

ENROLLED

2001 Legislature CS for CS for SB 144, 2nd Engrossed (ntc)

1
2 An act relating to computer crimes; amending s.
3 827.071, F.S.; revising the definition of
4 "sexual conduct"; amending s. 847.001, F.S.;
5 revising and adding definitions; amending s.
6 847.0135, F.S.; revising the "Computer
7 Pornography and Child Exploitation Act of 1986"
8 to clarify certain penalties; creating s.
9 847.0137, F.S.; prohibiting transmissions of
10 child pornography and any image, information,
11 or data harmful to minors; providing penalties;
12 creating s. 847.0138, F.S.; prohibiting
13 transmission of material harmful to minors by
14 electronic device or equipment; providing
15 definitions; providing penalties; creating s.
16 847.0139, F.S.; providing immunity from civil
17 liability for reporting child pornography,
18 transmission of child pornography, or unlawful
19 transmission of any image, information, or data
20 harmful to minors; amending s. 905.34, F.S.;
21 providing jurisdiction of the statewide grand
22 jury over offenses relating to computer
23 pornography, child exploitation, or violations
24 of s. 847.0135, F.S.; providing severability;
25 amending s. 815.03, F.S.; providing
26 definitions; repealing s. 815.05, F.S.,
27 relating to definitions; amending s. 815.06,
28 F.S.; creating offenses against computer
29 equipment or supplies, computers, computer
30 system, and computer networks; providing
31 penalties; amending s. 16.56, F.S., adding

ENROLLED

2001 Legislature CS for CS for SB 144, 2nd Engrossed (ntc)

1 violations of computer and computer-related
2 crimes under chapter 815, F.S., expanding
3 prosecutorial jurisdiction of the Office of
4 Statewide Prosecution; amending s. 905.34,
5 F.S.; expanding subject matter jurisdiction of
6 the statewide grand jury to include violations
7 of computer and computer-related crimes under
8 chapter 815, F.S.; providing effective dates.
9

10 WHEREAS, The Florida Information Service Technology
11 Development Task Force found and recommended that, while the
12 development of information technology is a rapidly expanding
13 enterprise and the issue of transmission of adult and child
14 pornography is difficult to resolve, legislation should be
15 enacted to address the following situations: where a person
16 in or outside of the State of Florida knowingly transmits any
17 type of pornography to a minor in Florida, a crime has
18 occurred and the State of Florida has jurisdiction; where a
19 person in the State of Florida transmits child pornography to
20 anyone in or outside the State of Florida a crime has occurred
21 and the State of Florida has jurisdiction; and where a person
22 outside the State of Florida knowingly transmits child
23 pornography to any person in the State of Florida, a crime has
24 occurred and the State of Florida has jurisdiction, and

25 WHEREAS, the task force also recommended that
26 legislation be enacted that, while not mandating that a person
27 report child pornography, the transmission of child
28 pornography, or the unlawful transmission of any image,
29 information, or data that is harmful to minors, would grant
30 civil immunity to any person who reports to any law
31 enforcement officer what he or she reasonably believes to be

ENROLLED

2001 Legislature CS for CS for SB 144, 2nd Engrossed (ntc)

1 evidence of child pornography, the transmission of child
2 pornography, or the unlawful transmission of any image,
3 information, or data harmful to any minor in this state, and
4 WHEREAS, the Legislature agrees with the foregoing
5 findings, conclusions, and recommendations of the task force,
6 and finds that legislation enacting the recommendations would
7 facilitate apprehension of persons who transmit child
8 pornography or improperly transmit images harmful to minors
9 while protecting persons from arrest based on unsubstantiated
10 or false accusations or statements or the submission of
11 falsified evidence by the person reporting the transmission,
12 and

13 WHEREAS, the Legislature further finds that the use of
14 minors in pornographic images is harmful to the physiological,
15 emotional, mental, and social well-being of minors and that
16 the dissemination of such images results in subjecting the
17 minors who are the subject of such images to continuing
18 irreparable injury by creating a perpetual record of their
19 participation in pornographic acts, and

20 WHEREAS, the Legislature further finds that child
21 pornography and images, information, and data that are harmful
22 to minors are frequently used to entice minors to engage in
23 improper sexual activity, and the use of such means to entice
24 minors in Florida to engage in such sexual activity
25 irreparably harms their physiological, emotional, mental, and
26 social well-being, and

