

2023

HB 219 - Venue for Money Laundering and Theft Involving Digital Currency

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BANKING AND FINANCE

Financial Institutions: Amend Article 11 of Chapter 1 of Title 7 of the Official Code of Georgia Annotated, Relating to Records and Reports of Currency Transactions, so as to Provide for Venue for the Offense of Money Laundering; Provide for Legislative Findings; Amend Article 1 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated, Relating to Theft, so as to Provide for Venue for the Offense of Theft of Money Held in a Financial Institution; Provide for Legislative Findings; Provide for Related Matters: Repeal Conflicting Laws; and for Other Purposes

CODE SECTIONS:	O.C.G.A. §§ 7-1-917 (amended); 16-8-11 (amended)
BILL NUMBER:	HB 219
ACT NUMBER:	345
GEORGIA LAWS:	2023 Ga. Laws 634
SUMMARY:	The Act creates venue in cases of money laundering and theft that involve the transfer of digital currency by establishing that the crime may be considered to have happened wherever power was exercised over the property, wherever an act in furtherance of the crime occurred, or wherever the victim resides.
EFFECTIVE DATE:	July 1, 2023

History

Modern technology's integration into how society stores and transfers money has led to an exponential rise in cybercrime.¹ In 2021, Georgians lost nearly \$144 million to cyber-enabled crimes such as “business email compromise schemes, investment scams, and confidence or romance scams.”² Nationally, losses due to cyber-enabled crimes are in the billions.³ Cybercriminals, including “money mules” who funnel stolen funds through numerous bank accounts, can be particularly difficult to track and prosecute.⁴ Cybercrimes impact victims directly while also inflicting incalculable expenses on the state due to the complexity of the crimes and the resources required to “[untangle] the web of bank accounts associated with a single mule.”⁵ Technology pervades society such that nearly every crime involves a digital footprint, and thus a complicated series of digital barriers for law enforcement to wade through.⁶

The Georgia Bureau of Investigation (GBI) developed the Georgia Cyber Crime Center (G3C) in response to the sharp increase in cybercrime.⁷ G3C exists to “assist local and state law enforcement agencies with complex investigations involving cyber-related criminal activity.”⁸ One of the primary difficulties in prosecuting cybercriminals is that, although the victim may be in Georgia, the criminal may be anywhere in the world.⁹

1. *Georgia Cyber Crime Center (G3C)*, GA. BUREAU INVESTIGATION: INVESTIGATIVE DIV. [hereinafter G3C], <https://investigative-gbi.georgia.gov/investigative-offices-and-services/specialized-units/georgia-cyber-crime-center-g3c> [<https://perma.cc/MP35-YCXK>].

2. Press Release, U.S. Atty's Off. N. Dist. Ga., Georgia Cyber Fraud Task Force Marks Two Years Addressing the Laundering of Cyber-Enabled Fraud Proceeds in the Metro-Atlanta Area (Mar. 6, 2023) [hereinafter Press Release], <https://www.justice.gov/usao-ndga/pr/georgia-cyber-fraud-task-force-marks-two-years-addressing-laundering-cyber-enabled> [<https://perma.cc/CS3D-GKXA>].

3. *Id.*

4. *Id.*

5. *Id.*

6. See Damon Cline, *Georgia Bureau of Investigation Grows Cybercrime Task Force*, GOV'T TECH. (Sept. 17, 2020), <https://www.govtech.com/public-safety/georgia-bureau-of-investigation-grows-cybercrime-task-force.html> [<https://perma.cc/TJH3-V7RR>].

