

By: Madden

H.B. No. 435

Substitute the following for H.B. No. 435:

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C.S.H.B. No. 435

A BILL TO BE ENTITLED

AN ACT

relating to the detection and monitoring of a cellular telephone in the possession of or used by an inmate or state jail defendant.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 5, Article 18.20, Code of Criminal Procedure, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Except as provided by Subsection (c) and Section 8A, only the Department of Public Safety is authorized by this article to own, possess, install, operate, or monitor an electronic, mechanical, or other device. The Department of Public Safety may be assisted by an investigative or law enforcement officer or other person in the operation and monitoring of an interception of wire, oral, or electronic communications, provided that the officer or other person:

(1) is designated by the director for that purpose; and

(2) acts in the presence and under the direction of a commissioned officer of the Department of Public Safety.

(c) The Texas Department of Criminal Justice may own electronic, mechanical, or other devices for a use or purpose authorized by Section 500.008, Government Code, and the inspector general or the department or an investigator employed by the inspector general and authorized in writing may possess, install,

1 operate, or monitor those devices as provided by Section 500.008.

2 SECTION 2. Chapter 500, Government Code, is amended by
3 adding Section 500.008 to read as follows:

4 Sec. 500.008. DETECTION AND MONITORING OF CELLULAR
5 TELEPHONES. (a) An inmate or state jail defendant confined in a
6 facility operated by or under contract with the department does not
7 have an expectation of privacy in a cellular telephone located on
8 the premises of the facility.

9 (b) The inspector general or an investigator employed by the
10 inspector general and authorized in writing may use an electronic,
11 mechanical, or other device to detect, locate, identify, scan, or
12 monitor a cellular telephone in the possession of or used by an
13 inmate or state jail defendant confined in a facility operated by or
14 under contract with the department.

15 SECTION 3. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2007.