27 WHEREAS, the Legislature further finds that the advent
28 and growing use of the Internet and other electronic devices
29 has greatly facilitated transmission of child pornography and
30 images, information, and data that are harmful to minors, thus
31

ENROLLED

2001 Legislature CS for CS for SB 144, 2nd Engrossed (ntc)

1 subjecting minors in Florida to an ever-increasing likelihood
2 of being victimized by the purveyors of such, and

3 WHEREAS, the Legislature further finds that
4 criminalizing the transmission of child pornography and the
5 unlawful transmission of images, information, and data that
6 are harmful to minors is an appropriate means of serving the
7 state's compelling interest in protecting minors in Florida
8 from suffering the irreparable harm they can experience from
9 being subjected to participating in creating the images that
10 are included in such transmissions and from being subjected to
11 receiving the images that are included in such transmissions,
12 and

13 WHEREAS, the Legislature further finds that the First
14 Amendment would not be violated by legislation prohibiting the
15 transmission of child pornography or the transmission of
16 images harmful to minors to a minor in this state, and

17 WHEREAS, the Legislature further finds that deterring
18 and punishing the transmission of child pornography and images
19 harmful to minors can and should be accomplished by amending
20 the laws of this state, and

21 WHEREAS, the Legislature further finds that the laws of
22 this state may be amended to address jurisdictional concerns
23 regarding transmission of child pornography and transmission
24 of images, information, and data harmful to minors to a minor
25 in this state, as those concerns have already been addressed
26 by the Legislature regarding computer-solicitation offenses
27 against minors, and

28 WHEREAS, the Legislature further finds that the laws of
29 this state may be amended to grant civil immunity to any
30 person who reports to any law enforcement officer what he or
31 she reasonably believes to be child pornography, the

ENROLLED

2001 Legislature CS for CS for SB 144, 2nd Engrossed (ntc)

1 transmission of child pornography, or the transmission of
2 images, information, and data that are harmful to minors to a
3 minor in this state, NOW, THEREFORE,

4

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

6

7 Section 1. Paragraph (g) of subsection (1) of section
8 827.071, Florida Statutes, is amended to read:

9 827.071 Sexual performance by a child; penalties.--

10 (1) As used in this section, the following definitions
11 shall apply:

12 (g) "Sexual conduct" means actual or simulated sexual
13 intercourse, deviate sexual intercourse, sexual bestiality,
14 masturbation, or sadomasochistic abuse; actual lewd exhibition
15 of the genitals; actual physical contact with a person's
16 clothed or unclothed genitals, pubic area, buttocks, or, if
17 such person is a female, breast, with the intent to arouse or
18 gratify the sexual desire of either party; or any act or
19 conduct which constitutes sexual battery or simulates that
20 sexual battery is being or will be committed. A mother's
21 breastfeeding of her baby does not under any circumstance
22 constitute "sexual conduct."

23 Section 2. Section 847.001, Florida Statutes, is
24 amended to read:

25 847.001 Definitions.--As when used in this chapter,
26 the term:

27 (1) "Child pornography" means any image depicting a
28 minor engaged in sexual conduct.

29 (2)(1) "Computer" means an electronic, magnetic,
30 optical, electrochemical, or other high-speed data processing
31 device performing logical, arithmetic, or storage functions

ENROLLED

2001 Legislature CS for CS for SB 144, 2nd Engrossed (ntc)

1 and includes any data storage facility or communications
2 facility directly related to or operating in conjunction with
3 such device. The term also includes: any on-line service,
4 Internet service, or local bulletin board; any electronic
5 storage device, including a floppy disk or other magnetic
6 storage device; or any compact disc that has read-only memory
7 and the capacity to store audio, video, or written materials.

8 (3)~~(2)~~ "Deviate sexual intercourse" means sexual
9 conduct between persons not married to each other consisting
10 of contact between the penis and the anus, the mouth and the
11 penis, or the mouth and the vulva.

12 (4)~~(3)~~ "Harmful to minors" means ~~that quality of~~ any
13 reproduction, imitation, characterization, description,
14 exhibition, presentation, or representation, of in whatever
15 kind or form, depicting of nudity, sexual conduct, or sexual
16 excitement when it:

17 (a) Predominantly appeals to the prurient, shameful,
18 or morbid interest of minors;

19 (b) Is patently offensive to prevailing standards in
20 the adult community as a whole with respect to what is
21 suitable material for minors; and

22 (c) Taken as a whole, is without serious literary,
23 artistic, political, or scientific value for minors.