7. G3C, *supra* note 1.

8. *Id.*

9. Cline, *supra* note 6 (“The 2018 ransomware attack on the city of Atlanta, for example, originated from Iran.”).

When Representative Scott Hilton (R-48th), the sponsor for House Bill (HB) 219, addressed the House Judiciary Non-Civil Subcommittee on February 15, 2023, Hilton framed this complex global issue through the lens of a relatable victim: Mom.¹⁰ The Act ensures that if one’s mother—or any other Georgian—is a victim of cybercrime, Georgia can prosecute the criminal under Georgia law.¹¹ Representative Hilton illustrated how easily these crimes occur when presenting the bill on the Georgia House of Representatives floor during the 2023 legislative session.¹² “Imagine you get an email from your ‘boss,’” Representative Hilton urged the chamber, “that says ‘Hey, I need you to Venmo me some money to cover a work expense.’ You Venmo that over and then . . . you realize that email from your boss was off by one digit or one letter. All of a sudden, that money is gone”¹³ In such a situation, authorities previously struggled to prosecute the crime because venue was only proper where the assets lied.¹⁴ Representative Hilton’s hypothetical speaks to a disturbing pattern: approximately ninety-two percent of GBI cases arise from an email.¹⁵ Representative Hilton’s appeal regarding mothers, while touching, is not without context. The Act is part of a broader effort by Representative Hilton, cosponsor Representative Sharon Cooper (R-45th), the GBI, and the Prosecuting Attorney’s Counsel of Georgia (PAC) to bolster protections for the elderly.¹⁶ The effort included failed HB 218, which proposed to expand hearsay exceptions in sexual assault cases that involve certain elder and disabled adults.¹⁷ The bills are related because cybercriminals target less tech-savvy seniors;

10. Video Recording of House Judiciary Non-Civil Hong Subcommittee Meeting at 1 hr., 7 min., 30 sec. (Feb. 15, 2023) [hereinafter House Subcommittee Video] (remarks by Rep. Scott Hilton (R-48th)), <https://www.youtube.com/watch?v=11Laf4IHGjo&t=1014s> [<https://perma.cc/ENE8-MPSC>].

11. *Id.*

12. Video Recording of House Proceedings at 37 min., 35 sec. (Mar. 6, 2023) [hereinafter House Proceedings Video] (remarks by Rep. Scott Hilton (R-48th)), <https://www.youtube.com/watch?v=mTIKFivd6AE&t=1840s> [<https://perma.cc/GNB9-GJJX>].

13. *Id.*

14. *Id.*

15. Cline, *supra* note 6.

16. Virtual Interview with Rep. Scott Hilton (R-48th) (May 16, 2023) [hereinafter Hilton Interview] (on file with the Georgia State University Law Review); *see also* House Subcommittee Video, *supra* note 10, at 1 hr., 8 min., 50 sec. (remarks by Will Johnson, State Resource Prosecutor, Prosecuting Attorney’s Counsel of Georgia).

17. Hilton Interview, *supra* note 16.

indeed, seniors make up a significant percentage of victims.¹⁸ In 2020, during the COVID-19 pandemic, the FBI's Internet Crime Complaint Center received countless complaints of reported losses, of which nearly \$1 billion were reported stolen from people sixty years and older.¹⁹

The Act addresses some of the challenges to prosecuting cybercriminals by explicitly creating venue where the victim resides or where certain acts in furtherance of the crime occurred.²⁰ The Act contains three sections, two of which alter two chapters of the Official Code of Georgia Annotated.²¹ The first section relates to digital money laundering and amends Article 11 of Chapter 1 of Title 7; the second section relates to digital forms of theft and amends Article 1 of Chapter 8 of Title 16.²² In each, the Act amends the Code such that the crime is said to have occurred: (1) “[i]n any county in which the accused exercised control” over the property which was the subject of the theft, (2) “[i]n any county in which any act was performed in furtherance” of the transaction or violation or (3) “[i]n any county in which an alleged victim resides.”²³

Prior to the Act, it was unclear whether Georgia law created venue for prosecuting crimes involving digital money transfers, and authorities were frustrated by unsuccessful attempts to prosecute.²⁴ Previously, even if authorities located a suspected cybercriminal, the prosecution often could not establish venue and would be forced to outsource the prosecution to the state where the suspect was found.²⁵ Will Johnson of PAC recalls a case in Cobb County in which the prosecution had “all the evidence to prosecute the case”; however, because the suspect took control of the funds in Colorado and Colorado

18. Nancy Bilyeau, *Seniors Lost \$1 Billion to Cybercrime in 2020: FBI*, CRIME REP. (June 17, 2021), <https://thecrimereport.org/2021/06/17/seniors-lost-1-billion-to-cybercrime-in-2020-fbi/> [<https://perma.cc/8ELC-KZVP>].

