

By the Committees on Criminal Justice; and Communications, Energy, and Public Utilities; and Senator Brandes

591-01838-14

2014364c2

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 authorization 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 applicability; providing
23 criminal penalties; creating s. 815.061, F.S.;
24 defining the term "public utility"; prohibiting a
25 person from willfully, knowingly, and without
26 authorization engaging in specified activities against
27 a computer, computer system, computer network, or
28 electronic device owned, operated, or used by a public
29 utility; providing criminal penalties; providing an

591-01838-14

2014364c2

30 effective date.

31
32 Be It Enacted by the Legislature of the State of Florida:

33
34 Section 1. Present subsection (4) of section 815.02,
35 Florida Statutes, is redesignated as subsection (5), and a new
36 subsection (4) is added to that section, to read:

37 815.02 Legislative intent.—The Legislature finds and
38 declares that:

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

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

45 815.03 Definitions.—As used in this chapter, unless the
46 context clearly indicates otherwise:

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

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

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

591-01838-14

2014364c2

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

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

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

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

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

591-01838-14

2014364c2

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

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

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

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

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

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

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

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

591-01838-14

2014364c2

117 (2) A person who ~~Whoever~~ willfully, knowingly, and without
118 authorization destroys data, programs, or supporting
119 documentation residing or existing internal or external to a
120 computer, computer system, ~~or~~ computer network, or electronic
121 device commits an offense against intellectual property.

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

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

134 (4) (a) Except as otherwise provided in this subsection, an
135 offense against intellectual property is a felony of the third
136 degree, punishable as provided in s. 775.082, s. 775.083, or s.
137 775.084.

138 (b) If the offense is committed for the purpose of devising
139 or executing any scheme or artifice to defraud or to obtain any
140 property, ~~then the person commits~~ offender is guilty of a felony
141 of the second degree, punishable as provided in s. 775.082, s.
142 775.083, or s. 775.084.

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

145 815.06 Offenses against ~~computer~~ users of computer networks

591-01838-14

2014364c2

146 and electronic devices.—

147 (1) As used in this section, the term "person" means:

148 (a) An individual;

149 (b) A partnership, corporation, association, or other
150 entity doing business in this state, or an officer, agent, or
151 employee of such an entity; or

152 (c) An officer, employee, or agent of the state or a
153 county, municipality, special district, or other political
154 subdivision whether executive, judicial, or legislative,
155 including, but not limited to, a department, division, bureau,
156 commission, authority, district, or agency thereof.

157 (2) A person commits an offense against users of computer
158 networks or electronic devices if he ~~Whoever~~ willfully,
159 knowingly, and without authorization:

160 (a) Accesses or causes to be accessed any computer,
161 computer system, ~~or~~ computer network, or electronic device with
162 knowledge that such access is unauthorized;

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

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

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

174 (e) Introduces any computer contaminant into any computer,

591-01838-14

2014364c2

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

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

195 (3)(2)(a) Except as provided in paragraphs (b) and (c), a
196 person who ~~whoever~~ violates subsection (2) (1) commits a felony
197 of the third degree, punishable as provided in s. 775.082, s.
198 775.083, or s. 775.084.

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

202 1. Damages a computer, computer equipment or supplies,
203 ~~computer supplies,~~ a computer system, or a computer network, and

591-01838-14

2014364c2

204 the ~~monetary~~ damage or loss incurred ~~as a result of the~~
205 ~~violation~~ is at least \$5,000 ~~or greater~~;

206 2. Commits the offense for the purpose of devising or
207 executing any scheme or artifice to defraud or obtain property;
208 ~~or~~

209 3. Interrupts or impairs a governmental operation or public
210 communication, transportation, or supply of water, gas, or other
211 public service; or

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

216
217 ~~commits a felony of the second degree, punishable as provided in~~
218 ~~s. 775.082, s. 775.083, or s. 775.084.~~

219 (c) A person who ~~Whoever~~ violates subsection (2) ~~(1)~~ and
220 ~~the violation endangers human life~~ commits a felony of the first
221 degree, punishable as provided in s. 775.082, s. 775.083, or s.
222 775.084, if the violation:

223 1. Endangers human life; or

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

227 (4) ~~(3)~~ A person who ~~Whoever~~ willfully, knowingly, and
228 without authorization modifies equipment or supplies used or
229 intended to be used in a computer, computer system, ~~or~~ computer
230 network, or electronic device commits a misdemeanor of the first
231 degree, punishable as provided in s. 775.082 or s. 775.083.

232 (5) ~~(4)~~ (a) In addition to any other civil remedy available,

591-01838-14

2014364c2

233 the owner or lessee of the computer, computer system, computer
234 network, computer program, computer equipment or supplies,
235 electronic device, ~~computer supplies,~~ or computer data may bring
236 a civil action against a ~~any~~ person convicted under this section
237 for compensatory damages.

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

241 (6) ~~(5)~~ A ~~Any~~ computer, computer system, computer network,
242 computer software, ~~or~~ computer data, or electronic device owned
243 by a defendant which is used during the commission of a ~~any~~
244 violation of this section or a ~~any~~ computer or electronic device
245 owned by the defendant which is used as a repository for the
246 storage of software or data obtained in violation of this
247 section is subject to forfeiture as provided under ss. 932.701-
248 932.704.

249 (7) ~~(6)~~ This section does not apply to a ~~any~~ person who
250 accesses his or her employer's computer system, computer
251 network, computer program, ~~or~~ computer data, or electronic
252 device when acting within the scope of his or her lawful
253 employment.

254 (8) ~~(7)~~ For purposes of bringing a civil or criminal action
255 under this section, a person who causes, by any means, the
256 access to a computer, computer system, ~~or~~ computer network, or
257 electronic device in one jurisdiction from another jurisdiction
258 is deemed to have personally accessed the computer, computer
259 system, ~~or~~ computer network, or electronic device in both
260 jurisdictions.

261 Section 5. Section 815.061, Florida Statutes, is created to

591-01838-14

2014364c2

262 read:

263 815.061 Offenses against public utilities.-

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

280 (2) A person may not willfully, knowingly, and without
281 authorization:

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

285 (b) Physically tamper with, insert software into, or
286 otherwise transmit commands or electronic communications to a
287 computer, computer system, computer network, or electronic
288 device which cause a disruption in any service delivered by a
289 public utility.

290 (3) (a) A person who violates paragraph (2) (a) commits a

591-01838-14

2014364c2

291 felony of the third degree, punishable as provided in s.
292 775.082, s. 775.083, or s. 775.084.

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

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