24

25 A mother's breastfeeding of her baby is not under any
26 circumstance "harmful to minors."

27 (5)~~(4)~~ "Minor" means any person under the age of 18
28 years.

29 (6)~~(5)~~ "Nudity" means the showing of the human male or
30 female genitals, pubic area, or buttocks with less than a
31 fully opaque covering; or the showing of the female breast

ENROLLED

2001 Legislature CS for CS for SB 144, 2nd Engrossed (ntc)

1 with less than a fully opaque covering of any portion thereof
2 below the top of the nipple; or the depiction of covered male
3 genitals in a discernibly turgid state. A mother's
4 breastfeeding of her baby does not under any circumstance
5 constitute "nudity," irrespective of whether or not the nipple
6 is covered during or incidental to feeding.

7 (7)~~(6)~~ "Person" includes individuals, children, firms,
8 associations, joint ventures, partnerships, estates, trusts,
9 business trusts, syndicates, fiduciaries, corporations, and
10 all other groups or ~~and~~ combinations.

11 (8)~~(7)~~ "Obscene" means the status of material which:

12 (a) The average person, applying contemporary
13 community standards, would find, taken as a whole, appeals to
14 the prurient interest;

15 (b) Depicts or describes, in a patently offensive way,
16 sexual conduct as specifically defined herein; and

17 (c) Taken as a whole, lacks serious literary,
18 artistic, political, or scientific value.

19

20 A mother's breastfeeding of her baby is not under any
21 circumstance "obscene."

22 (9)~~(8)~~ "Sadomasochistic abuse" means flagellation or
23 torture by or upon a person or animal, or the condition of
24 being fettered, bound, or otherwise physically restrained, for
25 the purpose of deriving sexual satisfaction, or satisfaction
26 brought about as a result of sadistic violence, from
27 inflicting harm on another or receiving such harm oneself.

28 (10)~~(9)~~ "Sexual battery" means oral, anal, or vaginal
29 penetration by, or union with, the sexual organ of another or
30 the anal or vaginal penetration of another by any other

31

ENROLLED

2001 Legislature CS for CS for SB 144, 2nd Engrossed (ntc)

1 object; however, "sexual battery" does not include an act done
2 for a bona fide medical purpose.

3 (11)~~(10)~~ "Sexual bestiality" means any sexual act
4 between a person and an animal involving the sex organ of the
5 one and the mouth, anus, or vagina of the other.

6 (12)~~(11)~~ "Sexual conduct" means actual or simulated
7 sexual intercourse, deviate sexual intercourse, sexual
8 bestiality, masturbation, or sadomasochistic abuse; actual
9 lewd exhibition of the genitals; actual physical contact with
10 a person's clothed or unclothed genitals, pubic area,
11 buttocks, or, if such person is a female, breast with the
12 intent to arouse or gratify the sexual desire of either party;
13 or any act or conduct which constitutes sexual battery or
14 simulates that sexual battery is being or will be committed.
15 A mother's breastfeeding of her baby does not under any
16 circumstance constitute "sexual conduct."

17 (13)~~(12)~~ "Sexual excitement" means the condition of
18 the human male or female genitals when in a state of sexual
19 stimulation or arousal.

20 (14)~~(13)~~ "Simulated" means the explicit depiction of
21 conduct described in subsection (12)~~(11)~~ which creates the
22 appearance of such conduct and which exhibits any uncovered
23 portion of the breasts, genitals, or buttocks.

24 Section 3. Subsection (2) of section 847.0135, Florida
25 Statutes, is amended to read:

26 847.0135 Computer pornography; penalties.--

27 (2) COMPUTER PORNOGRAPHY.--A person who:

28 (a) Knowingly compiles, enters into, or transmits by
29 use means of computer;

30 (b) Makes, prints, publishes, or reproduces by other
31 computerized means;

1 (c) Knowingly causes or allows to be entered into or
2 transmitted by use ~~means~~ of computer; or

3 (d) Buys, sells, receives, exchanges, or disseminates,
4

5 any notice, statement, or advertisement of, ~~or~~ any minor's

6 name, telephone number, place of residence, physical

7 characteristics, or other descriptive or identifying

8 information, ~~for~~ purposes of facilitating, encouraging,

9 offering, or soliciting sexual conduct of or with any minor,

10 or the visual depiction of such conduct, commits a felony of

11 the third degree, punishable as provided in s. 775.082, s.

