

By the Committees on Judiciary, Criminal Justice and Senator Silver

308-1935-01

1 A bill to be entitled
2 An act relating to computer and
3 computer-related crimes; amending s. 815.03,
4 F.S.; providing definitions; repealing s.
5 815.05, F.S., which provides definitions;
6 amending s. 815.06, F.S.; prescribing offenses
7 against computer equipment or supplies,
8 computers, computer systems, and computer
9 networks; providing penalties; amending s.
10 16.56, F.S.; adding violations of computer and
11 computer-related crimes under ch. 815, F.S.;
12 expanding prosecutorial jurisdiction of the
13 Office of Statewide Prosecution; amending s.
14 905.34, F.S.; expanding subject-matter
15 jurisdiction of the statewide grand jury to
16 include violations of computer and
17 computer-related crimes under ch. 815, F.S.;
18 providing an effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Section 815.03, Florida Statutes, is
23 amended to read:

24 815.03 Definitions.--As used in this chapter, unless
25 the context clearly indicates otherwise:

26 (1) "Access" means to approach, instruct, communicate
27 with, store data in, retrieve data from, or otherwise make use
28 of any resources of a computer, computer system, or computer
29 network.

30 ~~(1) "Intellectual property" means data, including~~
31 ~~programs.~~

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

4 (2)(3) "Computer" means an internally programmed,
5 automatic device that performs data processing.

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

18 (4) "Computer network" means any system that provides
19 communications between one or more computer systems and its
20 input or output devices, including, but not limited to,
21 display terminals and printers that are connected by
22 telecommunication facilities.

23 (5) "Computer program or computer software" means a
24 set of instructions or statements and related data that, when
25 executed in actual or modified form, cause a computer,
26 computer system, or computer network to perform specified
27 functions.

28 (6) "Computer services" include, but are not limited
29 to, computer time; data processing or storage functions; or
30 other uses of a computer, computer system, or computer
31 network.

1 (7) "Computer system" means a device or collection of
2 devices, including support devices, one or more of which
3 contain computer programs, electronic instructions, or input
4 data and output data, and which perform functions, including,
5 but not limited to, logic, arithmetic, data storage,
6 retrieval, communication, or control. The term does not
7 include calculators that are not programmable and that are not
8 capable of being used in conjunction with external files.

9 (8) "Data" means a representation of information,
10 knowledge, facts, concepts, computer software, computer
11 programs, or instructions. Data may be in any form, in storage
12 media or stored in the memory of the computer, or in transit
13 or presented on a display device.

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

17 (10) "Intellectual property" means data, including
18 programs.

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

22 ~~(5) "Computer system" means a set of related,~~
23 ~~connected or unconnected, computer equipment, devices, or~~
24 ~~computer software.~~

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

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

31

1 (11)~~(8)~~ "Property" means anything of value as defined
2 in s. 812.011 and includes, but is not limited to, financial
3 instruments, information, including electronically produced
4 data and computer software and programs in either
5 machine-readable or human-readable form, and any other
6 tangible or intangible item of value.

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

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

14 Section 2. Section 815.05, Florida Statutes, is
15 repealed.

16 Section 3. Section 815.06, Florida Statutes, is
17 amended to read:

18 815.06 Offenses against computer users.--

19 (1) Whoever willfully, knowingly, and without
20 authorization:

21 (a) Accesses or causes to be accessed any computer,
22 computer system, or computer network;~~or whoever willfully,~~
23 ~~knowingly, and without authorization~~

24 (b) Disrupts or denies or causes the denial of
25 computer system services to an authorized user of such
26 computer system services that,~~which,~~ in whole or part, are ~~is~~
27 owned by, under contract to, or operated for, on behalf of, or
28 in conjunction with another;

29 (c) Destroys, takes, injures, or damages equipment or
30 supplies used or intended to be used in a computer, computer
31 system, or computer network;

1 (d) Destroys, injures, or damages any computer,
2 computer system, or computer network; or

3 (e) Introduces any computer contaminant into any
4 computer, computer system, or computer network

5
6 commits an offense against computer users.

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

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

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

16 2. Commits the offense for the purpose of devising or
17 executing any scheme or artifice to defraud or obtain
18 property; or

19 3. Interrupts or impairs a governmental operation or
20 public communication, transportation, or supply of water, gas,
21 or other public service

22
23 commits a felony of the second degree, punishable as provided
24 in s. 775.082, s. 775.083, or s. 775.084.

25 (c) Whoever violates subsection (1) and the violation
26 endangers human life commits a felony of the first degree,
27 punishable as provided in s. 775.082, s. 775.083, or s.
28 775.084.

29 (3) Whoever willfully, knowingly, and without
30 authorization modifies equipment or supplies used or intended
31 to be used in a computer, computer system, or computer network

1 commits a misdemeanor of the first degree, punishable as
2 provided in s. 775.082, s. 775.083, or s. 775.084.

