

OWEN K. KUNS
RAY D. WHITAKER
CHIEF DEPUTIES

KENT L. DECHANDREAU
STANLEY M. LOURIMORE
EDWARD F. NOVY, X
EDWARD K. PORCELL

JERRY L. BASSETT
HARVEY J. FOSTER
DORSET H. KUNZI
SHERWIN C. MACKENzie, JR.
ARTH M. MACKAY
TRACY C. POWELL, II
RUSSELL L. SPARLING
JOHN T. STUDEBAKER
PRINCIPAL DEPUTIES

3021 STATE CAPITOL
SACRAMENTO 95814
(916) 443-3027

8011 STATE BUILDING
107 SOUTH BROADWAY
LOS ANGELES 90012
(213) 620-2550

Legislative Counsel of California

BION M. GREGORY

GERALD ROWE ADAMS
DAVID D. ALVER
MARTIN E. ANDERSON
PAUL ARTHUR
CHARLES C. ASHILL
JAMES L. ASHFORD
JANICE R. BROWN
ALICE V. COLLINS
JOHN CORZINE
DEN E. DALE
CLINTON J. DEWITT
C. DAVID DICKERSON
FRANCIS S. DOBSON
ROBERT GUALTHER DUFFY
LAWRENCE H. FEIN
JOHN FORSETTE
CLAY FULLER
KATHLEEN E. GNEKOW
ALVIN D. GRESS
ROBERT D. GRIFFIN
JAMES W. HEINZER
THOMAS R. HEUER
JACK I. HORTON
EILEEN K. JENKINS
MICHAEL J. KIRSTEN
L. DOUGLAD KINNEY
VICTOR KOZIELEKI
JAMES A. MARZALA
PETER F. MELNIEGT
ROBERT G. MILLER
JOHN A. MOSEY
VERNE L. OLIVER
EUGENE L. PAINE
MARGUERITE ROTH
MARY SHAW
WILLIAM K. SPARK
MICHAEL H. UPSON
CHRISTOPHER J. WEI
DANIEL A. WEITZMAN
THOMAS D. WHIFLAN
JIMMIE WING
SUZANNE M. WOOD
CHRISTOPHER ZIRKLE
DEPUTIES

Sacramento, California
September 13, 1979

Honorable Edmund G. Brown Jr.
Governor of California
Sacramento, CA

Senate Bill No. 66

Dear Governor Brown:

Pursuant to your request we have reviewed the
above-numbered bill authored by Senator Cusanovich
and, in our opinion, the title and form are sufficient and
the bill, if chaptered, will be constitutional. The digest
on the printed bill as adopted correctly reflects the views
of this office.

Very truly yours,
Bion M. Gregory
Legislative Counsel

By *John T. Studebaker*
John T. Studebaker
Principal Deputy

JTS:AB

Two copies to Honorable Lou Cusanovich
pursuant to Joint Rule 37.

ENROLLED BILL REPORT

AGENCY	GOVERNOR'S OFFICE	BILL NUMBER	SB 66
DEPARTMENT, BOARD OR COMMISSION	LEGAL AFFAIRS	AUTHOR	Cusanovich

Existing law does not contain any provisions prohibiting unauthorized access to computers for fraudulent or criminal purposes. Under existing law it is difficult to prosecute computer crimes under general penal code provisions.

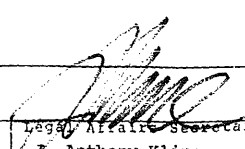
SB 66 establishes criminal provisions related specifically to computer-related crimes. Generally, this measure does the following:

- 1) defines various computer terms such as access, computer program, property, service and data;
- 2) makes it a crime for any person to intentionally access or cause to access any computer system or network for the purpose of executing any scheme to defraud or to fraudulently obtain money or service;
- 3) makes it a crime to maliciously access, alter, delete, damage or destroy any computer system, program, network or data;
- 4) provides for an alternative misdemeanor/felony punishment of 16 mos, 2 or 3 years in prison and/or a fine not to exceed \$5,000 or imprisonment in county jail for not more than a year and/or a fine not to exceed \$2,500.

The purpose of this bill is to deter computer-related crimes and to make prosecution easier for persons who commit such crimes.

RECOMMENDATION.

SIGN

Analyst	DATE	Legal Affairs Secretary	DATE
Patti Jo McKay	9/19/79	 L. Anthony Kline	

ENROLLED BILL REPORT
DEPARTMENT OF FINANCE

Form DF-44 (Rev. 3/79)

AUTHOR:
Cusano, J. J.

