

1-1 By: Zaffirini S.B. No. 6  
1-2 (In the Senate - Filed February 21, 2007; February 21, 2007,  
1-3 read first time and referred to Committee on Criminal Justice;  
1-4 March 19, 2007, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 6, Nays 0; March 19, 2007,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 6 By: Seliger  
1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the apprehension, prosecution, and punishment of  
1-11 individuals committing or attempting to commit certain sex  
1-12 offenses.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Title 1, Code of Criminal Procedure, is amended  
1-15 by adding Chapter 24A to read as follows:

1-16 CHAPTER 24A. RESPONDING TO SUBPOENAS AND CERTAIN OTHER COURT  
1-17 ORDERS; PRESERVING CERTAIN INFORMATION  
1-18 SUBCHAPTER A. RESPONDING TO SUBPOENAS AND CERTAIN OTHER COURT  
1-19 ORDERS

1-20 Art. 24A.001. APPLICABILITY OF SUBCHAPTER. This subchapter  
1-21 applies only to a subpoena, search warrant, or other court order  
1-22 that:

1-23 (1) relates to the investigation or prosecution of a  
1-24 criminal offense under Section 33.021, Penal Code; and

1-25 (2) is served on or issued with respect to an Internet  
1-26 service provider that provides service in this state.

1-27 Art. 24A.002. RESPONSE REQUIRED; DEADLINE FOR RESPONSE.

1-28 (a) Except as provided by Subsection (b), not later than the 10th  
1-29 day after the date on which an Internet service provider is served  
1-30 with or otherwise receives a subpoena, search warrant, or other  
1-31 court order described by Article 24A.001, the Internet service  
1-32 provider shall:

1-33 (1) fully comply with the subpoena, warrant, or order;  
1-34 or

1-35 (2) petition a court to excuse the Internet service  
1-36 provider from complying with the subpoena, warrant, or order.

1-37 (b) As soon as is practicable, and in no event later than the  
1-38 second business day after the date the Internet service provider is  
1-39 served with or otherwise receives a subpoena, search warrant, or  
1-40 other court order described by Article 24A.001, the Internet  
1-41 service provider shall fully comply with the subpoena, search  
1-42 warrant, or order if the subpoena, search warrant, or order  
1-43 indicates that full compliance is necessary to address a situation  
1-44 that threatens a person with death or other serious bodily injury.

1-45 (c) For the purposes of Subsection (a)(1), full compliance  
1-46 with the subpoena, warrant, or order includes:

1-47 (1) producing or providing, to the extent permitted  
1-48 under federal law, all documents or information requested under the  
1-49 subpoena, warrant, or order; or

1-50 (2) providing, to the extent permitted under federal  
1-51 law, electronic access to all documents or information requested  
1-52 under the subpoena, warrant, or order.

1-53 Art. 24A.003. DISOBEYING SUBPOENA, WARRANT, OR ORDER. An  
1-54 Internet service provider that disobeys a subpoena, search warrant,  
1-55 or other court order described by Article 24A.001 and that was not  
1-56 excused from complying with the subpoena, warrant, or order under  
1-57 Article 24A.002(a)(2) may be punished in any manner provided by  
1-58 law.

1-59 [Articles 24A.004-24A.050 reserved for expansion]

1-60 SUBCHAPTER B. PRESERVING CERTAIN INFORMATION

1-61 Art. 24A.051. PRESERVING INFORMATION. (a) On written  
1-62 request of a law enforcement agency in this state or a federal law  
1-63 enforcement agency and pending the issuance of a subpoena or other

2-1 court order described by Article 24A.001, an Internet service  
2-2 provider that provides service in this state shall take all steps  
2-3 necessary to preserve all records or other potential evidence in a  
2-4 criminal trial that is in the possession of the Internet service  
2-5 provider.

2-6 (b) Subject to Subsection (c), an Internet service provider  
2-7 shall preserve information under Subsection (a) for a period of 90  
2-8 days after the date the Internet service provider receives the  
2-9 written request described by Subsection (a).

2-10 (c) An Internet service provider shall preserve information  
2-11 under Subsection (a) for the 90-day period immediately following  
2-12 the 90-day period described by Subsection (b) if the requesting law  
2-13 enforcement agency in writing requests an extension of the  
2-14 preservation period.

2-15 SECTION 2. Subchapter B, Chapter 402, Government Code, is  
2-16 amended by adding Section 402.0281 to read as follows:

2-17 Sec. 402.0281. INTERNET SERVICE PROVIDER DATABASE.

2-18 (a) The attorney general shall establish a computerized database  
2-19 containing contact information for all Internet service providers  
2-20 providing service in this state. The contact information must  
2-21 include:

2-22 (1) the name and physical address of the person  
2-23 authorized to accept service of process for the Internet service  
2-24 provider; and

2-25 (2) the physical address of the Internet service  
2-26 provider's principal place of business in this state.

2-27 (b) At the request of a district attorney, criminal district  
2-28 attorney, county attorney, law enforcement agency of this state, or  
2-29 local law enforcement agency, the attorney general shall allow the  
2-30 requestor access to the database to expedite the  
2-31 information-gathering process of a criminal investigation  
2-32 conducted by the requestor concerning an offense under Section  
2-33 33.021, Penal Code.

