

BILL ANALYSIS

C.S.H.B. 435
By: Madden
Corrections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law makes the possession of cellular telephones illegal for offenders in correctional facilities. Cell phones are easy to hide and difficult to detect without a search or through technical means. The inspector general of the Texas Department of Criminal Justice (inspector general) does not have the authority to detect, locate, identify, scan, and monitor cell phones used in correctional facilities. As a result of its investigative efforts, the inspector general has learned that cell phones are used by offenders to communicate with the free world, arrange criminal activity, and facilitate the smuggling of contraband, including more cell phones, into correctional facilities.

C.S.H.B. 435 would negate any imagined expectation of privacy that an offender might have in a cellular telephone located in a correctional facility. The bill authorizes the inspector general to employ modern techniques to find and thwart the use of cell phones in correctional facilities. The Department of Public Safety (DPS) has similar authority for use in free world cases involving murder, child pornography, and controlled substances.

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

C.S.H.B. 435 amends the Government Code, by providing that an inmate or state jail defendant confined in a facility operated by or under contract with the Texas Department of Criminal Justice (department) does not have an expectation of privacy in a cellular telephone located on the premises of the facility.

C.S.H.B. 435 amends the Government Code to authorize the inspector general of the Texas Department of Criminal Justice (inspector general) or an investigator employed by the inspector general and authorized in writing to use an electronic, mechanical, or other device to detect, locate, identify, scan, or monitor a cellular telephone in the possession of or used by an inmate or state jail defendant confined in a facility operated by or under contract with the department.

C.S.H.B. 435 also amends the Code of Criminal Procedure to allow the department to own electronic, mechanical, or other devices for a use or purpose authorized by Section 500.008, Government Code, and to allow the inspector general or the department or an investigator employed by the inspector general and authorized in writing to possess, install, operate, or monitor those devices as provided by Section 500.008, Government Code.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 435 adds language, not in the original bill, which amends the Code of Criminal Procedure to allow the Texas Department of Criminal Justice (department) to own electronic,

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mechanical, or other devices for a use or purpose authorized by Section 500.008, Government Code, and to allow the inspector general of the Texas Department of Criminal Justice (inspector general) or the department or an investigator employed by the inspector general and authorized in writing to possess, install, operate, or monitor those devices as provided by Section 500.008, Government Code.