

By the Committee on Criminal Justice and Senator Silver

307-1701-01

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 for an award of

13 attorney's fees to the prevailing party;

14 requiring colleges and universities to include

15 computer-related crime as a violation of rules

16 governing student conduct; providing for

17 disciplinary sanctions; providing that property

18 used in connection with an offense of computer

19 interference is subject to forfeiture under the

20 Florida Contraband Forfeiture Act; providing

21 circumstances under which a person may be

22 convicted under the act in multiple

23 jurisdictions; providing an effective date.

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

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27 Section 1. Protection against computer crimes.--

28 (1) SHORT TITLE.--This section may be cited as the

29 "Computer Crimes Control Act."

30 (2) LEGISLATIVE INTENT AND FINDINGS.--

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

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

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

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

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

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

1 normal operation of the computer, computer system, or computer
2 network.

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

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

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

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

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

30 (h) "Victim expenditure" means any costs that are
31 reasonably and necessarily incurred by the owner or lessee to

1 verify that a computer system, a computer network, a computer
2 program, or computer data was or was not altered, deleted,
3 damaged, or destroyed by the access.

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

6 (a) Knowingly and without permission disrupts or
7 causes the disruption of computer services or denies or causes
8 the denial of computer services to an authorized user of a
9 computer, computer system, or computer network; or

10 (b) Knowingly introduces any computer contaminant into
11 any computer, computer system, or computer network.

12 (5) PENALTIES.--Any person who violates this section
13 commits:

14 (a) A felony of the second degree, punishable as
15 provided in section 775.082, section 775.083, or section
16 775.084, Florida Statutes, if the violation results in a
17 victim expenditure that is less than or equal to \$5,000.

18 (b) A felony of the first degree, punishable as
19 provided in section 775.082, section 775.083, or section
20 775.084, Florida Statutes, if the violation results in a
21 victim expenditure of more than \$5,000.

22 (6) CIVIL ACTION; ATTORNEY'S FEES; STUDENT
23 SANCTIONS.--

24 (a) In addition to any other civil remedy available,
25 the owner or lessee of the computer, computer system, computer
26 network, computer program, or computer data may bring a civil
27 action against any person convicted under this section for
28 compensatory damages, including any expenditure reasonably and
29 necessarily incurred by the owner or lessee to verify that a
30 computer system, a computer network, a computer program, or
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1 computer data was or was not altered, damaged, or deleted as a
2 result of the unlawful access.

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

6 (c) Each community college, state university, or
7 academic institution accredited in this state must include
8 computer-related crimes as a specific violation of the rules
9 governing student conduct, which violation may subject a
10 student to disciplinary sanctions that may include dismissal
11 from the academic institution.

12 (7) FORFEITURE OF PROPERTY.--Any computer, computer
13 system, computer network, computer software, or computer data
14 owned by a defendant which is used during the commission of
15 any violation of this section or any computer owned by the
16 defendant which is used as a repository for the storage of
17 software or data obtained in violation of this section is
18 subject to forfeiture as provided under sections
19 932.701-932.704, Florida Statutes.

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

24 (9) APPLICABILITY TO REMOTE ACCESS.--For purposes of
25 bringing a civil or criminal action under this section, a
26 person who causes, by any means, the access to a computer,
27 computer system, or computer network in one jurisdiction from
28 another jurisdiction is deemed to have personally accessed the
29 computer, computer system, or computer network in both
30 jurisdictions.

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

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 180

1. Provides the description of the offense of "computer interference" and describes that offense as either introduction of computer contaminants and viruses or disruption and denial of computer services. Provides that computer interference that causes the owner of the computer system to have to expend up to or equal to \$5,000 to determine the extent of damage be a second degree felony, and expenditures over \$5,000 constitutes a first degree felony.
2. Deletes the requirement that parents and guardians be held civilly liable for damages for the actions of their minor children for offenses constituting computer interference.
3. Deletes certain definitions no longer referenced in the language of the bill as amended.