AMENDED IN ASSEMBLY MARCH 26, 2015
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL No. 1493

Introduced by Assembly Member Cooper

February 27, 2015

An act to amend Section 7470 of the Government Code, relating to governmental investigations. Add Chapter 5.9 (commencing with Section 13849) to Title 6 of Part 4 of the Penal Code, relating to crime.

LEGISLATIVE COUNSEL’S DIGEST

AB 1493, as amended, Cooper. Governmental investigations: financial records—California High Technology Crimes Task Force.

Existing law establishes various crime task forces, and establishes the High Technology Theft Apprehension and Prosecution Program, which is a program to provide financial and technical assistance to law enforcement and district attorney agencies relative to specified high technology crimes.

This bill would establish the California High Technology Crimes Task Force to, among other tasks, analyze existing statutes for adequacy in addressing identity theft, Internet crimes, and credit card fraud, develop recommendations to prevent and prosecute those crimes, and identify funding sources for those purposes and to assist victims of those crimes. The bill would require the task force to report to the Legislature on those matters on or before December 31, 2017.

Existing law generally prohibits an officer, employee, or agent of a state or local agency, in connection with a civil or criminal investigation, from requesting or receiving copies of, or the information contained in, the financial records of a customer from a financial institution unless
the records are described with particularity, consistent with the scope and requirements of the investigation, and other conditions are met. This bill would make technical, nonsubstantive changes to these provisions.


The people of the State of California do enact as follows:

SECTION 1. Chapter 5.9 (commencing with Section 13849) is added to Title 6 of Part 4 of the Penal Code, to read:

CHAPTER 5.9. CALIFORNIA HIGH TECHNOLOGY CRIMES TASK FORCE

13849. (a) The California High Technology Crimes Task Force is hereby established. The task force shall do all of the following:

(1) Analyze existing statutes for adequacy in addressing identity theft, Internet crimes, and credit card fraud. If the analysis determines that those statutes are inadequate, the task force shall recommend revisions or new provisions that specifically address identity theft, Internet crimes, and credit card fraud.

(2) Collect and organize data on the nature and extent of identity theft, Internet crimes, and credit card fraud.

(3) Examine collaborative models between governmental and nongovernmental organizations for prevention and prosecution of identity theft, Internet crimes, and credit card fraud.

(4) Measure and evaluate the progress of the state in preventing and prosecuting identity theft, Internet crimes, and credit card fraud, and protecting and providing assistance to victims of those crimes.

(5) Evaluate approaches to increase public awareness of preventing identity theft, Internet crimes, and credit card fraud.

(6) Consult with governmental and nongovernmental organizations in developing recommendations to strengthen state and local efforts to prevent and prosecute identity theft, Internet crimes, and credit card fraud, and to assist victims of those crimes.

(7) Identify available federal, state, and local funding and grant opportunities to prevent and prosecute identity theft, Internet crimes, and credit card fraud, and to assist victims of those crimes.
(b) The task force shall consist of the following members:
(1) A designee of the California District Attorneys Association.
(2) A designee of the California State Sheriffs’ Association.
(3) A designee of the California Police Chiefs Association.
(4) A designee of the Department of the California Highway Patrol.
(5) A designee of the Federal Bureau of Investigation.
(6) A designee of the Attorney General.
(7) A representative of the California cellular telephone industry.
(8) A representative of the California Internet industry.
(9) A representative of the California cable industry.
(10) A representative of the California movie industry.
(11) A representative of the California banking industry.
(c) The task force shall conduct a study to accomplish the objectives of subdivision (a) and shall report the findings of the study to the Legislature, in compliance with Section 9795 of the Government Code, on or before December 31, 2017.

SECTION 1. Section 7470 of the Government Code is amended to read:
7470. (a) Except as provided in Section 7480, an officer, employee, or agent of a state or local agency or department thereof, in connection with a civil or criminal investigation of a customer, whether or not an investigation is being conducted pursuant to formal judicial or administrative proceedings, shall not request or receive copies of, or the information contained in, the financial records of a customer from a financial institution unless the financial records are described with particularity and are consistent with the scope and requirements of the investigation giving rise to the request and any of the following apply:
(1) The customer has authorized disclosure to such officer, employee or agent of such state or local agency or department thereof in accordance with Section 7473.
(2) The financial records are disclosed in response to an administrative subpoena or summons that meets the requirements of Section 7474.
(3) The financial records are disclosed in response to a search warrant that meets the requirements of Section 7475.
(4) The financial records are disclosed in response to a judicial subpoena or subpoena duces tecum that meets the requirements of Section 7476.

(b) Nothing in this section or in Sections 7473, 7474, 7475, and 7476 shall require a financial institution to inquire or determine that those seeking disclosure have duly complied with the requirements set forth therein, provided only that the customer authorization, administrative subpoena or summons, search warrant, or judicial subpoena or order served on or delivered to a financial institution pursuant to these sections shows compliance on its face.

(c) The financial institution shall maintain for a period of five years a record of all examinations or disclosures of the financial records of a customer pursuant to this chapter, including the identity of the person examining the financial records, the state or local agency or department thereof that he or she represents, and a copy of the customer authorization, subpoena, summons or search warrant providing for the examination or disclosure or a copy of the certification received pursuant to subdivision (b) of Section 7480. A record maintained pursuant to this subdivision shall be available, within five days of request, during normal business hours for review by the customer at the office or branch where the customer’s account was located when examined or disclosed. A copy of the record shall be furnished to the customer upon request and payment of the reasonable cost thereof.

(d) Except as provided in Section 7480, this section is not intended to preclude a state or local law enforcement agency from initiating contact with a financial institution if there is reason to believe that the institution is a victim of a crime. After this contact by a law enforcement agency, if the financial institution believes it is a victim of a crime, it may, in its discretion, disclose relevant financial records pursuant to subdivision (c) of Section 7471.