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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/19/2014	.	
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Appropriations Subcommittee on Criminal and Civil Justice  
(Bradley) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 61 - 285  
and insert:  
transmit data; or in some other fashion usurp or interfere with  
the normal operation of the computer, computer system, or  
computer network.

(4) "Computer network" means a system that provides a  
medium for communication between one or more computer systems or  
electronic devices, including communication with an input or



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11 output device such as a display terminal, printer, or other  
12 electronic equipment that is connected to the computer systems  
13 or electronic devices by physical or wireless telecommunication  
14 facilities ~~any system that provides communications between one~~  
15 ~~or more computer systems and its input or output devices,~~  
16 ~~including, but not limited to, display terminals and printers~~  
17 ~~that are connected by telecommunication facilities.~~

18 (5) "Computer program or computer software" means a set of  
19 instructions or statements and related data which, when executed  
20 in actual or modified form, cause a computer, computer system,  
21 or computer network to perform specified functions.

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

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

33 (8) "Data" means a representation of information,  
34 knowledge, facts, concepts, computer software, computer  
35 programs, or instructions. Data may be in any form, in storage  
36 media or stored in the memory of the computer, or in transit or  
37 presented on a display device.

38 (9) "Electronic device" means a device or a portion of a  
39 device that is designed for and capable of communicating across



40 a computer network with other computers or devices for the  
41 purpose of transmitting, receiving, or storing data, including,  
42 but not limited to, a cellular telephone, tablet, or other  
43 portable device designed for and capable of communicating with  
44 or across a computer network and that is actually used for such  
45 purpose.

46 (10)~~(9)~~ "Financial instrument" means any check, draft,  
47 money order, certificate of deposit, letter of credit, bill of  
48 exchange, credit card, or marketable security.

49 (11)~~(10)~~ "Intellectual property" means data, including  
50 programs.

51 (12)~~(11)~~ "Property" means anything of value as defined in  
52 s. 812.012 and includes, but is not limited to, financial  
53 instruments, information, including electronically produced data  
54 and computer software and programs in ~~either~~ machine-readable or  
55 human-readable form, and any other tangible or intangible item  
56 of value.

57 Section 3. Section 815.04, Florida Statutes, is amended to  
58 read:

59 815.04 Offenses against intellectual property; public  
60 records exemption.—

61 (1) A person who ~~Whoever~~ willfully, knowingly, and without  
62 authorization introduces a computer contaminant or modifies or  
63 renders unavailable data, programs, or supporting documentation  
64 residing or existing internal or external to a computer,  
65 computer system, ~~or~~ computer network, or electronic device  
66 commits an offense against intellectual property.

67 (2) A person who ~~Whoever~~ willfully, knowingly, and without  
68 authorization destroys data, programs, or supporting



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69 documentation residing or existing internal or external to a  
70 computer, computer system, ~~or~~ computer network, or electronic  
71 device commits an offense against intellectual property.

72 (3) (a) Data, programs, or supporting documentation which is  
73 a trade secret as defined in s. 812.081 which resides or exists  
74 internal or external to a computer, computer system, or computer  
75 network which is held by an agency as defined in chapter 119 is  
76 confidential and exempt from the provisions of s. 119.07(1) and  
77 s. 24(a), Art. I of the State Constitution.

78 (b) A person who ~~Whoever~~ willfully, knowingly, and without  
79 authorization discloses or takes data, programs, or supporting  
80 documentation which is a trade secret as defined in s. 812.081  
81 or is confidential as provided by law residing or existing  
82 internal or external to a computer, computer system, or computer  
83 network commits an offense against intellectual property.

84 (4) (a) Except as otherwise provided in this subsection, an  
85 offense against intellectual property is a felony of the third  
86 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
87 775.084.

88 (b) If the offense is committed for the purpose of devising  
89 or executing any scheme or artifice to defraud or to obtain any  
90 property, ~~then the person commits~~ offender is guilty of a felony  
91 of the second degree, punishable as provided in s. 775.082, s.  
92 775.083, or s. 775.084.

