

SUBJECT: Making false caller ID display a crime in certain instances

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 9 ayes — Collier, Zedler, K. Bell, J. González, Hunter, P. King, Moody,  
Murr, Pacheco

0 nays

WITNESSES: For — None

Against — None

On — Shannon Edmonds, Texas District and County Attorneys  
Association

DIGEST: CSHB 101 would make it a crime for a person to make a call that resulted in the display of data on another person's telecommunications device that misrepresented the caller's identity or telephone number if the call was made with intent to defraud, harass, or cause harm. An offense would be a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000).

It would be a defense to prosecution if the caller:

- blocked caller identification information;
- was a peace officer, federal law enforcement officer, or employee of a federal intelligence or security agency discharging an official duty; or
- was a private investigator conducting an investigation.

It also would be a defense to prosecution if the caller was an employee of a telecommunications provider who was:

- acting in the provider's capacity as an intermediary for the

transmission of telephone service, Voice over Internet Protocol, or other transmission between the caller and recipient;

- providing or configuring a service as requested by a customer;
- acting in a manner that was authorized by law; or
- acting as necessary to provide service.

A conviction for an offense under this bill could not be used for enhancement purposes for other telecommunications crimes under Penal Code ch. 33A.

The bill would take effect September 1, 2019.

**SUPPORTERS  
SAY:**

CSHB 101 would help reduce the likelihood of fraud and harassment caused by telephone scammers by making caller ID spoofing a crime in certain instances. It would protect legitimate uses of these practices by applying the offense only if the caller had the intent to defraud, harass, or cause harm and by providing for certain defenses to prosecution.

Caller ID spoofing is often used by scammers trying to encourage call recipients to divulge sensitive or confidential information, including personal and banking data. Callers use technology to misrepresent their phone numbers and identities, making it appear that a call is coming from a number or business that is not theirs. More than just a nuisance, these calls can cost people money if information obtained this way is used to commit fraud. This practice leaves Texans, especially senior citizens, vulnerable to an invasion of privacy and theft of information without those responsible being punished.

The bill would give prosecutors flexibility by adding this offense to a body of criminal law that could be used to punish telephone scammers. While there is a federal law against spoofing, cases are rarely prosecuted. In place of federal action, Texas should do what it can to protect its citizens. These scammers currently can be held responsible under other state law if it is proven that deceptive practices were used to steal information or to commit fraud, but the use of false caller IDS is not a stand-alone offense. The addition of this offense would allow prosecutors

to enhance penalties when appropriate and hold scammers accountable even when they were unsuccessful. The penalty under the bill would be in line with similar offenses in Texas law, including other telephone-related offenses.

OPPONENTS  
SAY:

CSHB 101 would not adequately address the serious problem of caller ID spoofing by scammers due to challenges in enforcing the proposed offense. The technology used for this practice inherently makes it difficult to track a call's origins, and the use of Voice over Internet Protocol (VoIP) technology by many scammers compounds the issue. Calls placed over VoIP can be routed through numerous different networks before reaching the consumer, which increases the time it takes authorities to track the caller down, if they can at all. Further, scammers often are not located in Texas or even the United States.

OTHER  
OPPONENTS  
SAY:

The criminal penalty proposed by CSHB 101 would be too harsh for the nature of the offense. Instead, a first-time offense under the bill should be a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000), with a repeat offense charged as a class A misdemeanor.