19. *Id.*

20. *See generally* 2023 Ga. Laws 634.

21. *Id.*

22. *Id.* at 635.

23. *Id.*

24. O.C.G.A. § 16-8-11 (1994) (providing for venue where control was exercised over the property); *but see* Hilton Interview, *supra* note 16 (referring to prosecution having to be outsourced); *see also* House Subcommittee Video, *supra* note 10, at 1 hr., 10 min. (remarks by Will Johnson, State Resource Prosecutor, Prosecuting Attorney's Counsel of Georgia).

25. Hilton Interview, *supra* note 16.

declined to prosecute, the case could not move forward and the victim had no available remedy.²⁶

The Act broadens options for venue when prosecuting cybercrimes. The Act establishes that crimes involving the transfer of digital currency are considered to have occurred where the victim resides, where control was exercised, or where any other act in furtherance of the crime occurred.²⁷

Bill Tracking of HB 219

HB 219 addresses a gap in venue for the prosecution of financial fraud and other financial crimes.²⁸ Both the House and the Senate adopted HB 219 nearly unanimously.²⁹

House Consideration and Passage of HB 219

Representative Scott Hilton (R-48th) introduced HB 219 in the House.³⁰ Representative Sharon Cooper (R-45th), Representative Rob Leverett (R-123rd), Representative Bethany Ballard (R-147th), Representative Jesse Petrea (R-166th), and Representative Lauren Daniel (R-117th) cosponsored the bill.³¹ The House read the bill for the first time on February 6, 2023, and the House committed the bill to the Judiciary Non-Civil Committee.³² The next day, February 7, 2023, the House read the bill a second time.³³ During a House Judiciary Non-Civil Committee meeting on February 15, 2023, Representative Hilton and PAC attorney Will Johnson introduced the bill to the Committee, answering questions and responding to criticism.³⁴ The

26. House Subcommittee Video, *supra* note 10, at 1 hr., 10 min.

27. *See generally* 2023 Ga. Laws 634.

28. *See* House Subcommittee Video, *supra* note 10, at 1 hr., 6 min., 26 sec. (remarks by Rep. Scott Hilton (R-48th)).

29. State of Georgia Final Composite Status Sheet, HB 219, May 9, 2023; *See* Georgia General Assembly, HB 219, Bill Tracking [hereinafter HB 219, Bill Tracking], <https://www.legis.ga.gov/legislation/63972> [<https://perma.cc/6HW7-B5GQ>].

30. *See* HB 219, Bill Tracking, *supra* note 29.

31. *Id.*

32. State of Georgia Final Composite Status Sheet, HB 219, May 9, 2023; HB 219, Bill Tracking, *supra* note 29.

33. State of Georgia Final Composite Status Sheet, HB 219, May 9, 2023.

34. *See* House Subcommittee Video, *supra* note 10, at 1 hr., 6 min., 26 sec.

bill received some critiques and suggestions to clarify the bill's language.³⁵ Most notably, the Georgia Association of Criminal Defense Lawyers (GACDL) provided suggestions to refine the language of the bill to provide a more digestible version.³⁶ Significant changes occurred from the first draft to the second draft of HB 219.³⁷ Specifically, the second draft of the bill altered lengthy, repetitive sentences that defined each aspect of financial fraud into a more condensed, bulleted list.³⁸ Additionally, the second draft of the bill removed the original language "but not limited to" after receiving pushback from GACDL.³⁹ On March 2, 2023, the House Judiciary Non-Civil Committee amended the bill, accepting the proposed changes and favorably reporting by substitute.⁴⁰ The House read the bill for the third time on March 6, 2023, before passing the bill by substitute.⁴¹ HB 219 passed by a vote of 172 to 1.⁴²

