

BILL ANALYSIS

Senate Research Center

H.B. 1482
By: Carter (Armbrister)
Criminal Justice
4-25-97
Engrossed

DIGEST

Currently, computer and telecommunications fraud costs the industry billions of dollars a year in stolen services and damaged systems. This legislation amends the definition of, and penalties for, breach of computer security, as well as establishing the telecommunications crimes of unauthorized use of telecommunications services; manufacture, possession, or delivery of unlawful telecommunications devices; theft of telecommunications service; and publication of illicit telecommunications access devices. In addition, H.B. 1482 prescribes penalties for these offenses and provides the tools for law enforcement to prosecute the offenders.

PURPOSE

As proposed, H.B. 1482 provides for computer and telecommunications offenses and establishes penalties.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 33.01, Penal Code, to define "aggregate amount" and redefine "access." Deletes the definition of "computer security system." Makes conforming changes.

SECTION 2. Amends Section 33.02, Penal Code, to delete existing text regarding the offense of giving confidential information about a computer security system to another person without the person's consent. Provides that the offense of breach of computer security is a Class B, rather than A, misdemeanor unless the actor knowingly obtains a benefit, defrauds or harms another, or alters, damages, or deletes property, in which event the offense varies from a Class A misdemeanor to a third degree felony. Deletes existing text regarding the grades of offenses for breach of computer security, and the provision relating to the prosecution of such offenses.

SECTION 3. Amends Title 7, Penal Code, by adding Chapter 33A, as follows:

CHAPTER 33A. TELECOMMUNICATIONS CRIMES

Sec. 33A.01. DEFINITIONS. Defines "counterfeit telecommunications access device," "counterfeit telecommunications device," "deliver," "publish," "telecommunications," "telecommunications access device," "telecommunications device," "telecommunications service," and "value of the telecommunications service obtained or attempted to be obtained."

Sec. 33A.02. UNAUTHORIZED USE OF TELECOMMUNICATIONS SERVICE. Provides that a person commits an offense if the person bears a certain relation to a telecommunications service provider and the person knowingly and without authority uses or diverts telecommunications service for the person's own benefit or to the benefit of another. Establishes that an offense under this section ranges from a Class B misdemeanor to a third degree felony, depending on the value of the service used or diverted. Sets forth the manner for considering the unlawful diversion or use of telecommunications service

pursuant to one continuing course of conduct.

Sec. 33A.03. MANUFACTURE, POSSESSION, OR DELIVERY OF UNLAWFUL TELECOMMUNICATIONS DEVICE. Provides that a person commits a third degree offense if the person manufactures, possesses, delivers, or advertises a counterfeit telecommunications device or a device that is intended for certain illicit purposes. Provides that a person commits a third degree offense if the person delivers, offers to deliver, or advertises plans, instructions, or materials for manufacture of a counterfeit telecommunications device or a device that is intended for certain illicit purposes. Sets forth the defense to prosecution under this section.

Sec. 33A.04. THEFT OF TELECOMMUNICATIONS SERVICE. Provides that a person commits an offense if the person knowingly obtains or attempts to obtain telecommunications service to avoid or cause another person to avoid a lawful charge for that service using certain illicit devices or methods. Provides that an offense under this section ranges from a Class B misdemeanor to a first degree felony, depending on the value of the telecommunications service. Sets forth the method for determining the grade of the offense when telecommunications service is unlawfully obtained pursuant to one scheme or continuing course of conduct.

Sec. 33A.05. PUBLICATION OF TELECOMMUNICATIONS ACCESS DEVICE. Provides that a person commits an offense if the person with criminal negligence publishes a telecommunications access device or counterfeit telecommunications access device that is designated to be used to commit an offense. Establishes that an offense under this section is a Class A misdemeanor, except if the person has been previously convicted, in which case the offense is a third degree felony.

Sec. 33A.06. ASSISTANCE BY ATTORNEY GENERAL. Authorizes the attorney general, if requested to do so by a prosecuting attorney, to assist the prosecuting attorney in the investigation or prosecution of an offense under this chapter or of any offense involving telecommunications services or devices.

SECTION 4. Amends Article 13.25, Code of Criminal Procedure, to make conforming changes.

SECTION 5. Amends Chapter 13, Code of Criminal Procedure, by adding Article 13.26, as follows:

Art. 13.26. TELECOMMUNICATIONS CRIMES. Authorizes an offense under Chapter 33A, Penal Code, to be prosecuted in certain counties.

SECTION 6. Amends Article 59.01(2), Code of Criminal Procedure, to make conforming changes.

SECTION 7. Effective date: September 1, 1997.
Makes the application of this Act prospective.

SECTION 8. Emergency clause.