

12.7 OFFENSES AGAINST COMPUTER USERS

§ 815.06(2)(b), Fla. Stat.

To prove the crime of Offense Against Computer Users, the State must prove the following two elements beyond a reasonable doubt:

- 1. (Defendant) willfully, knowingly, and without authorization**

Give a, b, c, d, or e as applicable.

- a. [[accessed] [caused to be accessed] any [computer] [computer system] [computer network].]**
- b. [[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.]**
- c. [[destroyed] [took] [injured] [damaged] equipment or supplies [used] [intended to be used] in a [computer] [computer system] [computer network].]**
- d. [[destroyed] [injured] [damaged] any [computer] [computer system] [computer network].]**
- e. [introduced any computer contaminant into any [computer] [computer system] [computer network].]**

- 2. (Defendant)**

Give a, b, or c as applicable.

- a. [damaged [a computer] [computer equipment] [computer supplies] [a computer system] [a computer network] and the monetary damage or loss incurred as a result of the violation was \$5,000 or greater.]**
- b. [did so for the purpose of devising or executing any scheme or artifice to defraud or obtain property.]**
- c. [interrupted or impaired a [governmental operation or public communication] [transportation or supply of water, gas, or other public service].]**

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.

“Property” means anything of value as defined in s. 815.03(11) and includes, but is not limited to, financial instruments, information, including electronically produced data and computer software and programs in either machine-readable or human-readable form, and any other tangible or intangible item of value.

“Willfully” means intentionally and purposely.

Lesser Included Offenses

OFFENSES AGAINST COMPUTER USERS – 815.06(2)(b)

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
Offenses Against Computer Users		815.06(1)	
	Attempt	777.04(10	5.1

Comment

This instruction was adopted in 2010.