

1-1 By: Carona S.B. No. 385  
1-2 (In the Senate - Filed December 19, 2008; February 17, 2009,  
1-3 read first time and referred to Committee on Criminal Justice;  
1-4 April 20, 2009, reported favorably by the following vote: Yeas 7,  
1-5 Nays 0; April 20, 2009, sent to printer.)

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

1-8 relating to the interception of wire, oral, or electronic  
1-9 communications.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Article 18.20, Code of Criminal Procedure, is  
1-12 amended by adding Section 9A to read as follows:

1-13 Sec. 9A. INTERCEPTION ORDER FOR COMMUNICATION BY SPECIFIED  
1-14 PERSON. (a) The requirements of Sections 8(a)(2)(B) and 9(b)(2)  
1-15 relating to the specification of the facilities from which or the  
1-16 place where a communication is to be intercepted do not apply if:

1-17 (1) in the case of an application for an order  
1-18 authorizing the interception of an oral communication:

1-19 (A) the application contains a full and complete  
1-20 statement as to why the specification is not practical and  
1-21 identifies the person committing or believed to be committing the  
1-22 offense and whose communications are to be intercepted; and

1-23 (B) a judge of competent jurisdiction finds that  
1-24 the specification is not practical; and

1-25 (2) in the case of an application for an order  
1-26 authorizing the interception of a wire or electronic communication:

1-27 (A) the application identifies the person  
1-28 committing or believed to be committing the offense and whose  
1-29 communications are to be intercepted;

1-30 (B) a judge of competent jurisdiction finds that  
1-31 the applicant has made an adequate showing of probable cause to  
1-32 believe that the actions of the person identified in the  
1-33 application could have the effect of thwarting interception from a  
1-34 specified facility; and

1-35 (C) the authority to intercept a wire or  
1-36 electronic communication under the order is limited to a period in  
1-37 which it is reasonable to presume that the person identified in the  
1-38 application will be reasonably proximate to the interception  
1-39 device.

1-40 (b) A person implementing an order authorizing the  
1-41 interception of an oral communication that, in accordance with this  
1-42 section, does not specify the facility from which or the place where  
1-43 a communication is to be intercepted may begin interception only  
1-44 after the person ascertains the place where the communication is to  
1-45 be intercepted.

1-46 (c) A provider of wire or electronic communications that  
1-47 receives an order authorizing the interception of a wire or  
1-48 electronic communication that, in accordance with this section,  
1-49 does not specify the facility from which or the place where a  
1-50 communication is to be intercepted may move the court to modify or  
1-51 quash the order on the ground that the provider's assistance with  
1-52 respect to the interception cannot be performed in a timely or  
1-53 reasonable fashion. On notice to the state, the court shall decide  
1-54 the motion expeditiously.

1-55 SECTION 2. Section 9A, Article 18.20, Code of Criminal  
1-56 Procedure, as added by this Act, applies only to an application for  
1-57 an order authorizing the interception of a wire, oral, or  
1-58 electronic communication that is submitted on or after the  
1-59 effective date of this Act. An application that was submitted  
1-60 before the effective date of this Act is covered by the law in  
1-61 effect on the date the application was submitted, and the former law  
1-62 is continued in effect for that purpose.

1-63 SECTION 3. This Act takes effect September 1, 2009.

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