

## **BILL ANALYSIS**

Senate Research Center

S.B. 1993  
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Natural Resources & Economic Development  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

S.B. 1993 creates criminal offenses if a person, without the effective consent of the owner, intentionally or knowingly damages, destroys, vandalizes, defaces, or tampers with a critical infrastructure facility; or the person intentionally or knowingly impedes, inhibits, or interferes with the operation of a critical infrastructure facility. The bill also creates a criminal offense if a person, without the effective consent of the owner, enters or remains on or in a critical infrastructure facility with the intent to damage, destroy, vandalize, deface, or tamper with the facility; or to impede, inhibit, or interfere with the operation of the facility. A corporation or association adjudged guilty of an offense above is subject to a fine equal to the maximum possible amount of the applicable fine multiplied by 100. S.B. 1993 also provides for civil liability to the property owner for damages arising from the above criminal conduct.

As proposed, S.B. 1993 amends current law relating to civil and criminal liability for engaging in certain conduct involving a critical infrastructure facility; and creates criminal offenses.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Requires this Act to be known as the Critical Infrastructure Protection Act.

SECTION 2. Amends Subtitle B, Title 4, Government Code, by adding Chapter 424, as follows:

#### CHAPTER 424. PROTECTION OF CRITICAL INFRASTRUCTURE FACILITIES

Sec. 424.001. DEFINITION. Defines "critical infrastructure facility" for purposes of this section.

Sec. 424.002. OFFENSE: DAMAGE TO CRITICAL INFRASTRUCTURE FACILITY.

(a) Provides that a person commits an offense if, without the effective consent of the owner, the person intentionally or knowingly damages, destroys, vandalizes, defaces, or tampers with a critical infrastructure facility or the person intentionally or knowingly impedes, inhibits, or interferes with the operation of a critical infrastructure facility.

(b) Provides that an offense under this section is a second degree felony.

(c) Provides that if conduct constituting an offense under this section also constitutes an offense under another law, the actor is authorized to be prosecuted under this section, the other law, or both.

(d) Requires a court, notwithstanding any provision in Section 12.51 (Authorized Punishments for Corporations and Associations), Penal Code, and in accordance with Chapter 7 (Criminal Responsibility for Conduct of Another), Penal Code, to sentence a corporation or association adjudged guilty of an offense in this section

and subject to the punishment under subsection (b) to pay a fine equal to the maximum possible amount of the applicable fine multiplied by 100.

(e) Authorizes a court, if a defendant is convicted of an offense under Section 424.002 or 424.003 and the offense results in damage to or destruction of property, to order the defendant to make restitution to the owner of the destroyed or damaged property, or the owner's designee, in an amount equal to the value of the property on the date of the damage or destruction pursuant to Article 42.037 (Restitution) of the Code of Criminal Procedure.

Sec. 424.003. OFFENSE: INTENT TO DAMAGE CRITICAL INFRASTRUCTURE FACILITY. (a) Provides that a person commits an offense if, without the effective consent of the owner, the person enters or remains on or in a critical infrastructure facility with the intent to damage, destroy, vandalize, deface, or tamper with the facility or to impede, inhibit, or interfere with the operation of the facility.

(b) Provides that an offense under this section is a state jail felony.

(c) Provides that, if conduct constituting an offense under this section also constitutes an offense under another law, the actor is authorized to be prosecuted under this section, the other law, or both.

(d) Requires a court, notwithstanding any provision in Section 12.51, Penal Code, and in accordance with Chapter 7, Penal Code, to sentence a corporation or association adjudged guilty of an offense in this section and subject to the punishment under subsection (b) to pay a fine equal to the maximum possible amount of the applicable fine multiplied by 100.

(e) Authorizes a court, if a defendant is convicted of an offense under Section 424.002 or 424.003 and the offense results in damage to or destruction of property, to order the defendant to make restitution to the owner of the destroyed or damaged property, or the owner's designee, in an amount equal to the value of the property on the date of the damage or destruction pursuant to Article 42.037 of the Code of Criminal Procedure.

Sec. 424.004. CIVIL LIABILITY FOR DAMAGE TO CRITICAL INFRASTRUCTURE FACILITY. (a) Provides that a defendant who engages in conduct constituting an offense under Section 424.002 or 424.003 is liable to the property owner, as provided by this section, for damages arising from that conduct.

(b) Provides that it is not a defense to liability under this section that a defendant has been acquitted or has not been prosecuted or convicted under Section 424.002 or 424.003, or has been convicted of a different offense or of a different type or class of offense, for the conduct that is alleged to give rise to liability under this section.

Sec. 424.005. CERTAIN VICARIOUS LIABILITY. Provides that, regardless of the relationship between the organization and the person, an organization that compensates a person for engaging in conduct occurring on the premises of a critical infrastructure facility is vicariously liable to the property owner, as provided by this chapter, for damages arising from the conduct if the conduct constituted an offense under Section 424.002 or 424.003.

Sec. 424.006. DAMAGES. (a) Requires a claimant who prevails in a suit under Section 424.004 or 424.005 to be awarded actual damages, court costs, and reasonable attorney's fees.

(b) Authorizes a claimant who prevails in a suit under Section 424.004 or 424.005, in addition to an award under Subsection (a) and notwithstanding Section 41.008(c) (relating to certain causes for action to which the limitation on

amount of recovery does not apply), Civil Practices and Remedies Code, to recover exemplary damages.

Sec. 424.007. CAUSE OF ACTION CUMULATIVE. Provides that the cause of action created by Section 424.004 or 424.005 is cumulative of any other remedy provided by common law or statute.

Sec. 424.009. NONAPPLICABILITY. Provides that Chapter 27 (Justice Courts), Civil Practice and Remedies Code, does not apply to a cause of action under this chapter.

SECTION 3. Makes application of this Act prospective with respect to civil actions.

SECTION 4. Makes application of this Act prospective with respect to criminal actions. Provides that for the purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 5. Effective date: upon passage or September 1, 2019.