

By Senator Brandes

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1 A bill to be entitled
2 An act relating to computer crimes; amending s.
3 815.02, F.S.; revising legislative findings; amending
4 s. 815.03, F.S.; defining terms; amending s. 815.04,
5 F.S.; providing that a person who willfully,
6 knowingly, and without authorization modifies or
7 destroys data, programs, or supporting documentation
8 residing or existing internal or external to a
9 computer network or electronic device commits an
10 offense against intellectual property; providing
11 criminal penalties; amending s. 815.06, F.S.; defining
12 terms; providing that a person who willfully,
13 knowingly, and without authorization accesses a
14 computer network or electronic device, disrupts the
15 ability to transmit data to or from a computer network
16 or electronic device, damages a computer network or
17 electronic device, or engages in the audio or video
18 surveillance of an individual without the individual's
19 knowledge by accessing a computer network or
20 electronic device commits an offense against the users
21 of computer networks and electronic devices; providing
22 exceptions; providing criminal penalties; creating s.
23 815.061, F.S.; defining the term "public utility";
24 prohibiting a person from willfully, knowingly, and
25 without authorization engaging in specified activities
26 against a computer, computer system, computer network,
27 or electronic device owned, operated, or used by a
28 public utility; providing criminal penalties;
29 providing an effective date.

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

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

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

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

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

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

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

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

(3) "Computer contaminant" means any set of computer instructions designed to modify, damage, destroy, record, or transmit information within a computer, computer system, or computer network without the intent or permission of the owner of the information. The term includes, but is not limited to, a group of computer instructions, commonly called viruses or worms, which are self-replicating or self-propagating and which are designed to contaminate other computer programs or computer

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59 data; consume computer resources; modify, destroy, record, or
60 transmit data; or in some other fashion usurp the normal
61 operation of the computer, computer system, or computer network.

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

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

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

79 (7) "Computer system" means a device or collection of
80 devices, including support devices, one or more of which contain
81 computer programs, electronic instructions, or input data and
82 output data, and which perform functions, including, but not
83 limited to, logic, arithmetic, data storage, retrieval,
84 communication, or control. The term does not include calculators
85 that are not programmable and that are not capable of being used
86 in conjunction with external files.

87 (8) "Data" means a representation of information,

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88 knowledge, facts, concepts, computer software, computer
89 programs, or instructions. Data may be in any form, in storage
90 media or stored in the memory of the computer, or in transit or
91 presented on a display device.

92 (9) "Electronic device" means a device that is capable of
93 communicating across a computer network with other computers or
94 devices for the purpose of transmitting, receiving, or storing
95 data.

96 (10)~~(9)~~ "Financial instrument" means any check, draft,
97 money order, certificate of deposit, letter of credit, bill of
98 exchange, credit card, or marketable security.

99 (11)~~(10)~~ "Intellectual property" means data, including
100 programs.

101 (12)~~(11)~~ "Property" means anything of value as defined in
102 s. 812.012 and includes, but is not limited to, financial
103 instruments, information, including electronically produced data
104 and computer software and programs in ~~either~~ machine-readable or
105 human-readable form, and any other tangible or intangible item
106 of value.

107 Section 3. Section 815.04, Florida Statutes, is amended to
108 read:

109 815.04 Offenses against intellectual property; public
110 records exemption.—

111 (1) A person who ~~Whoever~~ willfully, knowingly, and without
112 authorization modifies data, programs, or supporting
113 documentation residing or existing internal or external to a
114 computer, computer system, ~~or~~ computer network, or electronic
115 device commits an offense against intellectual property.

116 (2) A person who ~~Whoever~~ willfully, knowingly, and without

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117 authorization destroys data, programs, or supporting
118 documentation residing or existing internal or external to a
119 computer, computer system, ~~or~~ computer network, or electronic
120 device commits an offense against intellectual property.

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

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

133 (4) (a) Except as otherwise provided in this subsection, an
134 offense against intellectual property is a felony of the third
135 degree, punishable as provided in s. 775.082, s. 775.083, or s.
136 775.084.

137 (b) If the offense is committed for the purpose of devising
138 or executing any scheme or artifice to defraud or to obtain any
139 property, ~~then the person commits~~ offender is guilty of a felony
140 of the second degree, punishable as provided in s. 775.082, s.
141 775.083, or s. 775.084.

142 Section 4. Section 815.06, Florida Statutes, is amended to
143 read:

144 815.06 Offenses against ~~computer~~ users of computer networks
145 and electronic devices.-

