

BILL ANALYSIS

C.S.S.B. 1662
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, absent proof of actual monetary damages, a breach of computer security, commonly referred to as hacking, is a Class B misdemeanor. There is no increased punishment for such offenses as obtaining personal identifiers from a computer system, which is a precursor to the crime of identity theft; obtaining access to such information as credit card sales logs or employment applications; and obtaining access to a governmental computer network.

Additionally, it is difficult to prove the amount of actual monetary damages immediately resulting from a network intrusion.

C.S.S.B. 1662 amends current law relating to the punishment for the offense of breach of computer security.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

ANALYSIS

SECTION 1. Amends Section 33.01, Penal Code, by adding Subdivision (10-a) to define "critical infrastructure facility."

SECTION 2. Amends Section 33.02, Penal Code, by amending Subsections (b) and (d) and adding Subsections (b-1) and (b-2), as follows:

(b) Provides that an offense under Subsection (a) (relating to the act of knowingly accessing a computer or computer network without consent constituting an offense), rather than this section, is a Class B misdemeanor, except that the offense is a state jail felony if the defendant has been previously convicted two or more times of an offense under this chapter, or the computer, computer network, or computer system is owned by the government or a critical infrastructure facility.

(b-1) Provides that a person commits an offense if with the intent to obtain a benefit, defraud or harm another, or alter, damage, or delete property, the person knowingly accesses a computer, computer network, or computer system without the effective consent of the owner.

(b-2) Provides that an offense under Subsection (b-1) is a state jail felony if the aggregate amount involved is less than \$20,000; a felony of the third degree if the aggregate amount involved is \$20,000 or more but less than \$100,000; a felony of the second degree if the aggregate amount involved is \$100,000 or more but less than \$200,000; or the aggregate amount involved is less than \$200,000 and the offense is committed against a computer, computer network, or computer system owned by the government or a critical infrastructure facility; or a felony of the first degree if the aggregate amount involved is \$200,000 or more.

(d) Authorizes a person who is subject, rather than his subject, to prosecution under this section and any other section of this code to be prosecuted under either or both sections.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2009.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL TO SUBSTITUTE

Amends the caption to read "relating to the prosecution of and punishment for the offense of breach of computer security" and adds subsection (K) to subdivision (10-a) in SECTION 1 to include a cable television or video service provider headend.