

BILL ANALYSIS

C.S.H.B. 2625

By: Perez

Pensions, Investments & Financial Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerns have been raised regarding the inefficiency with which offenses involving credit card skimming are prosecuted. It has been noted that many individuals arrested for such an offense have multiple counterfeit cards in their possession in addition to numerous victims' account numbers. Furthermore, prosecutors hoping to levy more severe punishment for such an offense often find themselves pursuing the offense as fraudulent use or possession of identifying information, which can require contacting each account holder. C.S.H.B. 2625 seeks to address these issues by creating the offense of mass fraudulent use or possession of credit card or debit card information.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2625 amends the Penal Code to create the offense of mass fraudulent use or possession of credit card or debit card information for a person who, with the intent to harm or defraud another, obtains, possesses, transfers, or uses:

- five or more counterfeit credit or debit cards;
- the numbers and expiration dates of five or more credit or debit cards without the consent of the account holder; or
- the data stored on the digital imprint of five or more credit or debit cards without the consent of the account holder.

C.S.H.B. 2625 establishes penalties for the offense ranging from a third degree felony to a first degree felony depending on the number of items obtained, possessed, transferred, or used and enhances the penalty for an offense in which less than 50 items or 5 or more items are obtained, possessed, transferred, or used to the next higher category of offense if it is shown on the trial of the offense that the offense was committed against one or more elderly individuals.

C.S.H.B. 2625 establishes that a rebuttable presumption exists that an actor possessed each item without the consent of the account holder if the actor possessed five or more card numbers and expiration dates or data from such a digital imprint. This presumption does not apply to a business or other commercial entity or a government agency that is engaged in a business

activity or governmental function that does not violate a state penal law.

C.S.H.B. 2625 authorizes a court, if the court orders a convicted defendant to make restitution to a victim of the offense, to order the defendant to reimburse the victim for lost income or other expenses, other than attorney's fees, incurred as a result of the offense. If conduct that constitutes such an offense also constitutes an offense under any other law, the actor may be prosecuted under the bill's offense provisions, under the other law, or under both the bill's provisions and the other law.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2625 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes as a counterfeit credit card or debit card a card, other than one issued as a credit or debit card, that has been altered to contain the digital imprint of a credit or debit card. The substitute includes as a digital imprint the digital data placed on a counterfeit credit or debit card.