

By: Zaffirini

S.B. No. 6

A BILL TO BE ENTITLED

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

AN ACT

relating to the apprehension, prosecution, and punishment of individuals committing or attempting to commit certain sex offenses.

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

SECTION 1. Title 1, Code of Criminal Procedure, is amended by adding Chapter 24A to read as follows:

CHAPTER 24A. RESPONDING TO SUBPOENAS AND CERTAIN OTHER COURT ORDERS; PRESERVING CERTAIN INFORMATION

SUBCHAPTER A. RESPONDING TO SUBPOENAS AND CERTAIN OTHER COURT ORDERS

Art. 24A.001. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a subpoena, search warrant, or other court order that:

(1) relates to the investigation or prosecution of a criminal offense under Section 33.021, Penal Code; and

(2) is served on or issued with respect to an Internet service provider that provides service in this state.

Art. 24A.002. RESPONSE REQUIRED; DEADLINE FOR RESPONSE.

(a) Except as provided by Subsection (b), not later than the 10th day after the date on which an Internet service provider is served with or otherwise receives a subpoena, search warrant, or other court order described by Article 24A.001, the Internet service provider shall:

1 (1) fully comply with the subpoena, warrant, or order;
2 or

3 (2) petition a court to excuse the Internet service
4 provider from complying with the subpoena, warrant, or order.

5 (b) As soon as is practicable, and in no event later than the
6 second business day after the date the Internet service provider is
7 served with or otherwise receives a subpoena, search warrant, or
8 other court order described by Article 24A.001, the Internet
9 service provider shall fully comply with the subpoena, search
10 warrant, or order if the subpoena, search warrant, or order
11 indicates that full compliance is necessary to address a situation
12 that threatens a person with death or other serious bodily injury.

13 (c) For the purposes of Subsection (a)(1), full compliance
14 with the subpoena, warrant, or order includes:

15 (1) producing or providing, to the extent permitted
16 under federal law, all documents or information requested under the
17 subpoena, warrant, or order; or

18 (2) providing, to the extent permitted under federal
19 law, electronic access to all documents or information requested
20 under the subpoena, warrant, or order.

21 Art. 24A.003. DISOBEYING SUBPOENA, WARRANT, OR ORDER. An
22 Internet service provider that disobeys a subpoena, search warrant,
23 or other court order described by Article 24A.001 and that was not
24 excused from complying with the subpoena, warrant, or order under
25 Article 24A.002(a)(2) may be punished in any manner provided by
26 law.

27 [Articles 24A.004-24A.050 reserved for expansion]

1 SUBCHAPTER B. PRESERVING CERTAIN INFORMATION

2 Art. 24A.051. PRESERVING INFORMATION. (a) On written
3 request of a law enforcement agency in this state or a federal law
4 enforcement agency and pending the issuance of a subpoena or other
5 court order described by Article 24A.001, an Internet service
6 provider that provides service in this state shall take all steps
7 necessary to preserve all records or other potential evidence in a
8 criminal trial that is in the possession of the Internet service
9 provider.

10 (b) Subject to Subsection (c), an Internet service provider
11 shall preserve information under Subsection (a) for a period of 90
12 days after the date the Internet service provider receives the
13 written request described by Subsection (a).

14 (c) An Internet service provider shall preserve information
15 under Subsection (a) for the 90-day period immediately following
16 the 90-day period described by Subsection (b) if the requesting law
17 enforcement agency in writing requests an extension of the
18 preservation period.

19 SECTION 2. Subchapter B, Chapter 402, Government Code, is
20 amended by adding Section 402.0281 to read as follows:

21 Sec. 402.0281. INTERNET SERVICE PROVIDER DATABASE.

22 (a) The attorney general shall establish a computerized database
23 containing contact information for all Internet service providers
24 providing service in this state. The contact information must
25 include:

26 (1) the name and physical address of the person
27 authorized to accept service of process for the Internet service

1 provider; and

2 (2) the physical address of the Internet service
3 provider's principal place of business in this state.

4 (b) At the request of a district attorney, criminal district
5 attorney, county attorney, law enforcement agency of this state, or
6 local law enforcement agency, the attorney general shall allow the
7 requestor access to the database to expedite the
8 information-gathering process of a criminal investigation
9 conducted by the requestor concerning an offense under Section
10 33.021, Penal Code.

