

BILL ANALYSIS

Senate Research Center
79R1023 CLG-D

S.B. 326
By: Zaffirini
Criminal Justice
2/28/2005
As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Phishing is the use of false e-mail and fraudulent websites intended to dupe recipients into providing personal information, including credit card numbers, social security numbers, and user names and passwords. By posing as a well-known financial institution or credible, established business, phishers are able to persuade some recipients to divulge personal information. The advances in technology have made current law insufficient to combat acts of phishing. As proposed, S.B. 326 creates an offense and penalty that clearly prohibit acts of phishing.

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 Title 4, Business & Commerce Code, by adding Chapter 48, as follows:

CHAPTER 48. INTERNET FRAUD

Sec. 48.001. DEFINITIONS. Defines "electronic mail," "electronic mail address," "identifying information," "Internet domain name," and "Internet information location tool."

Sec. 48.002. CREATION OF INTERNET WEBSITE OR DOMAIN NAME FOR FRAUDULENT PURPOSES. Prohibits a person from creating and using certain fraudulent websites or domain names with the intent to engage in conduct involving the fraudulent use or possession of another person's identifying information.

Sec. 48.003. ELECTRONIC MAIL FRAUD. Prohibits a person, with the intent to engage in conduct involving the fraudulent use or possession of identifying information, from sending or causing to be sent to an electronic mail address held by a resident of this state an electronic mail message that makes certain false representations.

Sec. 48.004. CIVIL PENALTY. Sets forth specific penalties for violations of this chapter. Authorizes the attorney general or the prosecuting attorney in the county in which the violation occurs to bring suit to recover a civil penalty imposed under this section.

Sec. 48.005. CRIMINAL PENALTY. Provides that a person commits a felony of the third degree if the person violates Section 48.002 or 48.003.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2005.