Senate Consideration and Passage of HB 219

The Senate read and committed the bill to the Judiciary Committee on March 7, 2023.⁴³ On March 20, 2023, Representative Hilton and Johnson spoke about HB 219 at a Senate Judiciary Committee meeting where the Committee favorably passed the bill with no opposition.⁴⁴ Senator John Albers (R-56th) sponsored the bill in the Senate, and the Senate read the bill for a second time on March 21, 2023.⁴⁵ The Senate

35. *Id.* at 1 hr., 11 min., 10 sec. (remarks by Rep. Scott Hilton (R-48th)); *id.* at 1 hr., 24 min., 34 sec. (remarks by Jill Travis & Andrew Fleischman, Georgia Association of Criminal Defense Lawyers).

36. *Id.*

37. *Compare* HB 219, as introduced, 2023 Ga. Gen. Assemb., *with* HB 219 (HCS), 2023 Ga. Gen. Assemb.

38. *Id.*

39. House Subcommittee Video, *supra* note 10, at 1 hr., 27 min., 20 sec. (remarks by Jill Travis, Georgia Association of Criminal Defense Lawyers).

40. State of Georgia Final Composite Status Sheet, HB 219, May 9, 2023.

41. *Id.*

42. Georgia House of Representatives Voting Record, HB 219, #198 (Mar. 6, 2023).

43. State of Georgia Final Composite Status Sheet, HB 219, May 9, 2023; HB 219, Bill Tracking, *supra* note 29.

44. Video Recording of Senate Committee on Judiciary Meeting at 3 hr., 49 min., 34 sec. (Mar. 20, 2023) [hereinafter Senate Committee on Judiciary Video] (remarks by Rep. Scott Hilton (R-48th)), <https://vimeo.com/showcase/8821960/video/809871044> [<https://perma.cc/7SU6-YCFB>]; Georgia Senate Voting Record, HB 219, #379 (Mar. 29, 2023).

45. State of Georgia Final Composite Status Sheet, HB 219, May 9, 2023.

tabled the bill on March 27, 2023.⁴⁶ On March 29, 2023, the Senate read HB 219 for a third time and then passed the bill unanimously.⁴⁷ Governor Brian Kemp (R) signed HB 219 into law on May 4, 2023, as Act 345, with an effective date of July 1, 2023.⁴⁸

The Act

The Final Version

Section 1 of the Act amends Article 11 of Chapter 1 of Title 7 of the Official Code of Georgia Annotated by adding a new Code section.⁴⁹ The addition details which currency transactions now qualify for prosecution and how an individual can establish venue in the county where the crime occurred.⁵⁰ Specifically, prosecutors can now move forward with a case in their county if the accused used any stolen funds in that specific Georgia county, if any action in that specific county advanced the use of stolen funds, or if the victim resides in that specific county.⁵¹

Section 2 of the Act amends Code section 16-8-11, relating to venue, for purposes of Code sections 16-8-2 through 16-8-9 and sections 16-8-13 through 16-8-15.⁵² Section 2 follows the same general principle as Section 1; however, Section 2 specifically criminalizes the action, thus allowing for criminal prosecution.⁵³ Under Section 2, a county may elect to proceed with prosecution of any of the following cybercrimes:

- theft by taking;⁵⁴
- theft by deception;⁵⁵
- theft by conversion;⁵⁶

46. *Id.*

47. *Id.*; Georgia Senate Voting Record, HB 219, #379 (Mar. 29, 2023).

48. HB 219, Bill Tracking, *supra* note 29.

49. 2023 Ga. Laws 634, § 1, at 635.

50. O.C.G.A. § 7-1-917 (2023).

51. *Id.*

52. 2023 Ga. Laws 634, § 2, at 635.

