

BILL ANALYSIS

Senate Research Center

H.B. 1972
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Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The purpose of this bill is to update existing language in certain provisions of the Health and Safety Code relating to 9-1-1 service. Current statute regarding emergency communications is arguably outdated with the public's use of modern communications technologies. H.B. 1972 changes the definition of "9-1-1 service" to mean a communications service that connects users to a public safety answering point through a 9-1-1 system. It removes the references to "telephone" throughout the Health and Safety Code.

Current law provides liability and confidentiality protections for all of those involved in delivering 9-1-1 calls. H.B. 1972 expands the limited liability provided to 9-1-1 service providers to include communications service providers, developers of software used in providing 9-1-1 service, and third parties or other entities involved in providing 9-1-1 service.

H.B. 1972 updates language for criminal penalties to address abusive or harassing 9-1-1 calls as well as interference with 9-1-1 emergency requests.

Lastly, the bill clarifies that it does not in any way expand or change the authority or jurisdiction of a 9-1-1 public agency or the Commission on State Emergency Communication over commercial mobile service or wireline service, including Voice over Internet Protocol service or Internet Protocol enabled service.

This bill represents a crucial next step in the ongoing transition of the legacy 9-1-1 system to a Next Generation 9-1-1 system enhancing information available to first responders.

H.B. 1972 amends current law relating to the provision of 9-1-1 services, and provides criminal penalties.

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. Amends Section 771.001(6), Health and Safety Code, to redefine "9-1-1 service."

SECTION 2. Amends the heading to Section 771.053, Health and Safety Code, to read as follows:

Sec. 771.053. STATEWIDE LIMITATION ON LIABILITY OF SERVICE PROVIDERS AND CERTAIN PUBLIC OFFICERS.

SECTION 3. Amends Section 771.053, Health and Safety Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Provides that a service provider of communications service, rather than a service provider of telecommunications service, involved in providing 9-1-1 service, a manufacturer of equipment used in providing 9-1-1 service, a developer of software used

in providing 9-1-1 service, a third party or other entity involved in providing 9-1-1 service, or an officer, director, or employee of the service provider, manufacturer, developer, third party, or other entity involved in providing 9-1-1 service is not liable for any claim, damage, or loss arising from the provision of 9-1-1 service unless the act or omission proximately causing the claim, damage, or loss constitutes gross negligence, recklessness, or intentional misconduct. Makes nonsubstantive changes.

(c) Requires that this section be interpreted to provide protection relating to confidentiality and immunity and protection from liability with at least the same scope and to at least the same extent as described by federal law, including 47 U.S.C. Section 615a and 47 U.S.C. Section 1472.

SECTION 4. Amends Section 771.061, Health and Safety Code, as follows:

Sec. 771.061. New heading: STATEWIDE CONFIDENTIALITY OF INFORMATION.

(a) Provides that information that a service provider of communications service is required to furnish to a governmental entity, including a regional planning commission, emergency communications district, or public safety answering point, in providing 9-1-1 service or that a service provider, third party, or other entity voluntarily furnishes at the request of a governmental entity in providing 9-1-1 service is confidential and is not available for public inspection, rather than providing that information that a service provider of telecommunications service is required to furnish to a governmental entity in providing computerized 9-1-1 service is confidential and is not available for public inspection. Makes conforming changes.

(b) Provides that information that a service provider furnishes, rather than a service provider of telecommunications service furnishes, to the Commission on State Emergency Communications (CSEC) or an emergency communication district to verify or audit emergency service fees or surcharge remittances and that includes access line or market share information of an individual service provider is confidential and not available for public inspection.

(c) Requires that this section be interpreted to provide protection relating to confidentiality and immunity and protection from liability with at least the same scope and to at least the same extent as described by federal law, including 47 U.S.C. Section 615a and 47 U.S.C. Section 1472

SECTION 5. Amends Section 772.001(6), Health and Safety Code, to redefine "9-1-1 service."

