

By: Miller of Erath

H.B. No. 2397

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of and punishment for the offense of breach of computer security.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 33.01, Penal Code, is amended by adding Subdivision (14-a) to read as follows:

(14-a) "Identifying information" has the meaning assigned by Section 32.51.

SECTION 2. Sections 33.02(b) and (d), Penal Code, are amended to read as follows:

(b) An offense under this section is a felony of the third degree, except that the offense is:

(1) a felony of the second degree if [Class B misdemeanor unless] in committing the offense the actor knowingly obtains a benefit, obtains the identifying information of another, defrauds or harms another, or alters, damages, or deletes property; or

(2) a felony of the first degree if in committing the offense the actor knowingly:

(A) obtains a benefit, obtains the identifying information of another, defrauds or harms another, or alters, damages, or deletes property; and

(B) accesses more than one computer, computer network, or computer system without the effective consent of the

owner ~~[, in which event the offense is:~~

~~[(1) a Class A misdemeanor if the aggregate amount involved is less than \$1,500,~~

~~[(2) a state jail felony if:~~

~~[(A) the aggregate amount involved is \$1,500 or more but less than \$20,000, or~~

~~[(B) the aggregate amount involved is less than \$1,500 and the defendant has been previously convicted two or more times of an offense under this chapter,~~

~~[(3) a felony of the third degree if the aggregate amount involved is \$20,000 or more but less than \$100,000,~~

~~[(4) a felony of the second degree if the aggregate amount involved is \$100,000 or more but less than \$200,000, or~~

~~[(5) a felony of the first degree if the aggregate amount involved is \$200,000 or more].~~

(d) A person who is ~~[his]~~ subject to prosecution under this section and any other section of this code may be prosecuted under either or both sections.

SECTION 3. Section 33.02(c), Penal Code, is repealed.

SECTION 4. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

1 SECTION 5. This Act takes effect September 1, 2011.