

12.6 OFFENSES AGAINST COMPUTER USERS

§ 815.06(1), (2)(c), Fla. Stat.

To prove the crime of Offense against Computer Users, the State must prove the following element beyond a reasonable doubt:

(Defendant) **willfully, knowingly, and without authorization**

Give 1, 2, 3, 4, or 5 as applicable.

1. **[[accessed] [caused to be accessed] any [computer] [computer system] [computer network].]**
2. **[[disrupted] [denied] [caused the denial of] computer system services to an authorized user of such computer system services, which, in whole or part, is [owned by] [under contract to] [operated [for] [on behalf of] [in conjunction with]] another.]**
3. **[[destroyed] [took] [injured] [damaged] equipment or supplies [used] [intended to be used] in a [computer] [computer system] [computer network].]**
4. **[[destroyed] [injured] [damaged] any [computer] [computer system] [computer network].]**
5. **[introduced any computer contaminant into any [computer] [computer system] [computer network].]**

Enhanced Penalty.

If you find the defendant guilty of the crime of Offense Against Computer Users you must then determine, beyond a reasonable doubt, whether the offense endangered human life.

Give if applicable.

This offense does not apply to any person who accesses [his] [her] employer's computer system, computer network, computer program, or computer data when acting within the scope of [his] [her] lawful employment.

Definitions.

“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.

“Computer” means an internally programmed, automatic device that performs data processing.

“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 data; consume computer resources; modify, destroy, record, or transmit data; or in some other fashion usurp the normal operation of the computer, computer

system, or computer network.

“Computer network” means any system that provides communications between one or more computer systems and its input or output devices, including, but not limited to, display terminals and printers that are connected by telecommunication facilities.

“Computer program or computer software” means a set of instructions or statements and related data which, when executed in actual or modified form, cause a computer, computer system, or computer network to perform specified functions.

“Computer services” include, but are not limited to, computer time; data processing or storage functions; or other uses of a computer, computer system, or computer network.

“Computer system” means a device or collection of devices, including support devices, one or more of which contain computer programs, electronic instructions, or input data and output data, and which perform functions, including, but not limited to, logic, arithmetic, data storage, retrieval, communication, or control. The term does not include calculators that are not programmable and that are not capable of being used in conjunction with external files.

“Data” means a representation of information, knowledge, facts, concepts, computer software, computer programs, or instructions. Data may be in any form, in storage media or stored in the memory of the computer, or in transit or presented on a display device.

“Knowingly” means with full knowledge and intentionally.

“Willfully” means intentionally and purposely.

Lesser Included Offenses

No lesser included offenses have been identified for this offense.

Comment

This instruction was adopted in 2010.