SECTION 6. Amends Sections 42.061(a), (b), and (c), Penal Code, as follows:

(a) Redefines, in this section, "9-1-1 service" and "public safety answering point" or "PSAP."

(b) Provides that a person commits an offense if the person makes a call, rather than a telephone call, to a 9-1-1 service, or requests 9-1-1 service using an electronic communications device, when there is not an emergency and knowingly or intentionally remains silent, or makes abusive or harassing statements to a public safety answering point (PSAP) employee.

(c) Provides that a person commits an offense if the person knowingly permits an electronic communications device, including a telephone, under the person's control to be used by another person in a manner described in Subsection (b). Makes a nonsubstantive change.

SECTION 7. Amends the heading to Section 42.062, Penal Code, to read as follows:

Sec. 42.062. INTERFERENCE WITH EMERGENCY REQUEST FOR ASSISTANCE.

SECTION 8. Amends Sections 42.062(a), (b), and (d), Penal Code, as follows:

(a) Provides that an individual commits an offense if the individual knowingly prevents or interferes with another individual's ability to place an emergency call, rather than an emergency telephone call, or to request assistance, including a request for assistance using an electronic communications device, in an emergency from a law enforcement agency, medical facility, or other agency or entity the primary purpose of which is to provide for the safety of individuals.

(b) Provides that an individual commits an offense if the individual recklessly renders unusable an electronic communications device, including a telephone, that would otherwise be used by another individual to place an emergency call or to request assistance in an emergency from a law enforcement agency, medical facility, or other agency or entity the primary purpose of which is to provide for the safety of individuals. Makes a conforming and nonsubstantive change.

(d) Redefines, in this section, "emergency."

SECTION 9. Repealer: Section 772.401 (Definition), Health and Safety Code.

SECTION 10. Amends Subchapter C, Chapter 171, Health and Safety Code, by adding Section 771.0512, as follows:

Sec. 771.0512. OBLIGATIONS OR REQUIREMENTS CONCERNING VOICE OVER INTERNET PROTOCOL, INTERNET PROTOCOL ENABLED SERVICE, OR COMMERCIAL MOBILE SERVICE OR WIRELINE SERVICE. Provides that defining "9-1-1 service" as a communications service and other amendments effective September 1, 2013, do not expand or change the authority or jurisdiction of a public agency or CSEC over commercial mobile service or wireline service including Voice over Internet Protocol service or Internet Protocol enabled service or expand the authority of a public agency or CSEC to assess 911 fees. Provides that nothing in this chapter affects Section 52.002(d) (relating to prohibiting a department, agency, or political subdivision of this state from by rule, order, or other means directly or indirectly regulating rates charged for, service or contract terms for, conditions for, or requirements for entry into the market for Voice over Internet Protocol services or other Internet Protocol enabled services), Utilities Code. Defines "voice over Internet Protocol service," "Internet Protocol enabled service," and "commercial mobile service" in this section.

SECTION 11. Amends Subchapter A, Chapter 772, Health and Safety Code, by adding Section 772.003, as follows:

Sec. 772.003. OBLIGATIONS OR REQUIREMENTS CONCERNING VOICE OVER INTERNET PROTOCOL, INTERNET PROTOCOL ENABLED SERVICE, OR COMMERCIAL MOBILE SERVICE OR WIRELINE SERVICE. Provides that defining "9-1-1 service" as a communications service and other amendments effective September 1, 2013, do not expand or change the authority or jurisdiction of a public agency or CSEC over commercial mobile service or wireline service including Voice over Internet Protocol service or Internet Protocol enabled service or expand the authority of a public agency or CSEC to assess 911 fees. Provides that nothing in this chapter affects Section 52.002(d), Utilities Code. Defines "voice over Internet Protocol service," "Internet Protocol enabled service," and "commercial mobile service" in this section.

SECTION 12. Provides that the change in law made by this Act applies only to an offense committed on or after the effective date of this Act. Provides that an offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. Provides that for 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 11. Effective date: September 11, 2013.