53. *Id.*

54. O.C.G.A. § 16-8-2 (2023).

55. O.C.G.A. § 16-8-3 (2023).

56. O.C.G.A. § 16-8-4 (2023).

theft of services;⁵⁷
 theft of lost or mislaid property;⁵⁸
 theft by receiving stolen property;⁵⁹
 theft by receiving stolen property in another state;⁶⁰
 theft by bringing stolen property into state;⁶¹
 theft of trade secrets;⁶²
 theft by shoplifting;⁶³ or
 conversion of payments for real property improvements.⁶⁴

However, the county is required to meet one of two conditions to prosecute these crimes.⁶⁵ First, if the accused exercised some form of control over the stolen property in that specific county, then that individual is subject to prosecution.⁶⁶ Second, if the theft itself involves any digital transfer of funds, a form of cryptocurrency, or if the stolen funds resided in a financial institution electronically, then either the county in which any step of the crime occurred or the county in which the alleged victim resides may seek prosecution of the perpetrator.⁶⁷ A “[f]inancial institution” means a bank, insurance company, credit union, building and loan association, investment trust, or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment.”⁶⁸ Section 2 further details that if the theft involves a signed rental agreement, then the county in which the perpetrator signed the agreement may also seek prosecution of the accused.⁶⁹

57. O.C.G.A. § 16-8-5 (2023).

58. O.C.G.A. § 16-8-6 (2023).

59. O.C.G.A. § 16-8-7 (2023).

60. O.C.G.A. § 16-8-8 (2023).

61. O.C.G.A. § 16-8-9 (2023).

62. O.C.G.A. § 16-8-13 (2023).

63. O.C.G.A. § 16-8-14 (2023).

64. O.C.G.A. § 16-8-15 (2023).

65. 2023 Ga. Laws 634, § 2, at 635.

66. *Id.*

67. *Id.*

68. O.C.G.A. § 16-8-1 (2010).

69. 2023 Ga. Laws 634, § 2, at 635.

The First Draft

When first introduced, the Act's initial draft included two lengthy sections with no breaks or distinct typography.⁷⁰ Though it spanned nearly three pages, each section contained only three sentences.⁷¹ Accordingly, legislators expressed the need for cleaner, more concise language in the Act.⁷² Therefore, the final draft incorporated that feedback, breaking each section into multiple subsections and bullets.⁷³

Additionally, GACDL provided significant suggestions that were later incorporated into the Act.⁷⁴ Specifically, GACDL prepared a substitute bill for Representative Scott Hilton (R-48th) and collaborated with PAC to narrow the language and reconcile the Act with current Georgia law.⁷⁵ Representative Hilton, the House Judiciary Non-Civil Committee, and the general legislature accepted GACDL's proposed changes and incorporated the changes in the finalized Act.⁷⁶

*Analysis**Purpose*

"No longer are the days," suggests Representative Scott Hilton (R-48th), that "you stick a guy up and you take his cash."⁷⁷ Rather, criminals are engaged more in "modern day theft" which happens electronically.⁷⁸ The Act recognizes a difficulty that vexes victims and law enforcement alike. Specifically, victims were often bounced from "department to department" without resolution because agencies felt

70. HB 219, as introduced, 2023 Ga. Gen. Assemb.

71. *Id.*

72. See House Subcommittee Video, *supra* note 10, at 1 hr., 47 min., 5 sec. (remarks by Rep. James Burchett (R-176th)).

73. See generally 2023 Ga. Laws 634.

74. Electronic Mail Interview with Jill Travis, Georgia Association of Criminal Defense Lawyers (May 24, 2023) [hereinafter Travis Interview] (on file with the Georgia State University Law Review).

75. *Id.*

76. *Id.*

77. House Subcommittee Video, *supra* note 10, at 1 hr., 22 min., 10 sec. (remarks by Rep. Scott Hilton (R-48th)).

78. *Id.*

insufficiently positioned to file the report without knowing the location of the suspect or where the crime occurred.⁷⁹ By broadening the options for venue to include where the victim resides or where acts in furtherance of the crime occurred, the Act obviates the need for the complex and potentially impossible task of determining where the suspect took control of the funds.⁸⁰

Necessity

Critics of the bill voiced concerns about redundancy, suggesting that the crimes contemplated by HB 219 were already prosecutable under Code section 16-8-11.⁸¹ During subcommittee hearings, Representative Tyler Smith (R-18th) argued that the victim loses control of the funds the moment the funds are taken from the bank account, instantaneously establishing venue in the county where the bank was located.⁸² Likewise, Andrew Fleischman, speaking on behalf of GACDL, analogized digital theft to fishing: “Imagine I’ve got a fishing line, it’s super long, I cast it all the way over to your house two counties away and I drag the money back. I’ve exercised control over your money in your county.”⁸³ In other words, some individuals believed that although the cybercriminal might be in another venue, the act of taking represented the immediate exercise of control.

