

SUBJECT: Criminalizing certain fraudulent use of credit or debit card information

COMMITTEE: Pensions, Investments, and Financial Services — committee substitute recommended

VOTE: 11 ayes — Murphy, Vo, Capriglione, Flynn, Gervin-Hawkins, Gutierrez, Lambert, Leach, Longoria, Stephenson, Wu

0 nays

WITNESSES: For — Jeff Headley, Houston Police Department; Adam Colby, Tyler Police Department (*Registered, but did not testify*: Rita Ostrander, Combined Law Enforcement Associations of Texas; Melodie Durst, Credit Union Coalition of Texas; Terrence Rhodes, Dallas Police Department; Ray Hunt, Houston Police Officers Union; Bill Elkin, Houston Police Retired Officers Association; Stephen Scurlock, Independent Bankers Association of Texas; Christopher Lutton, San Antonio Police Department; Jim Skinner, Sheriffs' Association of Texas; Celeste Embrey, Texas Bankers Association; Jeff Huffman, Texas Credit Union Association; Matt Burgin, Texas Food and Fuel Association; Mike Gomez, Texas Municipal Police Association)

Against — None

DIGEST: CSHB 2625 would make it an offense if a person, with the intent to harm or defraud another, obtained, possessed, transferred, or used:

- 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.

The bill would establish a rebuttable presumption that if an individual possessed the numbers and expiration dates of five or more credit or debit cards or the data stored on the digital imprint of five or more credit or

debit cards, the individual possessed each item without the consent of the account holder. The presumption would not apply to a business or other commercial entity or a government agency that was engaged in a business activity or governmental function that did not violate a Texas penal law.

An offense would be:

- a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000) if the number of items obtained, possessed, transferred, or used was five or more but less than 10;
- a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000) if the number of items obtained, possessed, transferred, or used was 10 or more but less than 50; or
- a first-degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to \$10,000) if the number of items obtained, possessed, transferred, or used was 50 or more.

A second- or third-degree felony offense would be increased to the next-higher category of offense if it was committed against one or more elderly individuals as defined by the Penal Code.

The bill would authorize a court that ordered a defendant convicted of an offense under this section 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 constituted an offense under this section also constituted an offense under any other law, prosecution could occur under this section, the other law, or both.

The bill would take effect September 1, 2019, and would apply only to an offense committed after the effective date.