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H.B. No. 3746

A BILL TO BE ENTITLED

AN ACT

relating to investigations of certain offenses involving the Internet-based sexual exploitation of a minor; creating the Internet crimes against children account to support those activities.

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

SECTION 1. This Act shall be known as Alicia's Law.

SECTION 2. Subtitle B, Title 4, Government Code, is amended by adding Chapter 422 to read as follows:

CHAPTER 422. INTERNET-BASED SEXUAL EXPLOITATION OF MINOR

Sec. 422.001. DEFINITION. In this chapter, "ICAC task force" means an Internet Crimes Against Children task force that is:

(1) located in this state; and

(2) recognized by the United States Department of Justice.

Sec. 422.002. INTERNET CRIMES AGAINST CHILDREN ACCOUNT.

(a) The Internet crimes against children account is an account in the general revenue fund.

(b) The account consists of:

(1) money transferred by the legislature directly to the account; and

(2) gifts, grants, or donations.

(c) Interest earned on the account shall be credited to the

1 account.

2 (d) Section 403.095 does not apply to the account.

3 (e) Money in the account may be appropriated only to support  
4 the administration and activities of an ICAC task force.

5 (f) Any money in the account that is appropriated in a state  
6 fiscal year under Subsection (e) shall be appropriated in equal  
7 amounts to each ICAC task force.

8 Sec. 422.003. ADMINISTRATIVE SUBPOENA. (a) The attorney  
9 general shall assist persons authorized under this section in  
10 obtaining administrative subpoenas to investigate and prosecute  
11 offenses that involve the Internet-based sexual exploitation of a  
12 minor.

13 (b) A prosecuting attorney or an officer of an ICAC task  
14 force may issue and cause to be served an administrative subpoena  
15 that requires the production of records or other documentation as  
16 described by Subsection (d) if:

17 (1) the subpoena relates to an investigation of an  
18 offense that involves the sexual exploitation of a minor; and

19 (2) there is reasonable cause to believe that an  
20 Internet or electronic service account provided through an  
21 electronic communication service or remote computing service has  
22 been used in the sexual exploitation or attempted sexual  
23 exploitation of the minor.

24 (c) A subpoena under Subsection (b) must:

25 (1) describe any objects or items to be produced; and

26 (2) prescribe a reasonable return date by which those  
27 objects or items must be assembled and made available.

1        (d) Except as provided by Subsection (e), a subpoena issued  
2 under Subsection (b) may require the production of any records or  
3 other documentation relevant to the investigation, including:

4            (1) a name;

5            (2) an address;

6            (3) a local or long distance telephone connection  
7 record, satellite-based Internet service provider connection  
8 record, or record of session time and duration;

9            (4) the duration of the applicable service, including  
10 the start date for the service and the type of service used;

11           (5) a telephone or instrument number or other number  
12 used to identify a subscriber, including a temporarily assigned  
13 network address; and

14           (6) the source of payment for the service, including a  
15 credit card or bank account number.

16        (e) A provider of an electronic communication service or  
17 remote computing service may not disclose the following information  
18 in response to a subpoena issued under Subsection (b):

19           (1) an in-transit electronic communication;

20           (2) an account membership related to an Internet  
21 group, newsgroup, mailing list, or specific area of interest;

22           (3) an account password; or

23           (4) any account content, including:

24                (A) any form of electronic mail;

25                (B) an address book, contact list, or buddy list;

26                (C) a financial record;

27                (D) Internet proxy content or Internet history;

1 or

2 (E) a file or other digital document stored in  
3 the account or as part of the use of the account.

4 (f) A provider of an electronic communication service or  
5 remote computing service shall disclose the information described  
6 by Subsection (e) if that disclosure is required by court order.

7 (g) A person authorized to serve process under the Texas  
8 Rules of Civil Procedure may serve a subpoena issued under  
9 Subsection (b). The person shall serve the subpoena in accordance  
10 with the Texas Rules of Civil Procedure.

11 (h) Before the return date specified on a subpoena issued  
12 under Subsection (b), the person receiving the subpoena may, in an  
13 appropriate court located in the county where the subpoena was  
14 issued, petition for an order to modify or quash the subpoena or to  
15 prohibit disclosure of applicable information by a court.

16 (i) If a criminal case or proceeding does not result from  
17 the production of records or other documentation under this section  
18 within a reasonable period, the prosecuting attorney or ICAC task  
19 force shall, as appropriate:

20 (1) destroy the records or documentation; or

21 (2) return the records or documentation to the person  
22 who produced the records or documentation.

23 Sec. 422.004. CONFIDENTIALITY OF INFORMATION. Any  
24 information, records, or data reported or obtained under a subpoena  
25 issued under Section 422.003(b):

26 (1) is confidential; and

27 (2) may not be disclosed to any other person unless the

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1 disclosure is made as part of a criminal case related to those  
2 materials.

3       SECTION 3.   This Act takes effect September 1, 2011.