

By: Carona

S.B. No. 537

A BILL TO BE ENTITLED

AN ACT

relating to the emergency installation and use of a device to intercept wire, oral, or electronic communications.

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

SECTION 1. Section 8A(b), Article 18.20, Code of Criminal Procedure, is amended to read as follows:

(b) A peace officer designated under Subsection (a) or under Section 5(b) may possess, install, operate, or monitor an electronic, mechanical, or other device to intercept wire, oral, or electronic communications if the officer:

(1) reasonably believes an immediate life-threatening situation exists that:

(A) is within the territorial jurisdiction of the officer or another officer the officer is assisting; and

(B) requires interception of communications before an order authorizing the interception can, with due diligence, be obtained under this section;

(2) reasonably believes there are sufficient grounds under this section on which to obtain an order authorizing the interception; and

(3) obtains oral or written consent to the interception before beginning the interception from:

(A) a judge of competent jurisdiction;

(B) a district judge for the county in which the

1 device will be installed or used; or

2 (C) [~~(B)~~] a judge or justice of a court of
3 appeals or of a higher court.

4 SECTION 2. The change in law made by this Act to Section
5 8A(b), Article 18.20, Code of Criminal Procedure, applies only to
6 the interception of a wire, oral, or electronic communication in an
7 immediate life-threatening situation that occurs on or after the
8 effective date of this Act. An interception of a wire, oral, or
9 electronic communication in an immediate life-threatening
10 situation that occurred before the effective date of this Act is
11 covered by the law in effect on the date the life-threatening
12 situation occurred, and the former law is continued in effect for
13 that purpose.

14 SECTION 3. This Act takes effect September 1, 2009.