12 775.083, or s. 775.084. The fact that an undercover operative

13 or law enforcement officer was involved in the detection and

14 investigation of an offense under this section shall not

15 constitute a defense to a prosecution under this section. ~~Any~~

16 ~~person who violates the provisions of this subsection commits~~

17 ~~a felony of the third degree, punishable as provided for in s.~~

18 ~~775.082, s. 775.083, or s. 775.084.~~

19 Section 4. Section 847.0137, Florida Statutes, is

20 created to read:

21 847.0137 Transmission of pornography by electronic

22 device or equipment prohibited; penalties.--

23 (1) For purposes of this section:

24 (a) "Minor" means any person less than 18 years of

25 age.

26 (b) "Transmit" means the act of sending and causing to

27 be delivered any image, information, or data from one or more

28 persons or places to one or more other persons or places over

29 or through any medium, including the Internet, by use of any

30 electronic equipment or device.

31

1 (2) Notwithstanding ss. 847.012 and 847.0133, any
2 person in this state who knew or reasonably should have known
3 that he or she was transmitting child pornography, as defined
4 in s. 847.001, to another person in this state or in another
5 jurisdiction commits a felony of the third degree, punishable
6 as provided in s. 775.082, s. 775.083, or s. 775.084.

7 (3) Notwithstanding ss. 847.012 and 847.0133, any
8 person in any jurisdiction other than this state who knew or
9 reasonably should have known that he or she was transmitting
10 child pornography, as defined in s. 847.001, to any person in
11 this state commits a felony of the third degree, punishable as
12 provided in s. 775.082, s. 775.083, or s. 775.084.

13 (4) This section shall not be construed to prohibit
14 prosecution of a person in this state or another jurisdiction
15 for a violation of any law of this state, including a law
16 providing for greater penalties than prescribed in this
17 section, for the transmission of child pornography, as defined
18 in s. 847.001, to any person in this state.

19 (5) A person is subject to prosecution in this state
20 pursuant to chapter 910 for any act or conduct proscribed by
21 this section, including a person in a jurisdiction other than
22 this state, if the act or conduct violates subsection (3).

23
24 The provisions of this section do not apply to
25 subscription-based transmissions such as list servers.

26 Section 5. Section 847.0138, Florida Statutes, is
27 created to read:

28 847.0138 Transmission of material harmful to minors to
29 a minor by electronic device or equipment prohibited;
30 penalties.--

31 (1) For purposes of this section:

1 (a) "Known by the defendant to be a minor" means that
2 the defendant had actual knowledge or believed that the
3 recipient of the communication was a minor.

4 (b) "Transmit" means to send to a specific individual
5 known by the defendant to be a minor via electronic mail.

6 (2) Notwithstanding ss. 847.012 and 847.0133, any
7 person in this state who knew or believed that he or she was
8 transmitting an image, information, or data that is harmful to
9 minors, as defined in s. 847.001, to a specific individual
10 known by the defendant to be a minor in this state commits a
11 felony of the third degree, punishable as provided in s.
12 775.082, s. 775.083, or s. 775.084.

13 (3) Notwithstanding ss. 847.012 and 847.0133, any
14 person in any jurisdiction other than this state who knew or
15 believed that he or she was transmitting an image,
16 information, or data that is harmful to minors, as defined in
17 s. 847.001, to a specific individual known by the defendant to
18 be a minor in this state commits a felony of the third degree,
19 punishable as provided in s. 775.082, s. 775.083, or s.
20 775.084.

21
22 The provisions of this section do not apply to
23 subscription-based transmissions such as list servers.

24 Section 6. Section 847.0139, Florida Statutes, is
25 created to read:

26 847.0139 Immunity from civil liability for reporting
27 child pornography, transmission of child pornography, or any
28 image, information, or data harmful to minors to a minor in
29 this state.--Any person who reports to a law enforcement
30 officer what the person reasonably believes to be child
31 pornography, transmission of child pornography, or any image,

1 information, or data that is harmful to minors to a minor in
2 this state may not be held civilly liable for such
3 reporting. For purposes of this section, such reporting may
4 include furnishing the law enforcement officer with any image,
5 information, or data that the person reasonably believes to be
6 evidence of child pornography, transmission of child
7 pornography, or an image, information, or data that is harmful
8 to minors to a minor in this state.

