

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE, No. 1369

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 7, 1996

The Senate Law and Public Safety Committee reports favorably and with committee amendments Senate Bill No. 1369.

As amended and released by the committee, this bill amends various sections of the criminal law concerning theft to include references to access devices and defaced access devices. Possession of a stolen access or defaced access device would be a crime of the third degree. The bill also amends subsections h., i. and j. of N.J.S.2C:20-8 concerning theft of telecommunications services to upgrade those offenses from disorderly persons offenses to crimes of the third degree. Additionally, the definition of a "writing" for purposes of the forgery statute is amended to include access devices. Finally, the bill includes a presumption of unlawful motive for any unauthorized changes to access devices performed by any person other than a service provider or manufacturer.

The bill defines an access device as property consisting of any telephone calling card number, credit card number, account number, mobile identification number, electronic serial number, personal identification number, or any other data intended to control or limit access to telecommunications or other computer networks in either human readable or computer readable form, either copy or original, that can be used to obtain telephone service. Defaced access device is defined as any access device, in either human readable or computer readable form, either copy or original, which has been removed, erased, defaced, altered, destroyed, covered or otherwise changed in any manner from its original configuration.

It is the committee's understanding that many New Jersey residents have fallen prey in recent years to several forms of telecommunications crime, which occurs when a victim uses a telephone calling card at a public pay telephone located in an airport, a bus terminal, a train station, or other densely crowded area. As victims enter their calling card numbers to place calls, criminals known as "shoulder-surfers" record those digits for later use in obtaining fraudulent long-distance service. Alternately, criminals frequently

place telephone calls to victims and claim to be a telephone company representative. The victims are then asked to provide their calling card numbers as part of a "security check." While the financial loss for these fraudulent calls is ultimately borne by the affected long-distance carrier, New Jersey citizens suffer both the inconvenience and a sense of personal invasion associated with the unauthorized appropriation and use of their calling card information.

Another form of telecommunications crime is committed through the theft of a legitimate cellular telephone user's electronic identification codes, which are intercepted, along with the legitimate user's private communications, by illegal scanning equipment. These electronic codes are then programmed into other stolen cellular telephones, which are ultimately used to steal cellular service from telecommunications carriers in New Jersey and throughout the region. Once again, while the telecommunications carriers ultimately bear the financial burden of these crimes, New Jersey citizens are affected by the illegal accessing of their personal communications, as well as the increase in car burglaries and related crimes needed to supply the so-called "cloners" with the cellular telephones into which the stolen electronic codes are programmed.

The committee adopted amendments proposed by the Attorney General's Office. The amendments remove the provisions creating the new offense of leader of a cellular fraud trafficking network, including that offense in the racketeering statute, and permitting wiretaps for investigating certain telecommunications crimes. It is the committee's understanding that current law permits prosecutions under racketeering statutes and wiretapping for telecommunications crimes. Other committee amendments are clarifying and technical in nature.

As amended and released by the committee, this bill is identical to Assembly Bill No. 2187 (1R).