

## **BILL ANALYSIS**

Senate Research Center

S.B. 1552  
By: Estes  
Criminal Justice  
4/11/2005  
As Filed

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

Chapter 16, Penal Code governs criminal instruments, interception of wire or oral communications, and installation of tracking devices. Section 16.02 of that code provides that it is a felony offense for a person to intercept, endeavor to intercept, or procure another person to intercept or endeavor to disclose or use the contents of an intercepted wire, oral, or electronic communication; knowingly or intentionally effect a covert entry for the purpose of intercepting wire, oral, or electronic use, or procure another person to use or endeavor to use any electronic, mechanical, or other device to intercept an oral communication in a certain manner. That section provides that it is also a felony offense to manufacture, assemble, possess, or sell an electronic, mechanical, or other device that is designed primarily for the purpose of nonconsensual interception of wire, electronic, or oral communication. Section 16.02 also provides affirmative defenses to prosecution.

Section 16.02 was added to the Penal Code in 1981 and has since been amended numerous times. As currently written, it contains a subsection which provides for the expiration of the entire section on September 1, 2005.

As proposed, S.B. 1552 repeals the sunset provision of Section 16.02, Penal Code, so that the prohibitions regarding unlawful interception, use, or disclosure of intercepted communications will remain in force.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Repealer: Section 16.02(h) (regarding the expiration date of the section), Penal Code.

SECTION 2. Effective date: upon passage or September 1, 2005.