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576-02817-14

Proposed Committee Substitute by the Committee on Appropriations  
(Appropriations Subcommittee on Criminal and Civil Justice)

A bill to be entitled

An act relating to computer crimes; amending s.  
815.02, F.S.; revising legislative findings; amending  
s. 815.03, F.S.; defining and redefining terms;  
amending s. 815.04, F.S.; providing that a person who  
willfully, knowingly, and without authorization  
introduces a computer contaminant or modifies or  
destroys data, programs, or supporting documentation  
residing or existing internal or external to a  
computer, computer system, computer network, or  
electronic device commits an offense against  
intellectual property; providing criminal penalties;  
amending s. 815.06, F.S.; defining terms; providing  
that a person who willfully, knowingly, and without  
authorization accesses a computer, computer system,  
computer network, or electronic device, disrupts the  
ability to transmit data to or from a computer,  
computer system, computer network, or electronic  
device, damages a computer, computer system, computer  
network, or electronic device, or engages in the audio  
or video surveillance of an individual without the  
individual's authorization by accessing a computer,  
computer system, computer network, or electronic  
device commits an offense against the users of  
computer networks and electronic devices; providing  
exceptions; providing applicability; providing  
criminal penalties; creating s. 815.061, F.S.;



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28 defining the term "public utility"; prohibiting a  
29 person from willfully, knowingly, and without  
30 authorization engaging in specified activities against  
31 a computer, computer system, computer network, or  
32 electronic device owned, operated, or used by a public  
33 utility; providing criminal penalties; providing an  
34 effective date.

35

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

37

38 Section 1. Present subsection (4) of section 815.02,  
39 Florida Statutes, is redesignated as subsection (5), and a new  
40 subsection (4) is added to that section, to read:

41 815.02 Legislative intent.—The Legislature finds and  
42 declares that:

43 (4) The proliferation of new technology has led to the  
44 integration of computer systems in most sectors of the  
45 marketplace through the creation of computer networks, greatly  
46 extending the reach of computer crime.

47 Section 2. Section 815.03, Florida Statutes, is amended to  
48 read:

49 815.03 Definitions.—As used in this chapter, unless the  
50 context clearly indicates otherwise:

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

54 (2) "Computer" means an internally programmed, automatic  
55 device that performs data processing.

56 (3) "Computer contaminant" means any set of computer



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57 instructions designed to modify, damage, destroy, record, or  
58 transmit information within a computer, computer system, or  
59 computer network without the intent or permission of the owner  
60 of the information. The term includes, but is not limited to, a  
61 group of computer instructions, commonly called viruses or  
62 worms, which are self-replicating or self-propagating and which  
63 are designed to contaminate other computer programs or computer  
64 data; consume computer resources; modify, destroy, record, or  
65 transmit data; or in some other fashion usurp or interfere with  
66 the normal operation of the computer, computer system, or  
67 computer network.

68 (4) "Computer network" means a system that provides a  
69 medium for communication between one or more computer systems or  
70 electronic devices, including communication with an input or  
71 output device such as a display terminal, printer, or other  
72 electronic equipment that is connected to the computer systems  
73 or electronic devices by physical or wireless telecommunication  
74 facilities ~~any system that provides communications between one~~  
75 ~~or more computer systems and its input or output devices,~~  
76 ~~including, but not limited to, display terminals and printers~~  
77 ~~that are connected by telecommunication facilities.~~

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

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

85 (7) "Computer system" means a device or collection of



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86 devices, including support devices, one or more of which contain  
87 computer programs, electronic instructions, or input data and  
88 output data, and which perform functions, including, but not  
89 limited to, logic, arithmetic, data storage, retrieval,  
90 communication, or control. The term does not include calculators  
91 that are not programmable and that are not capable of being used  
92 in conjunction with external files.

93 (8) "Data" means a representation of information,  
94 knowledge, facts, concepts, computer software, computer  
95 programs, or instructions. Data may be in any form, in storage  
96 media or stored in the memory of the computer, or in transit or  
97 presented on a display device.

98 (9) "Electronic device" means a device or a portion of a  
99 device that is designed for and capable of communicating across  
100 a computer network with other computers or devices for the  
101 purpose of transmitting, receiving, or storing data, including,  
102 but not limited to, a cellular telephone, tablet, or other  
103 portable device designed for and capable of communicating with  
104 or across a computer network and that is actually used for such  
105 purpose.