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- 146 (1) As used in this section, the term "person" means:
- 147 (a) An individual;
- 148 (b) A partnership, corporation, association, or other
- 149 entity doing business in this state, or an officer, agent, or
- 150 employee of such an entity; or
- 151 (c) An officer, employee, or agent of the state or a
- 152 county, municipality, special district, or other political
- 153 subdivision whether executive, judicial, or legislative,
- 154 including, but not limited to, a department, division, bureau,
- 155 commission, authority, district, or agency thereof.
- 156 (2) A person commits an offense against users of computer
- 157 networks or electronic devices if he ~~Whoever~~ willfully,
- 158 knowingly, and without authorization:
- 159 (a) Accesses or causes to be accessed any computer,
- 160 computer system, ~~or~~ computer network, or electronic device with
- 161 knowledge that such access is unauthorized;
- 162 (b) Disrupts or denies or causes the denial of the ability
- 163 to transmit data ~~computer system services~~ to or from an
- 164 authorized user of such computer system or computer network
- 165 services, which, in whole or in part, is owned by, under
- 166 contract to, or operated for, on behalf of, or in conjunction
- 167 with another;
- 168 (c) Destroys, takes, injures, or damages equipment or
- 169 supplies used or intended to be used in a computer, computer
- 170 system, ~~or~~ computer network, or electronic device;
- 171 (d) Destroys, injures, or damages any computer, computer
- 172 system, ~~or~~ computer network, or electronic device; ~~or~~
- 173 (e) Introduces any computer contaminant into any computer,
- 174 computer system, ~~or~~ computer network, or electronic device; or

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

181
182 This section does not apply to a person who has acted pursuant
183 to a search warrant or to an exception to a search warrant
184 authorized by law or when acting within the scope of his or her
185 lawful employment ~~commits an offense against computer users.~~

186 (3)-(2)(a) Except as provided in paragraphs (b) and (c), a
187 person who ~~whoever~~ violates subsection (2) ~~(1)~~ commits a felony
188 of the third degree, punishable as provided in s. 775.082, s.
189 775.083, or s. 775.084.

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

193 1. Damages a computer, computer equipment or supplies,
194 ~~computer supplies,~~ a computer system, or a computer network, and
195 the ~~monetary~~ damage or loss ~~incurred as a result of the~~
196 ~~violation~~ is at least \$5,000 ~~or greater;~~

197 2. Commits the offense for the purpose of devising or
198 executing any scheme or artifice to defraud or obtain property;
199 ~~or~~

200 3. Interrupts or impairs a governmental operation or public
201 communication, transportation, or supply of water, gas, or other
202 public service; or

203 4. Intentionally interrupts the transmittal of data to or

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204 from, or gains unauthorized access to, a computer, computer
 205 system, computer network, or electronic device belonging to any
 206 mode of public or private transit, as defined in s. 341.031,

207
 208 ~~commits a felony of the second degree, punishable as provided in~~
 209 ~~s. 775.082, s. 775.083, or s. 775.084.~~

210 (c) A person who ~~Whoever~~ violates subsection (2) ~~(1)~~ and
 211 ~~the violation endangers human life~~ commits a felony of the first
 212 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 213 775.084, if the violation:

214 1. Endangers human life; or

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

218 ~~(4)(3)~~ A person who ~~Whoever~~ willfully, knowingly, and
 219 without authorization modifies equipment or supplies used or
 220 intended to be used in a computer, computer system, ~~or~~ computer
 221 network, or electronic device commits a misdemeanor of the first
 222 degree, punishable as provided in s. 775.082 or s. 775.083.

223 ~~(5)(4)~~(a) In addition to any other civil remedy available,
 224 the owner or lessee of the computer, computer system, computer
 225 network, computer program, computer equipment or supplies,
 226 electronic device, computer supplies, or computer data may bring
 227 a civil action against a ~~any~~ person convicted under this section
 228 for compensatory damages.

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

232 ~~(6)(5)~~ A ~~Any~~ computer, computer system, computer network,

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233 computer software, ~~or~~ computer data, or electronic device owned
234 by a defendant which is used during the commission of a any
235 violation of this section or a any computer or electronic device
236 owned by the defendant which is used as a repository for the
237 storage of software or data obtained in violation of this
238 section is subject to forfeiture as provided under ss. 932.701-
239 932.704.

240 (7)(6) This section does not apply to a any person who
241 accesses his or her employer's computer system, computer
242 network, computer program, ~~or~~ computer data, or electronic
243 device when acting within the scope of his or her lawful
244 employment.

245 (8)(7) For purposes of bringing a civil or criminal action
246 under this section, a person who causes, by any means, the
247 access to a computer, computer system, ~~or~~ computer network, or
248 electronic device in one jurisdiction from another jurisdiction
249 is deemed to have personally accessed the computer, computer
250 system, ~~or~~ computer network, or electronic device in both
251 jurisdictions.

252 Section 5. Section 815.061, Florida Statutes, is created to
253 read:

254 815.061 Offenses against public utilities.-

255 (1) As used in this section, the term "public utility" has
256 the same meaning as in s. 366.02.

257 (2) A person may not willfully, knowingly, and without
258 authorization:

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

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262 (b) Physically tamper with, insert software into, or
263 otherwise transmit commands or electronic communications to a
264 computer, computer system, computer network, or electronic
265 device which cause a disruption in any service delivered by a
266 public utility.

267 (3) (a) A person who violates paragraph (2) (a) commits a
268 felony of the third degree, punishable as provided in s.
269 775.082, s. 775.083, or s. 775.084.

270 (b) A person who violates paragraph (2) (b) commits a felony
271 of the second degree, punishable as provided in s. 775.082, s.
272 775.083, or s. 775.084.

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