

Bill No. SB 540, 1st Eng.

Amendment No. Barcode 110390

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| <u>Senate</u> | CHAMBER ACTION | <u>House</u> |
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11 Senator Silver moved the following amendment:

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

14 On page 5, between lines 24 and 25,

15
16 insert:

17 Section 3. Protection against computer crimes.--

18 (1) SHORT TITLE.--This section may be cited as the
19 "Computer Crimes Control Act."

20 (2) LEGISLATIVE INTENT AND FINDINGS.--

21 (a) It is the intent of the Legislature to expand the
22 protection afforded to individuals, businesses, and
23 governmental agencies from tampering, interference, damage,
24 and unauthorized access to lawfully created computer data and
25 computer systems.

26 (b) The Legislature finds that the proliferation of
27 computer technology has resulted in a concomitant
28 proliferation of computer crime and other forms of
29 unauthorized access to computers, computer systems, and
30 computer data.

31 (c) The Legislature finds that it is necessary to

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1 protect the integrity of all types and forms of lawfully
2 created computers, computer systems, and computer data in
3 order to protect the privacy of individuals and to protect the
4 well-being of financial institutions, business concerns,
5 governmental agencies, and others within this state who
6 lawfully use computers, computer systems, and data.

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

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

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

23 (c) "Computer network" means any system that provides
24 communications between one or more computer systems and its
25 input or output devices, including, but not limited to,
26 display terminals and printers that are connected by
27 telecommunication facilities.

28 (d) "Computer program or computer software" means a
29 set of instructions or statements and related data which, when
30 executed in actual or modified form, cause a computer,
31 computer system, or computer network to perform specified

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1 functions.

2 (e) "Computer services" include, but are not limited
3 to, computer time; data processing or storage functions; or
4 other uses of a computer, computer system, or computer
5 network.

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

14 (g) "Data" means a representation of information,
15 knowledge, facts, concepts, computer software, computer
16 programs, or instructions. Data may be in any form, in storage
17 media or stored in the memory of the computer, or in transit
18 or presented on a display device.

19 (h) "Victim expenditure" means any costs that are
20 reasonably and necessarily incurred by the owner or lessee to
21 verify that a computer system, a computer network, a computer
22 program, or computer data was or was not altered, deleted,
23 damaged, or destroyed by the access.

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

26 (a) Knowingly and without permission disrupts or
27 causes the disruption of computer services or denies or causes
28 the denial of computer services to an authorized user of a
29 computer, computer system, or computer network; or

30 (b) Knowingly introduces any computer contaminant into
31 any computer, computer system, or computer network.

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1 (5) PENALTIES.--Any person who violates this section
2 commits:

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

7 (b) A felony of the first degree, punishable as
8 provided in section 775.082, section 775.083, or section
9 775.084, Florida Statutes, if the violation results in a
10 victim expenditure of more than \$5,000.

11 (6) CIVIL ACTION; ATTORNEY'S FEES; STUDENT
12 SANCTIONS.--

13 (a) In addition to any other civil remedy available,
14 the owner or lessee of the computer, computer system, computer
15 network, computer program, or computer data may bring a civil
16 action against any person convicted under this section for
17 compensatory damages, including any expenditure reasonably and
18 necessarily incurred by the owner or lessee to verify that a
19 computer system, a computer network, a computer program, or
20 computer data was or was not altered, damaged, or deleted as a
21 result of the unlawful access.

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

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

31 (7) FORFEITURE OF PROPERTY.--Any computer, computer

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

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

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

19
20 (Redesignate subsequent sections.)

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

24 And the title is amended as follows:

25 On page 1, line 20, after the semicolon,
26
27 insert:
28 providing a short title; providing legislative
29 intent and findings; providing definitions;
30 prohibiting specified activities that, if
31 performed knowingly and without permission,

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1 constitute the offense of computer
2 interference; specifying penalties to be
3 imposed for the offense of computer
4 interference; authorizing an action for
5 compensatory damages against a person convicted
6 of the offense of computer interference;
7 providing for an award of attorney's fees to
8 the prevailing party; requiring colleges and
9 universities to include computer-related crime
10 as a violation of rules governing student
11 conduct; providing for disciplinary sanctions;
12 providing that property used in connection with
13 an offense of computer interference is subject
14 to forfeiture under the Florida Contraband
15 Forfeiture Act; providing circumstances under
16 which a person may be convicted in multiple
17 jurisdictions;

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