However, as Will Johnson of PAC pointed out, the critical determination is not where the victim loses control of the funds, but rather where the accused takes control of the funds.⁸⁴ This subtle distinction is paramount in a scam in which a cybercriminal coerces a

79. *Id.* at 1 hr., 20 min., 1 sec. (remarks by Rep. Clint Crowe (R-118th)).

80. *See generally* 2023 Ga. Laws 634; *see also* House Subcommittee Video, *supra* note 10, at 1 hr., 20 min., 40 sec. (remarks by Will Johnson, State Resource Prosecutor, Prosecuting Attorney’s Counsel of Georgia) (“A problematic instance would be if the accused is flying over the middle of the Atlantic and wires the money from there. Where would venue possibly be at that point?”).

81. *See, e.g.*, House Subcommittee Video, *supra* note 10, at 1 hr., 41 min., 9 sec. (remarks by Rep. Tyler Smith (R-18th)) (“[U]pon reading [O.C.G.A. § 16-8-11 (1994)], I don’t see how you couldn’t bring an indictment and obtain a conviction.”); *see also* O.C.G.A. § 16-8-11 (1994).

82. House Subcommittee Video, *supra* note 10, at 1 hr., 15 min., 31 sec. (remarks by Rep. Tyler Smith (R-18th)).

83. *Id.* at 1 hr., 25 min., 10 sec. (remarks by Andrew Fleischman, Georgia Association of Criminal Defense Lawyers).

84. *Id.* at 1 hr., 14 min., 59 sec. (remarks by Will Johnson, State Resource Prosecutor, Prosecuting Attorney’s Counsel of Georgia).

victim into transferring funds, thus the cybercriminal may not exercise any control over the funds until they enter the cybercriminal's account in an unknown venue. Fleishman's analogy, therefore, would not apply because the cybercriminal does not cast the fishing line a great distance; rather, the manipulated victim throws the fish to the cybercriminal, and the cybercriminal exercises no control until catching the fish. According to proponents, the Act is necessary because the contemplated cybercriminals would not be taking the money directly from bank accounts, instead the contemplated victims would be sending the funds themselves, deceived by the cybercriminal, who only exercises control once the funds arrive.⁸⁵

Influence of Code section 16-9-125

Code section 16-9-125, which pertains to venue for crimes of identity fraud, informed much of the essential language in the Act.⁸⁶ Recognizing similar challenges in prosecuting identity fraud, the legislature broadened the options for venue, providing that the crime can be prosecuted where the victim resides or wherever "any other part of the offense took place."⁸⁷

The Supreme Court of Georgia considered the constitutionality of Code section 16-9-125 in *State v. Mayze*.⁸⁸ *Mayze* pointed to the Georgia Constitution, which provides that "criminal cases shall be tried in the county where the crime was committed."⁸⁹ *Mayze* also considered *Knight v. State*, which held that "the power to create crimes and to prescribe punishment therefor[e] is legislative."⁹⁰ Thus, *Mayze* held that the General Assembly may "define a crime in such a manner as to provide that a defendant's conduct which takes place in one jurisdiction culminates in an unauthorized act . . . occurring in another."⁹¹ Aside from support from the Georgia Constitution, *Mayze*

85. *See id.* at 1 hr., 7 min., 10 sec. (remarks by Rep. Scott Hilton (R-48th)).

86. House Subcommittee Video, *supra* note 10, at 1 hr., 19 min., 6 sec. (remarks by Will Johnson, State Resource Prosecutor, Prosecuting Attorney's Counsel of Georgia) ("[T]he reason it is worded this way is it patterns itself after the identity fraud venue provision.").

