

BILL ANALYSIS

Senate Research Center
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S.B. 841
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Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Office of the Attorney General, Cyber Crimes Division, is tasked with the criminal investigative response to all State of Texas computer network intrusions that fall under Section 33.02 (Breach of Computer Security), Penal Code. It has been difficult to enforce this statute due to the penalty range defined by a monetary amount, similar to criminal mischief and theft. Often times in today's society, when a criminal illegally obtains access to a computer network, it is to steal identifying information, financial information, and/or trade secrets, all of which do not necessarily have a monetary value attached.

As proposed, S.B. 841 amends current law relating to the prosecution of and punishment for the offense of breach of computer security.

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 Subdivision (14-a), as follows:

(14-a) Provides that "identifying information" has the meaning assigned by Section 32.51 (Fraudulent Use or Possession of Identifying Information).

SECTION 2. Amends Sections 33.02(b) and (d), Penal Code, as follows:

(b) Provides that an offense under this section is a felony of the third degree, except that the offense is:

(1) a felony of the second degree if in committing the offense the actor knowingly obtains a benefit, obtains the identifying information of another, defrauds or harms another, or alters, damages, or deletes property; or

(2) a felony of the first degree if in committing the offense the actor knowingly:

(A) obtains a benefit, obtains the identifying information of another, defrauds or harms another, or alters, damages, or deletes property; and

(B) accesses more than one computer, computer network, or computer system without the effective consent of the owner.

Deletes existing text providing that an offense under this section is a Class B misdemeanor unless in committing the offense the actor knowingly obtains a benefit, defrauds or harms another, or alters, damages, or deletes property, in which event the offense is a Class A misdemeanor if the aggregate amount involved is less than \$1,500, a state jail felony if the aggregate amount involved is \$1,500 or more but less than \$20,000 or the aggregate amount involved is less than \$1,500 and the defendant has been previously convicted two or more times of an offense under this chapter, a felony of the

third degree if the aggregate amount involved is \$20,000 or more but less than \$100,000, a felony of the second degree if the aggregate amount involved is \$100,000 or more but less than \$200,000; or a felony of the first degree if the aggregate amount involved is \$200,000 or more.

(d) Makes a nonsubstantive change.

SECTION 3. Repealer: Section 33.02(c) (relating to authorizing conduct, whether or not it occurs 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), Penal Code.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2011.