

BILL ANALYSIS

Senate Research Center
81R5037 KEL-D

S.B. 1662
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Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

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.

As proposed, S.B. 1662 amends the Penal Code to assign a penalty to acts that involve computers owned by the government or public and private utilities considered to be critical infrastructure, or that contain personal identifying information.

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 33.01, Penal Code, by adding Subdivisions (10-a) and (14-a), to define "critical infrastructure facility" and "identifying information."

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, except as provided by Subsections (b-1) and (b-2), an offense under this section is a Class B misdemeanor. Makes a conforming change.

(b-1) Creates this subsection from existing text to provide that subject to Subsection (b-2), if, rather than unless, in committing the offense the actor knowingly obtains a benefit, defrauds or harms another, or alters, damages, or deletes property, an offense, rather than in which event the offense, under this section is a misdemeanor, state jail felony, or felony under certain circumstances.

(b-2) Provides that an offense under this section other than an offense punishable as a felony of the first degree is a felony of the second degree if in committing the offense, the actor accesses the identifying information of another; or the computer, computer network, or computer system is owned by the government or a critical infrastructure facility.

(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.