

BILL ANALYSIS

Senate Research Center
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S.B. 315
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Criminal Justice
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Credit card skimming at gas pumps in Texas has drastically increased over the last four years. This rise in Texas has been caused directly by organized crime perpetrated almost exclusively by Cuban nationals. Independent cells operating primarily out of Houston, Austin, Miami, and Las Vegas make "skimmer runs" through Texas planting skimmers inside gas pumps along the way. These skimmers are not visible from the outside of the pumps. These runs typically last a week or two, planting skimmers along the way and recovering the stolen credit card numbers on the way back. While these separate cells operate independently of each other, they also communicate with each other, allowing them to respond quickly to innovations by law enforcement and to public service announcements. Local and national banks are losing millions of dollars each month as a result of skimming occurring at gas pumps in Texas. The North Texas Financial Crimes Task Force (task force) has been leading the nation in detecting and prosecuting gas pump skimmers. The task force consists of law enforcement from the Tyler Police Department, Smith County Sheriff's Office, Longview Police Department, and the United States Secret Service. Several proposed bills this session are in response to this problem in order to effectively tackle this widespread crime wave.

The Engaging in Organized Crime Statute (Chapter 71, Penal Code) has been an effective tool for prosecuting organized criminal activity related to various crimes across the state. The primary crime the gas pump skimmers are committing when they steal citizens' identities is Section 16.02, Penal Code (Unlawful Interception of an Electronic Communication). The Engaging Statute (Section 71.02, Penal Code) lists the predicate crimes for which someone can be prosecuted for organized crime. Section 16.02, Penal Code, is not one of those predicate crimes in Section 71.02, Penal Code. S.B. 315 would add Section 16.02, Penal Code, as a predicate crime under Section 71.02, Penal Code. The effect of this change would drastically benefit local prosecutors in their ability to stop these transnational crime cells. Due to the transitory nature of skimmers and their high level of sophistication in stealing identities, when local law enforcement catches a team in the act, they need to be able to prosecute the offenders for the entirety of their organized crime, not just the individual act they were caught committing. Without this change, district attorney's offices are required to piecemeal prosecute multiple acts across numerous counties, resulting in a waste of time and resources. With this legislative change, the organized criminals' cases can be consolidated and the true scope of their crime can be prosecuted with efficiency.

As proposed, S.B. 315 amends current law relating to the prosecution of organized criminal activity involving the interception, use, or disclosure of certain communications.

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 71.02(a), Penal Code, as follows:

- (a) Provides that a person commits an offense if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a

criminal street gang, the person commits or conspires to commit one or more of the following:

(1)–(16) makes no changes to these subdivisions;

(17) makes a nonsubstantive change;

(18) any offense under Section Section 16.02 (Unlawful Interception, Use, or Disclosure of Wire, Oral, or Electronic Communications); or

(19) creates this subdivision from existing text.

SECTION 2. Makes application of this Act prospective. 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 3. Effective date: September 1, 2019.