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

September 13, 1979

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
Principal Deputy

Two copies to Honorable Lou Cusanovich
pursuant to Joint Rule 34.
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, 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.
Provides a clearer definition of computer fraud which would aid in prosecuting computer fraud as a crime.

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

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**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 $1,000 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 "waxes and interactions" disclaimer of local costs.
This bill, as amended August 10, 1972, 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

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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.
FISCAL IMPACT: None.

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