106 (10)~~(9)~~ "Financial instrument" means any check, draft,  
107 money order, certificate of deposit, letter of credit, bill of  
108 exchange, credit card, or marketable security.

109 (11)~~(10)~~ "Intellectual property" means data, including  
110 programs.

111 (12)~~(11)~~ "Property" means anything of value as defined in  
112 s. 812.012 and includes, but is not limited to, financial  
113 instruments, information, including electronically produced data  
114 and computer software and programs in ~~either~~ machine-readable or



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115 human-readable form, and any other tangible or intangible item  
116 of value.

117 Section 3. Section 815.04, Florida Statutes, is amended to  
118 read:

119 815.04 Offenses against intellectual property; public  
120 records exemption.—

121 (1) A person who ~~Whoever~~ willfully, knowingly, and without  
122 authorization introduces a computer contaminant or modifies or  
123 renders unavailable data, programs, or supporting documentation  
124 residing or existing internal or external to a computer,  
125 computer system, ~~or~~ computer network, or electronic device  
126 commits an offense against intellectual property.

127 (2) A person who ~~Whoever~~ willfully, knowingly, and without  
128 authorization destroys data, programs, or supporting  
129 documentation residing or existing internal or external to a  
130 computer, computer system, ~~or~~ computer network, or electronic  
131 device commits an offense against intellectual property.

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

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



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144 (4) (a) Except as otherwise provided in this subsection, an  
145 offense against intellectual property is a felony of the third  
146 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
147 775.084.

148 (b) If the offense is committed for the purpose of devising  
149 or executing any scheme or artifice to defraud or to obtain any  
150 property, ~~then the person commits~~ offender is guilty of a felony  
151 of the second degree, punishable as provided in s. 775.082, s.  
152 775.083, or s. 775.084.

153 Section 4. Section 815.06, Florida Statutes, is amended to  
154 read:

155 815.06 Offenses against ~~computer~~ users of computer networks  
156 and electronic devices.—

157 (1) As used in this section, the term “user” means a person  
158 with the authority to operate or maintain a computer network or  
159 electronic device.

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

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

166 (b) Disrupts or denies or causes the denial of the ability  
167 to transmit data ~~computer system services~~ to or from an  
168 authorized user of such computer system or computer network  
169 services, which, in whole or in part, is owned by, under  
170 contract to, or operated for, on behalf of, or in conjunction  
171 with another;

172 (c) Destroys, takes, injures, or damages equipment or



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173 supplies used or intended to be used in a computer, computer  
174 system, ~~or~~ computer network, or electronic device;

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

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

179 (f) Engages in audio or video surveillance of an individual  
180 without that individual's authorization by accessing any  
181 inherent feature or component of a computer, computer system,  
182 computer network, or electronic device, including accessing the  
183 data or information of a computer, computer system, computer  
184 network, or electronic device that is stored by a third party.

185  
186 This section does not apply to a person who has acted pursuant  
187 to a search warrant or to an exception to a search warrant  
188 authorized by law or when acting within the scope of his or her  
189 lawful employment and authorized security operations of a  
190 government or business, and nothing in this act may be construed  
191 to impose liability on a provider of an interactive computer  
192 service as defined in 47 U.S.C. s. 230(f)(2), an information  
193 service as defined in 47 U.S.C. s. 153(24), or communications  
194 services as defined in s. 202.11 if the provider provides the  
195 transmission, storage, or caching of electronic communications  
196 or messages of others; other related telecommunications or  
197 commercial mobile radio service; or content provided by another  
198 person ~~commits an offense against computer users.~~

199 (3)~~(2)~~(a) Except as provided in paragraphs (b) and (c), a  
200 person who ~~whoever~~ violates subsection (2) ~~(1)~~ commits a felony  
201 of the third degree, punishable as provided in s. 775.082, s.



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202 775.083, or s. 775.084.