2-34 SECTION 3. Section 414.005, Government Code, is amended to  
2-35 read as follows:

2-36 Sec. 414.005. DUTIES. The council shall:

2-37 (1) encourage, advise, and assist in the creation of  
2-38 crime stoppers organizations;

2-39 (2) foster the detection of crime and encourage  
2-40 persons to report information about criminal acts;

2-41 (3) encourage news and other media to broadcast  
2-42 reenactments and to inform the public of the functions of crime  
2-43 stoppers organizations' operations and programs;

2-44 (4) promote the process of crime stoppers  
2-45 organizations to forward information about criminal acts to the  
2-46 appropriate law enforcement agencies; ~~and~~

2-47 (5) help law enforcement agencies detect and combat  
2-48 crime by increasing the flow of information to and between law  
2-49 enforcement agencies;

2-50 (6) create specialized programs targeted at detecting  
2-51 specific crimes or types of crimes, including at least one program  
2-52 that:

2-53 (A) encourages individuals to report sex  
2-54 offenders who have failed to register under Chapter 62, Code of  
2-55 Criminal Procedure; and

2-56 (B) financially rewards each individual who  
2-57 makes a report described by Paragraph (A) that leads or  
2-58 substantially contributes to the arrest or apprehension of a sex  
2-59 offender who has failed to register under Chapter 62, Code of  
2-60 Criminal Procedure; and

2-61 (7) encourage, advise, and assist crime stoppers  
2-62 organizations in implementing any programs created under  
2-63 Subdivision (6), including a program specifically described by  
2-64 Subdivision (6).

2-65 SECTION 4. Subsection (b), Section 3.03, Penal Code, is  
2-66 amended to read as follows:

2-67 (b) If the accused is found guilty of more than one offense  
2-68 arising out of the same criminal episode, the sentences may run  
2-69 concurrently or consecutively if each sentence is for a conviction

3-1 of:

3-2 (1) an offense:

3-3 (A) under Section 49.07 or 49.08, regardless of  
3-4 whether the accused is convicted of violations of the same section  
3-5 more than once or is convicted of violations of both sections; or

3-6 (B) for which a plea agreement was reached in a  
3-7 case in which the accused was charged with more than one offense  
3-8 listed in Paragraph (A), regardless of whether the accused is  
3-9 charged with violations of the same section more than once or is  
3-10 charged with violations of both sections;

3-11 (2) an offense:

3-12 (A) under Section 33.021 or an offense under  
3-13 Section 21.11, 22.011, 22.021, 25.02, or 43.25 committed against a  
3-14 victim younger than 17 years of age at the time of the commission of  
3-15 the offense regardless of whether the accused is convicted of  
3-16 violations of the same section more than once or is convicted of  
3-17 violations of more than one section; or

3-18 (B) for which a plea agreement was reached in a  
3-19 case in which the accused was charged with more than one offense  
3-20 listed in Paragraph (A) committed against a victim younger than 17  
3-21 years of age at the time of the commission of the offense regardless  
3-22 of whether the accused is charged with violations of the same  
3-23 section more than once or is charged with violations of more than  
3-24 one section; or

3-25 (3) an offense:

3-26 (A) under Section 21.15 or 43.26, regardless of  
3-27 whether the accused is convicted of violations of the same section  
3-28 more than once or is convicted of violations of both sections; or

3-29 (B) for which a plea agreement was reached in a  
3-30 case in which the accused was charged with more than one offense  
3-31 listed in Paragraph (A), regardless of whether the accused is  
3-32 charged with violations of the same section more than once or is  
3-33 charged with violations of both sections.

3-34 SECTION 5. Subsection (f), Section 33.021, Penal Code, is  
3-35 amended to read as follows:

3-36 (f) An offense under Subsection (b) is a ~~[state jail]~~ felony  
3-37 of the third degree, except that the offense is a felony of the  
3-38 second degree if the minor is younger than 14 years of age or is an  
3-39 individual whom the actor believes to be younger than 14 years of  
3-40 age at the time of the commission of the offense. An~~[, and an]~~  
3-41 offense under Subsection (c) is a felony of the second ~~[third]~~  
3-42 degree~~[, except that an offense under Subsection (b) or (c) is a~~  
3-43 felony of the second degree if the minor is younger than 14 years of  
3-44 age or is an individual whom the actor believes to be younger than  
3-45 14 years of age].

3-46 SECTION 6. The attorney general shall ensure that the  
3-47 database required under Section 402.0281, Government Code, as added  
3-48 by this Act, is fully operational not later than April 1, 2008, and  
3-49 not later than June 1, 2008, shall begin allowing requesting  
3-50 parties access to that database as described by that section.

3-51 SECTION 7. Subsection (b), Sections 3.03, and Subsection  
3-52 (f), Section 33.021, Penal Code, as amended by this Act, apply only  
3-53 to an offense committed on or after September 1, 2007. An offense  
3-54 committed before September 1, 2007, is covered by the law in effect  
3-55 when the offense was committed, and the former law is continued in  
3-56 effect for that purpose. For the purposes of this section, an  
3-57 offense was committed before September 1, 2007, if any element of  
3-58 the offense occurred before that date.

3-59 SECTION 8. This Act takes effect September 1, 2007.

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