

Amend SB 537 by adding the following appropriately numbered ARTICLE and renumbering subsequent ARTICLES accordingly:

ARTICLE \_\_\_\_\_. CONTROL OF INTERCEPTING DEVICES

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

(a) Except as otherwise provided by this section 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 Department of Public Safety, upon request by the Texas Department of Criminal Justice, shall authorize the Texas Department of Criminal Justice to own electronic, mechanical, or other devices for a use or purpose authorized by Section 500.008, Government Code, and the inspector general of the Texas Department of Criminal Justice, a commissioned officer of that office, or another person acting in the presence and under the direction of a commissioned officer of that office may possess, install, operate, or monitor those devices as provided by Section 500.008.

(d) The Department of Public Safety, upon request by the Texas Youth Commission, shall authorize the Texas Youth Commission to own electronic, mechanical, or other devices for a use or purpose authorized by Section 61.0455, Human Resources Code, and the inspector general of the Texas Youth Commission, a commissioned officer of that office, or another person acting in the presence and under the direction of a commissioned officer of that office may possess, install, operate, or monitor those devices as provided by Section 61.0455.

SECTION \_\_\_\_\_. Section 17, Article 18.20, Code of Criminal Procedure, is amended to read as follows:

Sec. 17. NONAPPLICABILITY. This article does not apply to conduct described as an affirmative defense under Section 16.02(c), Penal Code, except as otherwise specifically provided by that section.

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

Sec. 500.008. DETECTION AND MONITORING OF CELLULAR TELEPHONES. (a) As provided by Article 18.20, Code of Criminal Procedure, the department may own and the office of inspector general may possess, install, operate, or monitor an electronic, mechanical, or other device, as defined by Article 18.20, Code of Criminal Procedure.

(b) The inspector general shall designate in writing the commissioned officers of the office of inspector general who are authorized to possess, install, operate, and monitor electronic, mechanical, or other devices for the department.

(c) An investigative or law enforcement officer or other person, on request of the office of inspector general, may assist the office in the operation and monitoring of an interception of wire, oral, or electronic communications if the investigative or law enforcement officer or other person:

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

(2) acts in the presence and under the direction of a commissioned officer of the inspector general.

SECTION \_\_\_\_\_. Subchapter C, Chapter 61, Human Resources Code, is amended by adding Section 61.0455 to read as follows:

Sec. 61.0455. DETECTION AND MONITORING OF CELLULAR TELEPHONES. (a) As provided by Article 18.20, Code of Criminal Procedure, the commission may own and the office of the inspector general may possess, install, operate, or monitor an electronic, mechanical, or other device, as defined by Article 18.20, Code of Criminal Procedure.

(b) The inspector general shall designate in writing the commissioned officers of the office of inspector general who are authorized to possess, install, operate, or monitor an electronic, mechanical, or other devices for the commission.

(c) An investigative or law enforcement officer or other person, on request of the office of inspector general, may assist the office in the operation and monitoring of an interception of wire, oral, or electronic communications if the investigative or law enforcement officer or other person:

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

(2) acts in the presence and under the direction of a commissioned officer of the inspector general.

SECTION \_\_\_\_\_. Section 16.02, Penal Code, is amended by adding Subsection (e-1) to read as follows:

(e-1) It is a defense to prosecution under Subsection (d)(1) that the electronic, mechanical, or other device is possessed by a person authorized to possess the device under Section 500.008, Government Code, or Section 61.0455, Human Resources Code.

SECTION \_\_\_\_\_. The changes in law made by this article with respect to Sections 16.02 and 38.11, Penal Code, apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.