

SUBJECT: Venue for prosecution of certain computer crimes

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Herrero, Carter, Leach, Moody, Schaefer, Toth
2 nays — Burnam, Canales
1 absent — Hughes

SENATE VOTE: On final passage, March 21 — 31-0, on Local and Uncontested Calendar

WITNESSES: (*On House companion bill, HB 1083*)
For — William Pursley, Austin Police Department; (*Registered, but did not testify*: Donald Baker, Austin Police Department; Mark Clark, Houston Police Union; Lon Craft, Texas Municipal Police Association; Brian Eppes, Tarrant County District Attorney's Office; Frederick Frazier, Dallas Police Association; Chris Jones, Combined Law Enforcement Associations of Texas; James Jones, San Antonio Police Department; Annie Mahoney, Texas Conservative Coalition; Donald McKinney, Houston Police Department; Washington Moscoso and Jimmy Rodriguez, San Antonio Police Officers Association; Andrew Romero, Austin Police Association; Steven Tays, Bexar County Criminal District Attorney's Office; Garry Tittle, Dallas Police Department; Justin Wood, Harris County District Attorney's Office)

Against — (*Registered, but did not testify*: Chris Howe)

BACKGROUND: Under Code of Criminal Procedure, art. 13.25, computer crimes may be prosecuted in:

- the county of the principal place of business of the owner or lessee of a computer, computer network, or computer system involved in the offense;
- any county in which a defendant had control or possession of any proceeds of the offense or any materials used in furthering of the offense; or
- any county from which, to which, or through which access to a

computer, computer network, computer program, or computer system was made in a computer crime, regardless of the means of communication.

DIGEST: SB 222 would add any county in which a victim of the offense resided to the available venues for prosecution of computer crimes under Code of Criminal Procedure, art. 13.25.

The bill would take effect September 1, 2013, and would apply only to a criminal case in which the indictment, information, or complaint was presented to the court on or after that date.

SUPPORTERS SAY: SB 222 would bring the venue rules for certain computer crimes into the 21st century and allow prosecutors to enforce the law using rules that acknowledge the nature of the Internet and modern computer crime. Modern technology creates situations in which a person can be victimized and feel all the effects of certain computer crimes in a location remote from where the offender acted in violation of the law. This creates situations such as a recent case involving a woman who was impersonated online by an offender who harassed her and posted sexually explicit information about her online but could not be prosecuted because he lived in Ohio and his behavior did not violate Ohio law. SB 222 would close this loophole and allow for better protection of victims and more efficient prosecution and punishment of crime.

SB 222 would be an appropriate measure to ensure that crimes that victimized Texans could be prosecuted in Texas. When victims report crimes that harm them, the state should have the ability to prosecute these offenses in the jurisdiction where the person was victimized. This bill would modernize venue laws to address the reality of modern computer crimes.

OPPONENTS SAY: SB 222 inappropriately would expand jurisdiction and change venue laws to prosecute computer crimes. Although computer crimes can be complicated, the current statutes provide sufficient guidance to determine where venue is appropriate.

The bill could have a negative effect on defendants, who have the right to be prosecuted and held accountable according to the laws in the jurisdiction where the crime is alleged to have occurred. By expanding jurisdiction for these crimes to counties in which criminal activity did not

take place, the bill would jeopardize these rights.

NOTES: The companion bill, HB 1083 by Dukes, was left pending by the House Committee on Criminal Jurisprudence on April 23.