87. Compare O.C.G.A. § 16-9-125 (2023), with 2023 Ga. Laws 634.

88. *State v. Mayze*, 280 Ga. 5, 5–6, 622 S.E.2d 836, 838 (2005).

89. *Id.* at 5, 622 S.E.2d at 838 (quoting GA. CONST. art. VI, § 2, para. 6).

90. *Id.* at 6, 622 S.E.2d at 838 (quoting *Knight v. State*, 243 Ga. 770, 771, 257 S.E.2d 182 (1979)).

91. *Id.* at 7–8, 622 S.E.2d at 839.

also underscored its holding by pointing out that nineteen states and the District of Columbia have enacted similar provisions—indicating a national trend exists that allows some crimes to be prosecuted where the victim, rather than the defendant, resides.⁹²

Similar Legislation in Other States

In contrast to the trend toward expanded venue provisions in identity fraud statutes, other states have been slower to adopt statutes as explicitly broad as Georgia's Act. Mississippi enacted a law that provides for the prosecution of computer crimes in any county where an act in furtherance of the transaction was committed or "[i]n any county from which, to which or through which any access to a computer . . . was made."⁹³ Virginia expanded venue to any county or city "[i]n which the owner has his principal place of business."⁹⁴ Texas, however, has passed legislation creating venue in any county in which a victim of a cybercrime resides.⁹⁵ If establishing venue where the victim of a cybercrime resides is to be a trend, Georgia and Texas are at the start of the trend.

Potential Unintended Consequences

One foreseeable problem with the Act is forum shopping.⁹⁶ Identity fraud, by definition, has an individual victim who, along with their information, is located in a specific county; therefore, establishing venue where the victim resides is a straightforward concept that allows for prosecution of the crime where it occurred.⁹⁷ Contrastingly, when the crime is any unlawful transfer of digital currency, as contemplated by the Act, the victim could be an individual or an organization. Therefore, if a cybercriminal commits a cybercrime against Wal-Mart, then venue would be proper in any jurisdiction containing a Wal-Mart

92. *Id.* at 5, 622 S.E.2d at 838.

93. MISS. CODE ANN. § 97-45-11 (West 1985).

94. VA. CODE ANN. § 19.2-249.2 (West 2015).

95. TEX. CODE CRIM. PROC. ANN. art. 13.25 (West 2013).

96. House Subcommittee Video, *supra* note 10, at 1 hr., 13 min., 38 sec. (remarks by Rep. Tyler Smith (R-18th)).

97. *Mayze*, 280 Ga. at 10, 622 S.E.2d at 841.

store—obscuring the nexus between venue and location of the crime and potentially creating an impermissible advantage in favor of the prosecution.⁹⁸

Hardship on the defendant is another potential issue that arises when a crime is prosecuted where the victim resides. Victims may only have to appear for a trial; conversely, a presumably innocent defendant must appear for multiple calendar calls, arraignments, motions, and other appearances.⁹⁹ If a defendant resides a considerable distance from the victim, there may be significant hardship on the defendant, as well as potentially complex and expensive efforts to transport the defendant.¹⁰⁰

Conclusion

As the world becomes further digitized, the law often struggles to keep up with consequences stemming from expansion into unknown territory. Advocates of HB 219 introduced the bill as an attempt to proactively restrict and punish any conceivable electronic theft. Designed to address everything from gift card scams to cryptocurrency, HB 219 sets its sights on easing the burden that victims face when attempting to recuperate their losses. Though at first a lengthy bill, the Act quickly became a concise proposal that nearly all legislators could stand behind and support. GACDL and PAC joined forces to create an Act that not only provided an easier path for victims and prosecutors but also narrowed the scope to limit excessive governmental interference. Though Georgia has not yet seen a drastic need for radical reform in the financial fraud sphere, this Act takes a step towards protecting victims and deterring out-of-state perpetrators from interfering with Georgians' finances.

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98. House Subcommittee Video, *supra* note 10, at 1 hr., 26 min. (remarks by Andrew Fleischman, Georgia Association of Criminal Defense Lawyers).

99. *Id.* at 1 hr., 37 min., 27 sec.

100. *Id.*

