

By: Frullo, Gallego, et al.

H.B. No. 3746

Substitute the following for H.B. No. 3746:

By: Gallego

C.S.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. 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 account.

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

(e) Money in the account may be appropriated only to support the administration and activities of an Internet crimes against children task force that:

(1) is operating under the attorney general; or

1 (2) has its principal office located in a municipality
2 with a population of one million or more.

3 (f) Any money in the account that is appropriated in a state
4 fiscal year under Subsection (e) shall be appropriated in equal
5 amounts to each Internet crimes against children task force
6 described by Subsection (e).

7 Sec. 422.002. ADMINISTRATIVE SUBPOENA. (a) The attorney
8 general shall assist prosecuting attorneys in obtaining
9 administrative subpoenas to investigate and prosecute offenses
10 that involve the Internet-based sexual exploitation of a minor.

11 (b) A prosecuting attorney or an officer of an Internet
12 crimes against children task force described by Section 422.001(e)
13 may issue and cause to be served an administrative subpoena that
14 requires the production of records or other documentation as
15 described by Subsection (d) if:

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

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

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

24 (1) describe any objects or items to be produced; and
25 (2) prescribe a reasonable return date by which those
26 objects or items must be assembled and made available.

27 (d) Except as provided by Subsection (e), a subpoena issued

under Subsection (b) may require the production of any records or other documentation relevant to the investigation, including:

(1) a name;

(2) an address;

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

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

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

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

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

(1) an in-transit electronic communication;

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

(3) an account password; or

(4) any account content, including:

(A) any form of electronic mail;

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

(C) a financial record;

(D) Internet proxy content or Internet history;

or

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

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

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

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

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

19 (1) destroy the records or documentation; or
20 (2) return the records or documentation to the person
21 who produced the records or documentation.

22 Sec. 422.003. CONFIDENTIALITY OF INFORMATION. Any
23 information, records, or data reported or obtained under a subpoena
24 issued under Section 422.002(b):

25 (1) is confidential; and
26 (2) may not be disclosed to any other person unless the
27 disclosure is made as part of a criminal case related to those

1 materials.

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