4)(d)
23 commits a misdemeanor of the first degree, punishable as
24 provided in section 775.082 or section 775.083, Florida
25 Statutes.

26 (b) Any person who violates paragraph (4)(e),
27 paragraph (4)(f), or paragraph (4)(g) commits:

28 1. A felony of the second degree, punishable as
29 provided in section 775.082, section 775.083, or section
30 775.084, Florida Statutes, if:

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1 a. The violation results in a victim expenditure that
2 is less than or equal to \$5,000.

3 b. The violation is a second or subsequent violation.

4 2. A felony of the first degree, punishable as
5 provided in section 775.082, section 775.083, or section
6 775.084, Florida Statutes, if the violation results in a
7 victim expenditure of more than \$5,000.

8 (6) CIVIL ACTION; ATTORNEY'S FEES; STUDENT
9 SANCTIONS.--

10 (a) In addition to any other civil remedy available,
11 the owner or lessee of the computer, computer system, computer
12 network, computer program, or computer data may bring a civil
13 action against any person convicted under this section for
14 compensatory damages, including any expenditure reasonably and
15 necessarily incurred by the owner or lessee to verify that a
16 computer system, a computer network, a computer program, or
17 computer data was or was not altered, damaged, or deleted as a
18 result of the unlawful access. For purposes of actions
19 authorized by this paragraph, the conduct of an unemancipated
20 minor shall be imputed to the parent or legal guardian having
21 control or custody of the minor if the parent or legal
22 guardian knew or should have known of the minor's conduct.

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

26 (c) Each community college, state university, or
27 academic institution accredited in this state must include
28 computer-related crimes as a specific violation of the rules
29 governing student conduct, which violation may subject a
30 student to disciplinary sanctions that may include dismissal
31 from the academic institution.

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

9 (8) NONAPPLICABILITY.--Subsection (4) does not apply
10 to any person who accesses his or her employer's computer
11 system, computer network, computer program, or computer data
12 when acting within the scope of his or her lawful employment.

13 (9) APPLICABILITY TO REMOTE ACCESS.--For purposes of
14 bringing a civil or criminal action under this section, a
15 person who causes, by any means, the access to a computer,
16 computer system, or computer network in one jurisdiction from
17 another jurisdiction is deemed to have personally accessed the
18 computer, computer system, or computer network in both
19 jurisdictions.

20 Section 2. This act shall take effect October 1, 2001.

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23 SENATE SUMMARY

24 Creates the "Computer Crimes Control Act." Prohibits
25 unlawful tampering with, interference to, damage to, or
26 unauthorized access to computers, computer systems, and
27 computer data. Specifies the penalties to be imposed for
28 the offense of computer interference. Provides that a
29 person convicted of committing computer interference is
30 subject to civil damages. Provides for attorney's fees.
31 Requires colleges and universities to include
 computer-related crime as a violation of rules governing
 student conduct. Provides for the forfeiture of property
 used in connection with an offense of computer
 interference. Provides that a person may be convicted of
 the offense of computer interference in multiple
 jurisdictions. (See bill for details.)