

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,

Page 1 of 11

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

27 or electronic device owned, operated, or used by a
 28 public utility; providing criminal penalties;
 29 providing an effective date.

30
 31 Be It Enacted by the Legislature of the State of Florida:

32
 33 Section 1. Present subsection (4) of section 815.02,
 34 Florida Statutes, is redesignated as subsection (5), and a new
 35 subsection (4) is added to that section, to read:

36 815.02 Legislative intent.—The Legislature finds and
 37 declares that:

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

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

44 815.03 Definitions.—As used in this chapter, unless the
 45 context clearly indicates otherwise:

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

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.

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
123 is a trade secret as defined in s. 812.081 which resides or
124 exists internal or external to a computer, computer system, or
125 computer network which is held by an agency as defined in
126 chapter 119 is confidential and exempt from the provisions of s.
127 119.07(1) and 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
 139 devising or executing any scheme or artifice to defraud or to
 140 obtain any property, ~~then the person commits~~ offender is guilty
 141 ~~of~~ a felony of the second degree, punishable as provided in s.
 142 775.082, s. 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
 146 networks 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,
 175 computer system, ~~or~~ computer network, or electronic device; or

176 (f) Engages in audio or video surveillance of an
 177 individual without that individual's knowledge 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 ~~commits an offense against computer users.~~

187 (3)-(2)(a) Except as provided in paragraphs (b) and (c), a
 188 person who ~~whoever~~ violates subsection (2) ~~(1)~~ commits a felony
 189 of the third degree, punishable as provided in s. 775.082, s.
 190 775.083, or s. 775.084.

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

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

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

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

204 4. Intentionally interrupts the transmittal of data to or
 205 from, or gains unauthorized access to, a computer, computer
 206 system, computer network, or electronic device belonging to any
 207 mode of public or private transit, as defined in s. 341.031,
 208

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

211 (c) A person who ~~Whoever~~ violates subsection (2) ~~(1)~~ and
 212 ~~the violation endangers human life~~ commits a felony of the first
 213 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 214 775.084, if the violation:

215 1. Endangers human life; or

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

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

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

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

233 ~~(6)(5)~~ A ~~Any~~ computer, computer system, computer network,
 234 computer software, or computer data, or electronic device owned

HB 641

2014

235 by a defendant which is used during the commission of a any
236 violation of this section or a any computer or electronic device
237 owned by the defendant which is used as a repository for the
238 storage of software or data obtained in violation of this
239 section is subject to forfeiture as provided under ss. 932.701-
240 932.704.

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

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

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

255 815.061 Offenses against public utilities.-

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

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

260 (a) Gain access to a computer, computer system, computer

HB 641

2014

261 network, or electronic device owned, operated, or used by a
262 public utility while knowing that such access is unauthorized.

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

268 (3) (a) A person who violates paragraph (2) (a) commits a
269 felony of the third degree, punishable as provided in s.
270 775.082, s. 775.083, or s. 775.084.

271 (b) A person who violates paragraph (2) (b) commits a
272 felony of the second degree, punishable as provided in s.
273 775.082, s. 775.083, or s. 775.084.

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