11 SECTION 3. Section 414.005, Government Code, is amended to
12 read as follows:

13 Sec. 414.005. DUTIES. The council shall:

14 (1) encourage, advise, and assist in the creation of
15 crime stoppers organizations;

16 (2) foster the detection of crime and encourage
17 persons to report information about criminal acts;

18 (3) encourage news and other media to broadcast
19 reenactments and to inform the public of the functions of crime
20 stoppers organizations' operations and programs;

21 (4) promote the process of crime stoppers
22 organizations to forward information about criminal acts to the
23 appropriate law enforcement agencies; ~~and~~

24 (5) help law enforcement agencies detect and combat
25 crime by increasing the flow of information to and between law
26 enforcement agencies;

27 (6) create specialized programs targeted at detecting

1 specific crimes or types of crimes, including at least one program
2 that:

3 (A) encourages individuals to report sex
4 offenders who have failed to register under Chapter 62, Code of
5 Criminal Procedure; and

6 (B) financially rewards each individual who
7 makes a report described by Paragraph (A) that leads or
8 substantially contributes to the arrest or apprehension of a sex
9 offender who has failed to register under Chapter 62, Code of
10 Criminal Procedure; and

11 (7) encourage, advise, and assist crime stoppers
12 organizations in implementing any programs created under
13 Subdivision (6), including a program specifically described by
14 Subdivision (6).

15 SECTION 4. Subsection (b), Section 3.03, Penal Code, is
16 amended to read as follows:

17 (b) If the accused is found guilty of more than one offense
18 arising out of the same criminal episode, the sentences may run
19 concurrently or consecutively if each sentence is for a conviction
20 of:

21 (1) an offense:

22 (A) under Section 49.07 or 49.08, regardless of
23 whether the accused is convicted of violations of the same section
24 more than once or is convicted of violations of both sections; or

25 (B) for which a plea agreement was reached in a
26 case in which the accused was charged with more than one offense
27 listed in Paragraph (A), regardless of whether the accused is

1 charged with violations of the same section more than once or is
2 charged with violations of both sections;

3 (2) an offense:

4 (A) under Section 33.021 or an offense under
5 Section 21.11, 22.011, 22.021, 25.02, or 43.25 committed against a
6 victim younger than 17 years of age at the time of the commission of
7 the offense regardless of whether the accused is convicted of
8 violations of the same section more than once or is convicted of
9 violations of more than one section; or

10 (B) for which a plea agreement was reached in a
11 case in which the accused was charged with more than one offense
12 listed in Paragraph (A) committed against a victim younger than 17
13 years of age at the time of the commission of the offense regardless
14 of whether the accused is charged with violations of the same
15 section more than once or is charged with violations of more than
16 one section; or

17 (3) an offense:

18 (A) under Section 21.15 or 43.26, regardless of
19 whether the accused is convicted of violations of the same section
20 more than once or is convicted of violations of both sections; or

21 (B) for which a plea agreement was reached in a
22 case in which the accused was charged with more than one offense
23 listed in Paragraph (A), regardless of whether the accused is
24 charged with violations of the same section more than once or is
25 charged with violations of both sections.

26 SECTION 5. Subsection (f), Section 33.021, Penal Code, is
27 amended to read as follows:

1 (f) An offense under Subsection (b) is a [~~state-jail~~] felony
2 of the third degree, except that the offense is a felony of the
3 second degree if the minor is younger than 14 years of age or is an
4 individual whom the actor believes to be younger than 14 years of
5 age at the time of the commission of the offense. An[~~, and an~~
6 offense under Subsection (c) is a felony of the second [~~third~~]
7 degree[~~, except that an offense under Subsection (b) or (c) is a~~
8 ~~felony of the second degree if the minor is younger than 14 years of~~
9 ~~age or is an individual whom the actor believes to be younger than~~
10 ~~14 years of age]~~.

11 SECTION 6. The attorney general shall ensure that the
12 database required under Section 402.0281, Government Code, as added
13 by this Act, is fully operational not later than April 1, 2008, and
14 not later than June 1, 2008, shall begin allowing requesting
15 parties access to that database as described by that section.

16 SECTION 7. Subsection (b), Sections 3.03, and Subsection
17 (f), Section 33.021, Penal Code, as amended by this Act, apply only
18 to an offense committed on or after September 1, 2007. An offense
19 committed before September 1, 2007, is covered by the law in effect
20 when the offense was committed, and the former law is continued in
21 effect for that purpose. For the purposes of this section, an
22 offense was committed before September 1, 2007, if any element of
23 the offense occurred before that date.

24 SECTION 8. This Act takes effect September 1, 2007.