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

206 1. Damages a computer, computer equipment or supplies,  
207 ~~computer supplies,~~ a computer system, or a computer network, and  
208 the monetary damage or loss incurred as a result of the  
209 violation is at least \$5,000 ~~or greater;~~

210 2. Commits the offense for the purpose of devising or  
211 executing any scheme or artifice to defraud or obtain property;  
212 ~~or~~

213 3. Interrupts or impairs a governmental operation or public  
214 communication, transportation, or supply of water, gas, or other  
215 public service; or

216 4. Intentionally interrupts the transmittal of data to or  
217 from, or gains unauthorized access to, a computer, computer  
218 system, computer network, or electronic device belonging to any  
219 mode of public or private transit, as defined in s. 341.031,

220  
221 ~~commits a felony of the second degree, punishable as provided in~~  
222 ~~s. 775.082, s. 775.083, or s. 775.084.~~

223 (c) A person who ~~whoever~~ violates subsection (2) ~~(1)~~ and  
224 the violation endangers human life commits a felony of the first  
225 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
226 775.084, if the violation:

227 1. Endangers human life; or

228 2. Disrupts a computer, computer system, computer network,  
229 or electronic device that affects medical equipment used in the  
230 direct administration of medical care or treatment to a person.





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231            (4)~~(3)~~ A person who ~~Whoever~~ willfully, knowingly, and  
232 without authorization modifies equipment or supplies used or  
233 intended to be used in a computer, computer system, ~~or~~ computer  
234 network, or electronic device commits a misdemeanor of the first  
235 degree, punishable as provided in s. 775.082 or s. 775.083.

236            (5)~~(4)~~ (a) In addition to any other civil remedy available,  
237 the owner or lessee of the computer, computer system, computer  
238 network, computer program, computer equipment or supplies,  
239 electronic device, ~~computer supplies,~~ or computer data may bring  
240 a civil action against a ~~any~~ person convicted under this section  
241 for compensatory damages.

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

245            (6)~~(5)~~ A ~~Any~~ computer, computer system, computer network,  
246 computer software, ~~or~~ computer data, or electronic device owned  
247 by a defendant which is used during the commission of a ~~any~~  
248 violation of this section or a ~~any~~ computer or electronic device  
249 owned by the defendant which is used as a repository for the  
250 storage of software or data obtained in violation of this  
251 section is subject to forfeiture as provided under ss. 932.701-  
252 932.704.

253            (7)~~(6)~~ This section does not apply to a ~~any~~ person who  
254 accesses his or her employer's computer system, computer  
255 network, computer program, ~~or~~ computer data, or electronic  
256 device when acting within the scope of his or her lawful  
257 employment.

258            (8)~~(7)~~ For purposes of bringing a civil or criminal action  
259 under this section, a person who causes, by any means, the



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260 access to a computer, computer system, ~~or~~ computer network, or  
261 electronic device in one jurisdiction from another jurisdiction  
262 is deemed to have personally accessed the computer, computer  
263 system, ~~or~~ computer network, or electronic device in both  
264 jurisdictions.

265 Section 5. Section 815.061, Florida Statutes, is created to  
266 read:

267 815.061 Offenses against public utilities.-

268 (1) As used in this section, the term "public utility"  
269 includes each public utility and electric utility as those terms  
270 are defined in s. 366.02; each utility as defined in s. 367.021;  
271 each natural gas transmission company as defined in s. 368.103;  
272 each person, corporation, partnership, association, public  
273 agency, municipality, cooperative, gas district, or other legal  
274 entity and their lessees, trustees, or receivers, now or  
275 hereafter owning, operating, managing, or controlling gas  
276 transmission or distribution facilities or any other facility  
277 supplying or storing natural or manufactured gas or liquefied  
278 gas with air admixture or any similar gaseous substances by  
279 pipeline to or for the public within this state; and any  
280 separate legal entity created under s. 163.01 and composed of  
281 any of the entities described in this subsection for the purpose  
282 of providing utility services in this state, including wholesale  
283 power and electric transmission services.

284 (2) A person may not willfully, knowingly, and without  
285 authorization:

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



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289       (b) Physically tamper with, insert a computer contaminant  
290 into, or otherwise transmit commands or electronic  
291 communications to a computer, computer system, computer network,  
292 or electronic device which cause a disruption in any service  
293 delivered by a public utility.

294       (3) (a) A person who violates paragraph (2) (a) commits a  
295 felony of the third degree, punishable as provided in s.  
296 775.082, s. 775.083, or s. 775.084.

297       (b) A person who violates paragraph (2) (b) commits a felony  
298 of the second degree, punishable as provided in s. 775.082, s.  
299 775.083, or s. 775.084.

300       Section 6. This act shall take effect October 1, 2014.