

BILL ANALYSIS

H.B. 2474
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Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

House Bill 2474 amends Section 16.02 of the Penal Code and Articles 18.20 and 18.21 of the Code of Criminal Procedure as they relate to electronic surveillance. The bill seeks to update state law to match changes in federal law and provide general cleanup of the statute.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

House Bill 2474 adds definitions for "computer trespasser" and "protected computer." The bill also changes the definitions for "ESN reader," "trap and trace device" and "mobile tracking device," and more precisely defines "immediate life-threatening situation," the predicate for issuance of an emergency order. It also clarifies the term "judge" to mean a "judge of competent jurisdiction." H.B. 2474 authorizes the disclosure of the contents of a communication or evidence obtained from an intercept to a federal law enforcement officer or law enforcement officer from another state, when appropriate to the proper performance of their official duties. The bill also specifies which judges are authorized to approve an emergency intercept and details the prescribed use and implementation procedures for an emergency interception.

H.B. 2474 allows applicants for an intercept to request a hearing to determine the reasonableness of expenses claimed by a provider who has furnished technical assistance to implement an intercept. There is also a provision to allow an intercept order to include an order for a pen register, ESN reader, trap and trace device, mobile tracking device or authorization to disclose stored communications, which are related orders based on lesser evidence than an intercept order. The bill protects communication common carriers and electronic communication service providers from actions against them when these providers are providing information, facilities, or assistance required of them by legislative authority, court order, warrant, subpoena or certification under Article 18.20, Code of Criminal Procedure. H.B. 2474 redefines 'pen register' and 'trap and trace device' to match changes in federal law due to changes in technology to more accurately describe the function of equipment as they function in a digital telephony world. The bill amends existing statute to clarify that a state judge may issue an order under federal law for a pen register and to more precisely define the legal threshold for obtaining a pen register, ESN reader or trap and trace device.

EFFECTIVE DATE

September 1, 2003.