93 Section 4. Section 815.06, Florida Statutes, is amended to  
94 read:

95 815.06 Offenses against ~~computer~~ users of computer networks  
96 and electronic devices.-

97 (1) As used in this section, the term "user" means a person



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98 with the authority to operate or maintain a computer network or  
99 electronic device.

100 (2) A person commits an offense against users of computer  
101 networks or electronic devices if he or she ~~whoever~~ willfully,  
102 knowingly, and without authorization:

103 (a) Accesses or causes to be accessed any computer,  
104 computer system, ~~or~~ computer network, or electronic device with  
105 the knowledge that such access is unauthorized;

106 (b) Disrupts or denies or causes the denial of the ability  
107 to transmit data ~~computer system services~~ to or from an  
108 authorized user of such computer system or computer network  
109 services, which, in whole or in part, is owned by, under  
110 contract to, or operated for, on behalf of, or in conjunction  
111 with another;

112 (c) Destroys, takes, injures, or damages equipment or  
113 supplies used or intended to be used in a computer, computer  
114 system, ~~or~~ computer network, or electronic device;

115 (d) Destroys, injures, or damages any computer, computer  
116 system, ~~or~~ computer network, or electronic device; ~~or~~

117 (e) Introduces any computer contaminant into any computer,  
118 computer system, ~~or~~ computer network, or electronic device; or

119 (f) Engages in audio or video surveillance of an individual  
120 without that individual's authorization by accessing any  
121 inherent feature or component of a computer, computer system,  
122 computer network, or electronic device, including accessing the  
123 data or information of a computer, computer system, computer  
124 network, or electronic device that is stored by a third party.

125  
126 This section does not apply to a person who has acted pursuant



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127 to a search warrant or to an exception to a search warrant  
128 authorized by law or when acting within the scope of his or her  
129 lawful employment and authorized security operations of a  
130 government or business, and nothing in this act may be construed  
131 to impose liability on a provider of an interactive computer  
132 service as defined in 47 U.S.C. s. 230(f)(2), an information  
133 service as defined in 47 U.S.C. s. 153(24), or communications  
134 services as defined in s. 202.11 if the provider provides the  
135 transmission, storage, or caching of electronic communications  
136 or messages of others; other related telecommunications or  
137 commercial mobile radio service; or content provided by another  
138 person ~~commits an offense against computer users.~~

139 (3) ~~(2)~~ (a) Except as provided in paragraphs (b) and (c), a  
140 person who ~~whoever~~ violates subsection (2) ~~(1)~~ commits a felony  
141 of the third degree, punishable as provided in s. 775.082, s.  
142 775.083, or s. 775.084.

143 (b) A person commits a felony of the second degree,  
144 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,  
145 if he or she ~~whoever~~ violates subsection (2) ~~(1)~~ and:

146 1. Damages a computer, computer equipment or supplies,  
147 ~~computer supplies,~~ a computer system, or a computer network, and  
148 the ~~monetary~~ damage or loss ~~incurred as a result of the~~  
149 ~~violation~~ is at least \$5,000 ~~or greater;~~

150 2. Commits the offense for the purpose of devising or  
151 executing any scheme or artifice to defraud or obtain property;  
152 ~~or~~

153 3. Interrupts or impairs a governmental operation or public  
154 communication, transportation, or supply of water, gas, or other  
155 public service; or



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156 4. Intentionally interrupts the transmittal of data to or  
157 from, or gains unauthorized access to, a computer, computer  
158 system, computer network, or electronic device belonging to any  
159 mode of public or private transit, as defined in s. 341.031,  
160

161 ~~commits a felony of the second degree, punishable as provided in~~  
162 ~~s. 775.082, s. 775.083, or s. 775.084.~~

163 (c) A person who ~~Whoever~~ violates subsection (2) ~~(1) and~~  
164 ~~the violation endangers human life~~ commits a felony of the first  
165 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
166 775.084, if the violation:

- 167 1. Endangers human life; or  
168 2. Disrupts a computer, computer system, computer network,  
169 or electronic device that affects medical equipment used in the  
170 direct administration of medical care or treatment to a person.

171 ~~(4)(3)~~ A person who ~~Whoever~~ willfully, knowingly, and  
172 without authorization modifies equipment or supplies used or  
173 intended to be used in a computer, computer system, ~~or~~ computer  
174 network, or electronic device commits a misdemeanor of the first  
175 degree, punishable as provided in s. 775.082 or s. 775.083.

