

1-1 By: Madden (Senate Sponsor - Whitmire) H.B. No. 1728  
1-2 (In the Senate - Received from the House April 27, 2009;  
1-3 May 1, 2009, read first time and referred to Committee on Criminal  
1-4 Justice; May 14, 2009, reported favorably by the following vote:  
1-5 Yeas 7, Nays 0; May 14, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the authority of the inspector general of the Texas  
1-9 Department of Criminal Justice to issue administrative subpoenas  
1-10 for certain communications records.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Chapter 493, Government Code, is amended by  
1-13 adding Section 493.0191 to read as follows:

1-14 Sec. 493.0191. ADMINISTRATIVE SUBPOENAS. (a) The  
1-15 inspector general may issue an administrative subpoena to a  
1-16 communications common carrier or an electronic communications  
1-17 service provider to compel the production of the carrier's or  
1-18 service provider's business records that:

1-19 (1) disclose information about:

1-20 (A) the carrier's or service provider's  
1-21 customers; or

1-22 (B) users of the services offered by the carrier  
1-23 or service provider; and

1-24 (2) are material to a criminal investigation of an  
1-25 escape or a potential escape or a violation of Section 38.11, Penal  
1-26 Code.

1-27 (b) In this section:

1-28 (1) "Communications common carrier" means a person  
1-29 that:

1-30 (A) for a fee, provides directly to the public or  
1-31 to certain members of the public the ability to transmit between or  
1-32 among points specified by the person who uses that ability,  
1-33 regardless of the technology used, information of the person's  
1-34 choosing without change in the form or content of the information  
1-35 transmitted; or

1-36 (B) a provider that bills customers for services  
1-37 described by Paragraph (A).

1-38 (2) "Electronic communications service provider"  
1-39 means a service provider that provides to users of the service the  
1-40 ability to send or receive wire or electronic communications, as  
1-41 those terms are defined by Article 18.20, Code of Criminal  
1-42 Procedure.

1-43 SECTION 2. This Act takes effect September 1, 2009.

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