BILL NUMBER:
SB 66

SUBJECT:

DATE LAST AMENDED
August 28, 1979

Specifies clearly the definition of computer fraud and makes it a crime.

SUMMARY OF REASONS FOR SIGNATURE:

Provides a clearer definition of computer fraud which would aid in prosecuting computer fraud as a crime.

FISCAL SUMMARY

The following estimates have been prepared by budget staff of the Department of Finance.

Department or Agency	Code 1978-79	Code 1979-80	Code 1980-81	Fund
Expenditure:				
Department of Justice	--	--	--	General

ANALYSIS

A. Specific Findings

Present law could be construed to make computer fraud a crime. This bill, sponsored by the State Data Processing Management Office in the Department of Finance, clearly specifies a computer fraud as a crime. It provides that any person who maliciously accesses, alters, deletes, damages, or destroys any computer system, network, program or data is guilty of a public offense punishable by a fine of up to \$5,000 and/or up to three years in State prison or a fine of up to \$2,500 and/or up to one year in the county jail.

The Department of Justice is in support of this bill on the basis that it would simplify and facilitate the prosecution of those persons charged with computer fraud.

B. Fiscal Effect

No additional State or local costs are anticipated from this bill. There could be cost savings related to the more direct prosecutorial efforts that could be achieved as a result of the bill.

The bill contains an appropriate "crimes and intractions" disclaimer of local costs.

RECOMMENDATION

Sign the bill.

PRINCIPAL ANALYST

Porter McEnty
7-17-79

PROGRAM BUDGET MANAGER

[Signature]
7-17-79

DEPARTMENT REPRESENTATIVE

DATE

DIRECTOR

DATE

8310C

[Signature]
9/20/79

ENROLLED BILL REPORT

Agency Health and Welfare	Bill Number SB 66
Department, Board or Commission Health and Welfare Agency Data Center	Author Cusanovich

SUMMARY

This bill, ~~as amended August 28, 1973~~, would make it a felony to perpetrate a fraud, or extortion through use of a computer system, network or data. Moreover, it would apply to any malicious alteration, destruction or deletion of a computer system, network or data. Additionally, the provisions of this Act are in addition to, and do not exclude, any other applicable sections of the Penal Code.

This Act is a definition and refinement of existing responsibilities of local prosecutors, and therefore, no additional appropriation to local agencies is being made to carry out the provisions of this Act.

BACKGROUND

This Bill continues the legislative effort to give adequate protection to individuals who have suffered damages as a result of improper usage of computers. SB 170 (1976) added Title 1.8 to Part 4 of Division 3 of the Civil Code which provided civil remedies for individuals against "Agencies" making improper disclosures of confidential information. This Bill extends into the area of criminal law.

VOTE

	<u>Committee</u>	<u>Floor</u>
Senate	8-0	39-0
Assembly	8-0	79-0

SPECIFIC FINDINGS

Because this is an addition to the Penal Code, it does not affect any individuals right to redress under the Civil Code.

This Bill creates a specific intent crime whereby a fraudulent or extortionate intent must be present at the time of access.

It does not appear to cover a situation where a criminal intent is formed after a negligent or accidental access to a computer or data.

Recommendation:			
	Sign		
Department Director	Date	Agency Secretary	Date
<i>[Signature]</i>		<i>[Signature]</i>	9/18/79

FISCAL IMPACT: None.

RECOMMENDATION: Sign. Although this Bill does not cover all areas where "computer crimes" can occur, it will cover a large segment of planned, cases of fraud or extortion.

ENROLLED BILL REPORT

Business and Transportation Agency

DEPARTMENT Stephen P. Teale Consolidated Data Center	AUTHOR Senator Cusanovich	FILE NUMBER SB 66
SUBJECT COMPUTER CRIME		

SUMMARY

This bill adds to the Penal Code definitions involving computer systems and specifies those actions which constitute criminal access and the penalties that may be incurred.

ANALYSIS

A. Under existing law, a State employee may be subjected to disciplinary action for misuse of State property. This bill specifies the actions constituting illegal access, misuse or damage to a computer system, makes such actions a public offense and specifies the possible penalties. Violators may be fined up to \$5,000, imprisoned for 16 months, or two or three years, or both fined and imprisoned.

B. Cost

No fiscal impact on the Teale Data Center can be identified.

LEGISLATIVE HISTORY

None.

REASON FOR RECOMMENDED POSITION

This bill has no direct effect on the function or operation of the Data Center but does provide a basis for prosecuting for misuse of data systems and perhaps discouraging such misuse.

RECOMMENDATION			
SIGN	<i>Lee B. Isbell</i>		
Department	Date 7-14-79	Agency E. Olinburg	Date 7/17/79