176 ~~(5)(4)~~(a) In addition to any other civil remedy available,  
177 the owner or lessee of the computer, computer system, computer  
178 network, computer program, computer equipment or supplies,  
179 electronic device, computer supplies, or computer data may bring  
180 a civil action against a ~~any~~ person convicted under this section  
181 for compensatory damages.

182 (b) In an ~~any~~ action brought under this subsection, the  
183 court may award reasonable attorney ~~attorney's~~ fees to the  
184 prevailing party.



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185           ~~(6)-(5)~~ A ~~Any~~ computer, computer system, computer network,  
186 computer software, ~~or~~ computer data, or electronic device owned  
187 by a defendant which is used during the commission of a ~~any~~  
188 violation of this section or a ~~any~~ computer or electronic device  
189 owned by the defendant which is used as a repository for the  
190 storage of software or data obtained in violation of this  
191 section is subject to forfeiture as provided under ss. 932.701-  
192 932.704.

193           ~~(7)-(6)~~ This section does not apply to a ~~any~~ person who  
194 accesses his or her employer's computer system, computer  
195 network, computer program, ~~or~~ computer data, or electronic  
196 device when acting within the scope of his or her lawful  
197 employment.

198           ~~(8)-(7)~~ For purposes of bringing a civil or criminal action  
199 under this section, a person who causes, by any means, the  
200 access to a computer, computer system, ~~or~~ computer network, or  
201 electronic device in one jurisdiction from another jurisdiction  
202 is deemed to have personally accessed the computer, computer  
203 system, ~~or~~ computer network, or electronic device in both  
204 jurisdictions.

205           Section 5. Section 815.061, Florida Statutes, is created to  
206 read:

207           815.061 Offenses against public utilities.-

208           (1) As used in this section, the term "public utility"  
209 includes each public utility and electric utility as those terms  
210 are defined in s. 366.02; each utility as defined in s. 367.021;  
211 each natural gas transmission company as defined in s. 368.103;  
212 each person, corporation, partnership, association, public  
213 agency, municipality, cooperative, gas district, or other legal





214 entity and their lessees, trustees, or receivers, now or  
215 hereafter owning, operating, managing, or controlling gas  
216 transmission or distribution facilities or any other facility  
217 supplying or storing natural or manufactured gas or liquefied  
218 gas with air admixture or any similar gaseous substances by  
219 pipeline to or for the public within this state; and any  
220 separate legal entity created under s. 163.01 and composed of  
221 any of the entities described in this subsection for the purpose  
222 of providing utility services in this state, including wholesale  
223 power and electric transmission services.

224 (2) A person may not willfully, knowingly, and without  
225 authorization:

226 (a) Gain access to a computer, computer system, computer  
227 network, or electronic device owned, operated, or used by a  
228 public utility while knowing that such access is unauthorized.

229 (b) Physically tamper with, insert a computer contaminant  
230 into, or

231  
232 ===== T I T L E A M E N D M E N T =====

233 And the title is amended as follows:

234 Delete lines 4 - 21

235 and insert:

236 s. 815.03, F.S.; defining and redefining terms;  
237 amending s. 815.04, F.S.; providing that a person who  
238 willfully, knowingly, and without authorization  
239 introduces a computer contaminant or modifies or  
240 destroys data, programs, or supporting documentation  
241 residing or existing internal or external to a  
242 computer, computer system, computer network, or



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243 electronic device commits an offense against  
244 intellectual property; providing criminal penalties;  
245 amending s. 815.06, F.S.; defining terms; providing  
246 that a person who willfully, knowingly, and without  
247 authorization accesses a computer, computer system,  
248 computer network, or electronic device, disrupts the  
249 ability to transmit data to or from a computer,  
250 computer system, computer network, or electronic  
251 device, damages a computer, computer system, computer  
252 network, or electronic device, or engages in the audio  
253 or video surveillance of an individual without the  
254 individual's authorization by accessing a computer,  
255 computer system, computer network, or electronic  
256 device commits an offense against the users of  
257 computer networks and electronic devices; providing