

Date of Hearing: August 11, 2020

ASSEMBLY COMMITTEE ON APPROPRIATIONS  
Lorena Gonzalez, Chair  
SB 922 (Chang) – As Amended June 18, 2020

Policy Committee: Public Safety Vote: 8 - 0

Urgency: No State Mandated Local Program: No Reimbursable: >

**SUMMARY:**

This bill tolls the statute of limitations for felony prosecutions of specified computer crimes, including unauthorized computer access, until three years after the discovery of the commission of the offense, but no more than nine years from the commission of the offense, for crimes committed after January 1, 2021, or for crimes for which the statute of limitations has not lapsed as of that date.

**FISCAL EFFECT:**

- 1) Costs (General Fund (GF)), possibly in the hundreds of thousands of dollars annually, to California Department of Corrections and Rehabilitation (CDCR) in increased incarceration costs. Some of the computer crimes listed in Penal Code section 502 are punishable by up to three years in county jail or state prison depending on the defendant's prior criminal history. This bill extends the statute of limitation for offenses listed in Penal Code section 502 committed on or after January 1, 2021, and within nine years of the original offense, increasing the likelihood of additional convictions that would not occur under current law. The average annual cost of incarceration is approximately \$84,000. If even two defendants are sentenced to two years in state prison as a result of the extended statute of limitations, the cost to CDCR is approximately \$168,000 in the first year and \$336,000 in the second year.
- 2) Possible cost pressures (GF/Trial Court Trust Fund) in the hundreds of thousands of dollars annually for increased court costs, including possible trial costs given the bill increases the possibility of additional prosecutions for violations of Penal Code section 502. A defendant charged with a felony is entitled to no-cost legal representation and a jury trial. If 15 new crimes are filed annually statewide and proceed to trial resulting in the use of two days of court time, at an estimated cost of approximately \$7,644 for an eight-hour court day, the approximate cost to the trial courts would be \$229,320.
- 3) Costs (GF) of approximately \$362,000 annually to the Department of Justice (DOJ) Criminal Law Division, eCrimes Unit to prosecute computer crimes cases which would have otherwise expired under existing statute of limitation.

**COMMENTS:**

- 1) **Purpose.** According to the author:

Everyone that uses the Internet is at risk of being hacked or a victim of a cybercrime. For unfortunate Californians who find themselves the victim of cybercrime, SB 922 is a step in the right direction towards holding hackers and cybercriminals accountable."

- 2) **Statute of Limitations.** The statute of limitations requires commencement of a prosecution within a certain period of time after the commission of a crime. A prosecution is initiated by filing an indictment or information, filing a complaint, certifying a case to superior court, or issuing an arrest or bench warrant. In general, the limitations period is related to the seriousness of the offense or the need for a longer period of investigation. Computer crimes are often not detected at the time of commission. Felony offenses of Penal Code section 502 must be prosecuted within three years of the offense date. This bill extends the statute of limitations for felony offenses of Penal Code section 502 to three years from the date of discovery of the offense, but limits the extension to no more than nine years from the date of the offense. Therefore, this bill effectively extends the statute of limitations for six years – from three years to nine years – where the commission of the crime was not immediately discovered.
- 3) **Related Legislation.** SB 239 (Chang) of the 2019-2020 Legislative Session is similar to this bill and changes the statute of limitations for the crime of unauthorized access to computers to three years from the discovery of the crime. SB 239 was held on this committee's suspense file.
- 4) **Prior Legislation.** AB 32 (Waldron), Chapter 614, Statutes of 2015, increased the base fine for felony convictions of specified computer crimes, from a maximum of \$5,000 to a maximum of \$10,000.

**Analysis Prepared by:** Kimberly Horiuchi / APPR. / (916) 319-2081