9 Section 7. Subsection (7) is added to section 905.34,
10 Florida Statutes, to read:

11 905.34 Powers and duties; law applicable.--The
12 jurisdiction of a statewide grand jury impaneled under this
13 chapter shall extend throughout the state. The subject matter
14 jurisdiction of the statewide grand jury shall be limited to
15 the offenses of:

16 (7) Any violation of s. 847.0135, s. 847.0137, or s.
17 847.0138 relating to computer pornography and child
18 exploitation prevention, or any offense related to a violation
19 of s. 847.0135, s. 847.0137, or s. 847.0138;

20
21 or any attempt, solicitation, or conspiracy to commit any
22 violation of the crimes specifically enumerated above, when
23 any such offense is occurring, or has occurred, in two or more
24 judicial circuits as part of a related transaction or when any
25 such offense is connected with an organized criminal
26 conspiracy affecting two or more judicial circuits. The
27 statewide grand jury may return indictments and presentments
28 irrespective of the county or judicial circuit where the
29 offense is committed or triable. If an indictment is
30 returned, it shall be certified and transferred for trial to
31 the county where the offense was committed. The powers and

1 duties of, and law applicable to, county grand juries shall
2 apply to a statewide grand jury except when such powers,
3 duties, and law are inconsistent with the provisions of ss.
4 905.31-905.40.

5 Section 8. If a court of competent jurisdiction rules
6 that any part of this act is unconstitutional or otherwise
7 ineffective, such ruling shall not affect the other parts of
8 this act and such other parts shall remain effective as though
9 no such ruling has occurred.

10 Section 9. Section 815.03, Florida Statutes, is
11 amended to read:

12 815.03 Definitions.--As used in this chapter, unless
13 the context clearly indicates otherwise:

14 (1) "Access" means to approach, instruct, communicate
15 with, store data in, retrieve data from, or otherwise make use
16 of any resources of a computer, computer system, or computer
17 network~~"Intellectual property" means data, including~~
18 ~~programs.~~

19 ~~(2) "Computer program" means an ordered set of data~~
20 ~~representing coded instructions or statements that when~~
21 ~~executed by a computer cause the computer to process data.~~

22 (2)(3) "Computer" means an internally programmed,
23 automatic device that performs data processing.

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

1 computer data; consume computer resources; modify, destroy,
2 record, or transmit data; or in some other fashion usurp the
3 normal operation of the computer, computer system, or computer
4 network.

5 (4) "Computer network" means any system that provides
6 communications between one or more computer systems and its
7 input or output devices, including, but not limited to,
8 display terminals and printers that are connected by
9 telecommunication facilities.

10 (5) "Computer program or computer software" means a
11 set of instructions or statements and related data which, when
12 executed in actual or modified form, cause a computer,
13 computer system, or computer network to perform specified
14 functions.

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

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

27 (8) "Data" means a representation of information,
28 knowledge, facts, concepts, computer software, computer
29 programs, or instructions. Data may be in any form, in storage
30 media or stored in the memory of the computer, or in transit
31 or presented on a display device.

ENROLLED

2001 Legislature CS for CS for SB 144, 2nd Engrossed (ntc)

1 ~~(4) "Computer software" means a set of computer~~
2 ~~programs, procedures, and associated documentation concerned~~
3 ~~with the operation of a computer system.~~

4 ~~(5) "Computer system" means a set of related,~~
5 ~~connected or unconnected, computer equipment, devices, or~~
6 ~~computer software.~~

7 ~~(6) "Computer network" means a set of related,~~
8 ~~remotely connected devices and communication facilities~~
9 ~~including more than one computer system with capability to~~
10 ~~transmit data among them through communication facilities.~~

11 ~~(7) "Computer system services" means providing a~~
12 ~~computer system or computer network to perform useful work.~~

13 (9) "Financial instrument" means any check, draft,
14 money order, certificate of deposit, letter of credit, bill of
15 exchange, credit card, or marketable security.

16 (10) "Intellectual property" means data, including
17 programs.

18 (11)(8) "Property" means anything of value as defined
19 in s. 812.011 and includes, but is not limited to, financial
20 instruments, information, including electronically produced
21 data and computer software and programs in either
22 machine-readable or human-readable form, and any other
23 tangible or intangible item of value.

