

Computer Abuse and Data Recovery Act (CADRA) Legislative White Paper - August 30, 2014

Section 668.801 sets forth the title of the act: the Computer Abuse and Data Recovery Act.

Section 668.802: It is the purpose and the policy of the Act to (a) protect owners, operators and lessees of computers used in the operation of a business from harm or losses caused by unauthorized access to protected computers and (b) to protect owners of information stored in protected computers used in the operation of a business from harm or losses caused by unauthorized access to protected computers.

Section 668.803: The Act is violated when a person knowingly and with intent to cause harm or loss (a) obtains information from a protected computer without authorization and causes harm or loss; or (b) causes the transmission of a program, code, or command without authorization to a protected computer and causes harm or loss; or (c) traffics in any password, security code or token, key fob, access device or similar information or device through which access to a protected computer may be obtained without authorization. The following persons or organizations may bring a civil action against the violator: (i) the owner of the information who uses the information in his or her business in a protected computer, or (ii) the owner, operator or lessee of a protected computer.

Section 668.804 sets forth the act's civil remedies in sub-section (a) which include: (1) recovery of actual damages, lost profits and losses (defined in s. 668.804); (2) recovery of the violator's profits; (3) injunctive or equitable to prevent a violation of the Act; and (4) recovery of the original and all copies of the information subject to the violation. In remedies sub-section (b), the court may award reasonable attorney's fees to the prevailing party. These remedies are in addition to remedies otherwise available under other statutes (sub-section (c)). In sub-section (d), if the violator is subject to a final judgment in a criminal proceeding for the same conduct, he or she is estopped under the Act as to all matters as to which would be an estoppel as if the plaintiff had been a party in the criminal action. Sub-section (e) requires that the action be filed within three years of the violation or within three years after the violation was discovered or should have been discovered with the exercise of due diligence.

Section 668.8005 defines important terms used in the Act. A "Computer" is an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility, data storage device or communications facility directly related to or operating in conjunction with such device. A "Protected computer" is a computer, used in connection with a business and storing information, programs or code used in the business, in which the information, programs or code can only be accessed through a technological access barrier such as a password, security code or token, key fob, access device, or similar measure. "Without authorization" means to circumvent a technological access barrier to a protected computer, without the express or implied permission of the owner, operator or lessee of the computer or the express or implied permission of the owner of information stored in the protected computer, but does not include circumventing a technological measure that does not effectively control access to the protected computer or the information stored in the protected computer. A "Harm" means any

impairment to the integrity, access or availability of data, a program, a system, or information. A "Loss" means (1) any reasonable cost to the owner or the owner, operator or lessee of a protected computer, including the reasonable cost of responding to the violation, conducting a damage assessment, and remediation efforts including restoring the data, program, system, or information to its condition prior to the violation; (2) economic damages; (3) lost profits; (4) consequential damages including but not limited to interruption of service; and (5) profits derived from a violation. "Traffics" means to sell, purchase or deliver. A "Business" is defined as including any trade or business without regard to its profit or nonprofit status.

Section 668.806 certain law enforcement agencies and are exempt from the Act such as lawfully authorized investigative, protective, or intelligence activity of any law enforcement agency, regulatory agency or political subdivision of this State, any other state, the United States or any foreign country.