3 (4)(a) In addition to any other civil remedy
4 available, the owner or lessee of the computer, computer
5 system, computer network, computer program, computer
6 equipment, computer supplies, or computer data may bring a
7 civil action against any person convicted under this section
8 for compensatory damages.

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

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

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

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

29 ~~(2)(a) Except as provided in this subsection, an~~
30 ~~offense against computer users is a felony of the third~~
31

1 ~~degree, punishable as provided in s. 775.082, s. 775.083, or~~
2 ~~s. 775.084.~~

3 ~~(b) If the offense is committed for the purposes of~~
4 ~~devising or executing any scheme or artifice to defraud or to~~
5 ~~obtain any property, then the offender is guilty of a felony~~
6 ~~of the second degree, punishable as provided in s. 775.082, s.~~
7 ~~775.083, or s. 775.084.~~

8 Section 4. Subsection (1) of section 16.56, Florida
9 Statutes, is amended to read:

10 16.56 Office of Statewide Prosecution.--

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

15 (a) Investigate and prosecute the offenses of:

16 1. Bribery, burglary, criminal usury, extortion,
17 gambling, kidnapping, larceny, murder, prostitution, perjury,
18 robbery, carjacking, and home-invasion robbery;

19 2. Any crime involving narcotic or other dangerous
20 drugs;

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

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1 4. Any violation of the provisions of the Florida
2 Anti-Fencing Act;

3 5. Any violation of the provisions of the Florida
4 Antitrust Act of 1980, as amended;

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

7 7. Any violation of s. 847.0135, relating to computer
8 pornography and child exploitation prevention, or any offense
9 related to a violation of s. 847.0135; or

10 8. Any violation of the provisions of chapter 815,

11
12 or any attempt, solicitation, or conspiracy to commit any of
13 the crimes specifically enumerated above. The office shall
14 have such power only when any such offense is occurring, or
15 has occurred, in two or more judicial circuits as part of a
16 related transaction, or when any such offense is connected
17 with an organized criminal conspiracy affecting two or more
18 judicial circuits.

19 (b) Upon request, cooperate with and assist state
20 attorneys and state and local law enforcement officials in
21 their efforts against organized crimes.

22 (c) Request and receive from any department, division,
23 board, bureau, commission, or other agency of the state, or of
24 any political subdivision thereof, cooperation and assistance
25 in the performance of its duties.

26 Section 5. Section 905.34, Florida Statutes, is
27 amended to read:

28 905.34 Powers and duties; law applicable.--The
29 jurisdiction of a statewide grand jury impaneled under this
30 chapter shall extend throughout the state. The subject matter
31

1 jurisdiction of the statewide grand jury shall be limited to
2 the offenses of:

3 (1) Bribery, burglary, carjacking, home-invasion
4 robbery, criminal usury, extortion, gambling, kidnapping,
5 larceny, murder, prostitution, perjury, and robbery;

6 (2) Crimes involving narcotic or other dangerous
7 drugs;

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

18 (4) Any violation of the provisions of the Florida
19 Anti-Fencing Act;

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

22 (6) Any violation of the provisions of chapter 815;

23 (7)~~(6)~~ Any crime involving, or resulting in, fraud or
24 deceit upon any person;

25
26 or any attempt, solicitation, or conspiracy to commit any
27 violation of the crimes specifically enumerated above, when
28 any such offense is occurring, or has occurred, in two or more
29 judicial circuits as part of a related transaction or when any
30 such offense is connected with an organized criminal
31 conspiracy affecting two or more judicial circuits. The

1 statewide grand jury may return indictments and presentments
2 irrespective of the county or judicial circuit where the
3 offense is committed or triable. If an indictment is
4 returned, it shall be certified and transferred for trial to
5 the county where the offense was committed. The powers and
6 duties of, and law applicable to, county grand juries shall
7 apply to a statewide grand jury except when such powers,
8 duties, and law are inconsistent with the provisions of ss.
9 905.31-905.40.

10 Section 6. This act shall take effect July 1, 2001.

11
12 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
13 COMMITTEE SUBSTITUTE FOR
14 CS/SB 180

15 Creates or revises several categories of felony and
16 misdemeanor offenses associated with the destruction or
17 interference with computers, computer systems or computer
18 networks, including the introduction of computer viruses under
19 chapter 815, F.S., related to computer and computer-related
20 crimes;

21 Provides a civil cause of action under chapter 815, F.S., to
22 the owner or lessee of computers, computer systems, or
23 computer networks or any component thereof for recovery of
24 compensable damages and provides for recovery of attorney's
25 fees to the prevailing party;

26 Requires forfeiture of property in association with the
27 commission of computer crimes;

28 Expands the jurisdictional purview of the Office of Statewide
29 Prosecution to include computer crimes violations under
30 chapter 815, F.S.; and

31 Expands the subject-matter jurisdiction of statewide grand
jury to include inquiries and return indictments for computer
and computer-related crimes under chapter 815, F.S.