# BILL ANALYSIS

Senate Research Center

77R4303 JMG-F

S.B. 917
By: Shapiro
Criminal Justice
3/26/2001
As Filed

## DIGEST AND PURPOSE

Currently, Chapter 33 of the Penal Code, which governs computer crimes, defines "aggregate amount" for purposes of determining the range of punishment in the chapter to mean the amount of any direct or indirect loss incurred by a victim, including the value of money, property, or service stolen or rendered unrecoverable by the offense or any expenditure required by the victim to verify that a computer, computer network, computer program, or computer system was not altered, acquired, damaged, deleted, or disrupted by the offense. The inclusion of the word "or" has resulted in confusion, leading some to assert that a prosecutor has to elect one division or the other in determining "aggregate amount." Also, unlike other penal code sections, such as Sections 33A.02(a) and 33A.04(c), that permit the aggregation of damage or loss incurred pursuant to one scheme or continuing course of conduct in order to determine the appropriate punishment upon conviction, currently Section 33.02 contains no such provision permitting aggregation. As a consequence, a person may have committed multiple violations of Section 33.02 as part of one scheme or one continuing course of conduct but may only be charged and found guilty of one separate offense for each discrete violation. As proposed, S.B. 917 amends two provisions of Chapter 33 of the Penal Code. The first provision amends the definition of "aggregate amount" in Section 33.01(2) by deleting "or" and substituting "and" in order to make it clear that prosecutors may consider both categories of costs together in determining "aggregate amount." The second provision amends Section 33.02 by adding Subsection (c), which permits aggregation of damages or losses incurred and thereby permits the prosecution of multiple violations of the section when those multiple violations are part of one scheme or one continuing course of conduct.

## 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(2), Penal Code, by defining "aggregate amount."

SECTION 2. Amends Section 33.02, Penal Code, by adding Subsection (c) to authorize the conduct, when benefits are obtained, a victim is defrauded or harmed, or property is altered, damaged, or deleted in violation of this section, whether or not in a single incident, to be considered as one offense and the value of the benefits obtained and of the losses incurred because of the fraud, harm or alteration, damage, or deletion of property to be aggregated in determining the grade of the offense.

SECTION 3. Effective date: September 1, 2001.
Makes application of this Act prospective.