

By: Capriglione

H.B. No. 9

A BILL TO BE ENTITLED

AN ACT

relating to cybercrime; creating criminal offenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. This Act may be cited as the Texas Cybercrime Act.

SECTION 2. Chapter 33, Penal Code, is amended by adding Sections 33.022 and 33.023 to read as follows:

Sec. 33.022. ELECTRONIC ACCESS INTERFERENCE. (a) A person commits an offense if the person intentionally interrupts or suspends access to a computer system or computer network without the effective consent of the owner.

(b) An offense under this section is a third degree felony.

(c) It is a defense to prosecution under this section that the person acted with the intent to facilitate a lawful seizure or search of, or lawful access to, a computer, computer network, or computer system for a legitimate law enforcement purpose.

Sec. 33.023. ELECTRONIC DATA TAMPERING. (a) In this section:

(1) "Malware" means computer software used to:

(A) gather data without the effective consent of the owner of the data;

(B) gain access to a computer, computer network, or computer system without the effective consent of the owner; or

(C) disrupt the operation of a computer, computer

1 network, or computer system without the effective consent of the
2 owner.

3 (2) "Ransomware" means malware that demands a ransom
4 payment to:

5 (A) restore access to a person's property; or

6 (B) not publish the person's data.

7 (b) A person commits an offense if the person:

8 (1) alters data as it transmits between two computers
9 in a computer network or computer system without the effective
10 consent of the owner; or

11 (2) introduces malware, including ransomware, onto a
12 computer, computer network, or computer system without the
13 effective consent of the owner.

14 (c) An offense under this section is a Class A misdemeanor,
15 unless the person acted with the intent to defraud or harm another
16 or alter, damage, or delete property, in which event the offense is:

17 (1) a state jail felony if the aggregate amount
18 involved is \$2,500 or more but less than \$30,000;

19 (2) a felony of the third degree if the aggregate
20 amount involved is \$30,000 or more but less than \$150,000;

21 (3) a felony of the second degree if:

22 (A) the aggregate amount involved is \$150,000 or
23 more but less than \$300,000; or

24 (B) the aggregate amount involved is any amount
25 less than \$300,000 and the computer, computer network, or computer
26 system is owned by the government or a critical infrastructure
27 facility; or

1 (4) a felony of the first degree if the aggregate
2 amount involved is \$300,000 or more.

3 (d) When benefits are obtained, a victim is defrauded or
4 harmed, or property is altered, damaged, or deleted in violation of
5 this section, whether or not in a single incident, the conduct may
6 be considered as one offense and the value of the benefits obtained
7 and of the losses incurred because of the fraud, harm, or
8 alteration, damage, or deletion of property may be aggregated in
9 determining the grade of the offense.

10 (e) A person who is subject to prosecution under this
11 section and any other section of this code may be prosecuted under
12 either or both sections.

13 SECTION 3. Section 33.03, Penal Code, is amended to read as
14 follows:

15 Sec. 33.03. DEFENSES. It is an affirmative defense to
16 prosecution under Section 33.02, 33.022, or 33.023(b)(1) that the
17 actor was an officer, employee, or agent of a communications common
18 carrier or electric utility and committed the proscribed act or
19 acts in the course of employment while engaged in an activity that
20 is a necessary incident to the rendition of service or to the
21 protection of the rights or property of the communications common
22 carrier or electric utility.

23 SECTION 4. The change in law made by this Act applies only
24 to an offense committed on or after the effective date of this Act.
25 An offense committed before the effective date of this Act is
26 governed by the law in effect on the date the offense was committed,
27 and the former law is continued in effect for that purpose. For

1 purposes of this section, an offense was committed before the
2 effective date of this Act if any element of the offense occurred
3 before that date.

4 SECTION 5. This Act takes effect September 1, 2017.