24 ~~(9) "Financial instrument" means any check, draft,~~
25 ~~money order, certificate of deposit, letter of credit, bill of~~
26 ~~exchange, credit card, or marketable security.~~

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

31

1 Section 10. Section 815.05, Florida Statutes, is
2 repealed.

3 Section 11. Section 815.06, Florida Statutes, is
4 amended to read:

5 815.06 Offenses against computer users.--

6 (1) Whoever willfully, knowingly, and without
7 authorization:

8 (a) Accesses or causes to be accessed any computer,
9 computer system, or computer network; ~~or whoever willfully,~~
10 ~~knowingly, and without authorization~~

11 (b) Disrupts or denies or causes the denial of
12 computer system services to an authorized user of such
13 computer system services, which, in whole or part, is owned
14 by, under contract to, or operated for, on behalf of, or in
15 conjunction with another;

16 (c) Destroys, takes, injures, or damages equipment or
17 supplies used or intended to be used in a computer, computer
18 system or computer network;

19 (d) Destroys, injures, or damages any computer,
20 computer system, or computer network; or

21 (e) Introduces any computer contaminant into any
22 computer, computer system, or computer network;

23
24 commits an offense against computer users.

25 (2)(a) Except as provided in paragraphs (b) and (c),
26 whoever violates subsection (1) commits a felony of the third
27 degree, punishable as provided in s. 775.082, s. 775.083, or
28 s. 775.084.

29 (b) Whoever violates subsection (1) and:

30 1. Damages a computer, computer equipment, computer
31 supplies, a computer system, or a computer network, and the

1 monetary damage or loss incurred as a result of the violation
2 is \$5,000 or greater;

3 2. Commits the offense for the purpose of devising or
4 executing any scheme or artifice to defraud or obtain
5 property; or

6 3. Interrupts or impairs a governmental operation or
7 public communication, transportation, or supply of water, gas,
8 or other public service.

9
10 commits a felony of the second degree, punishable as provided
11 in s. 775.082, s. 775.083, or s. 775.084.

12 (c) Whoever violates subsection (1) and the violation
13 endangers human life commits a felony of the first degree,
14 punishable as provided in s. 775.082, s. 775.083, or s.
15 775.084.

16 (3) Whoever willfully, knowingly, and without
17 authorization modifies equipment or supplies used or intended
18 to be used in a computer, computer system, or computer network
19 commits a misdemeanor of the first degree, punishable as
20 provided in s. 775.082 or s. 775.083.

21 (4)(a) In addition to any other civil remedy
22 available, the owner or lessee of the computer, computer
23 system, computer network, computer program, computer
24 equipment, computer supplies, or computer data may bring a
25 civil action against any person convicted under this section
26 for compensatory damages.

27 (b) In any action brought under this subsection, the
28 court may award reasonable attorney's fees to the prevailing
29 party.

30 (5) Any computer, computer system, computer network,
31 computer software, or computer data owned by a defendant which

1 is used during the commission of any violation of this section
2 or any computer owned by the defendant which is used as a
3 repository for the storage of software or data obtained in
4 violation of this section is subject to forfeiture as provided
5 under sections 932.701-932.704, Florida Statutes.

6 (6) This section does not apply to any person who
7 accesses his or her employer's computer system, computer
8 network, computer program, or computer data when acting within
9 the scope of his or her lawful employment.

10 (7) For purposes of bringing a civil or criminal
11 action under this section, a person who causes, by any means,
12 the access to a computer, computer system, or computer network
13 in one jurisdiction from another jurisdiction is deemed to
14 have personally accessed the computer, computer system, or
15 computer network in both jurisdictions.

16 ~~(2)(a) Except as provided in this subsection, an~~
17 ~~offense against computer users is a felony of the third~~
18 ~~degree, punishable as provided in s. 775.082, s. 775.083, or~~
19 ~~s. 775.084.~~

20 ~~(b) If the offense is committed for the purposes of~~
21 ~~devising or executing any scheme or artifice to defraud or to~~
22 ~~obtain any property, then the offender is guilty of a felony~~
23 ~~of the second degree, punishable as provided in s. 775.082, s.~~
24 ~~775.083, or s. 775.084.~~

25 Section 12. Subsection (1) of section 16.56, Florida
26 Statutes, is amended to read:

27 16.56 Office of Statewide Prosecution.--

28 (1) There is created in the Department of Legal
29 Affairs an Office of Statewide Prosecution. The office shall
30 be a separate "budget entity" as that term is defined in
31 chapter 216. The office may:

1 (a) Investigate and prosecute the offenses of:
2 1. Bribery, burglary, criminal usury, extortion,
3 gambling, kidnapping, larceny, murder, prostitution, perjury,
4 robbery, carjacking, and home-invasion robbery;
5 2. Any crime involving narcotic or other dangerous
6 drugs;
7 3. Any violation of the provisions of the Florida RICO
8 (Racketeer Influenced and Corrupt Organization) Act, including
9 any offense listed in the definition of racketeering activity
10 in s. 895.02(1)(a), providing such listed offense is
11 investigated in connection with a violation of s. 895.03 and
12 is charged in a separate count of an information or indictment
13 containing a count charging a violation of s. 895.03, the
14 prosecution of which listed offense may continue independently
15 if the prosecution of the violation of s. 895.03 is terminated
16 for any reason;
17 4. Any violation of the provisions of the Florida
18 Anti-Fencing Act;
19 5. Any violation of the provisions of the Florida
20 Antitrust Act of 1980, as amended;
21 6. Any crime involving, or resulting in, fraud or
22 deceit upon any person; ~~or~~
23 7. Any violation of s. 847.0135, relating to computer
24 pornography and child exploitation prevention, or any offense
25 related to a violation of s. 847.0135; ~~or~~
26 8. Any violation of the provision of chapter 815;
27
28 or any attempt, solicitation, or conspiracy to commit any of
29 the crimes specifically enumerated above. The office shall
30 have such power only when any such offense is occurring, or
31 has occurred, in two or more judicial circuits as part of a

ENROLLED

2001 Legislature CS for CS for SB 144, 2nd Engrossed (ntc)

1 related transaction, or when any such offense is connected
2 with an organized criminal conspiracy affecting two or more
3 judicial circuits.

4 (b) Upon request, cooperate with and assist state
5 attorneys and state and local law enforcement officials in
6 their efforts against organized crimes.

7 (c) Request and receive from any department, division,
8 board, bureau, commission, or other agency of the state, or of
9 any political subdivision thereof, cooperation and assistance
10 in the performance of its duties.

11 Section 13. Section 905.34, Florida Statutes, is
12 amended to read:

13 905.34 Powers and duties; law applicable.--The
14 jurisdiction of a statewide grand jury impaneled under this
15 chapter shall extend throughout the state. The subject matter
16 jurisdiction of the statewide grand jury shall be limited to
17 the offenses of:

18 (1) Bribery, burglary, carjacking, home-invasion
19 robbery, criminal usury, extortion, gambling, kidnapping,
20 larceny, murder, prostitution, perjury, and robbery;

21 (2) Crimes involving narcotic or other dangerous
22 drugs;

23 (3) Any violation of the provisions of the Florida
24 RICO (Racketeer Influenced and Corrupt Organization) Act,
25 including any offense listed in the definition of racketeering
26 activity in s. 895.02(1)(a), providing such listed offense is
27 investigated in connection with a violation of s. 895.03 and
28 is charged in a separate count of an information or indictment
29 containing a count charging a violation of s. 895.03, the
30 prosecution of which listed offense may continue independently
31

ENROLLED

2001 Legislature CS for CS for SB 144, 2nd Engrossed (ntc)

1 if the prosecution of the violation of s. 895.03 is terminated
2 for any reason;

3 (4) Any violation of the provisions of the Florida
4 Anti-Fencing Act;

5 (5) Any violation of the provisions of the Florida
6 Antitrust Act of 1980, as amended;

7 (6) Any violation of the provision of chapter 815;

8 (7)~~(6)~~ Any crime involving, or resulting in, fraud or
9 deceit upon any person;

10

11 or any attempt, solicitation, or conspiracy to commit any
12 violation of the crimes specifically enumerated above, when
13 any such offense is occurring, or has occurred, in two or more
14 judicial circuits as part of a related transaction or when any
15 such offense is connected with an organized criminal
16 conspiracy affecting two or more judicial circuits. The
17 statewide grand jury may return indictments and presentments
18 irrespective of the county or judicial circuit where the
19 offense is committed or triable. If an indictment is
20 returned, it shall be certified and transferred for trial to
21 the county where the offense was committed. The powers and
22 duties of, and law applicable to, county grand juries shall
23 apply to a statewide grand jury except when such powers,
24 duties, and law are inconsistent with the provisions of ss.
25 905.31-905.40.

26 Section 14. Except as otherwise expressly provided in
27 this act, this act shall take effect July 1, 2001.

28

29

30

31