

By: Frullo

H.B. No. 3746

A BILL TO BE ENTITLED

AN ACT

relating to providing resources designed to combat crimes against children, especially crimes regarding child exploitation and child pornography trafficking involving the Internet.

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

SECTION 1. Subchapter A, Chapter 102, Code of Criminal Procedure, is amended by adding Article 102.023 to read as follows:

Art. 102.023. COSTS RELATED TO CERTAIN INTERNET CRIMES AGAINST CHILDREN. (a) In addition to other costs on conviction imposed by this chapter, a person shall pay a cost of \$10 on conviction of an offense for which the defendant on conviction is required to register as a sex offender under Chapter 62.

(b) The clerk of the court shall transmit the costs collected under this section to the comptroller for deposit in the state treasury to the credit of a special fund known as the Internet Crimes Against Children Fund. The fund consists of all costs collected under this section, money appropriated directly to the fund, and any other grants or gifts made to the fund. Money in the fund may be appropriated only to support the administration of the activities of the three existing Internet Crimes Against Children (ICAC) task forces operating under the Attorney General and other various law enforcement entities. The money from the fund shall be disbursed so that approximately one-third of the fund goes to each of the existing ICAC's.

SECTION 2. Chapter 402, Government Code, is amended by adding Section 402.02811 to read as follows:

Sec. 402.02811. ADMINISTRATIVE SUBPOENA FOR INVESTIGATION OF CERTAIN OFFENSES INVOLVING EXPLOITATION OF MINOR. (a) The Attorney General shall assist felony prosecutors in this state in obtaining administrative subpoenas for the purposes of investigating and prosecuting crimes involving the exploitation of a minor.

(b) In any investigation relating to offenses involving the sexual exploitation of a minor and on reasonable cause to believe that an Internet service account has been used in the exploitation or attempted exploitation of a minor, the attorney general or district attorney may issue in writing and cause to be served a subpoena requiring the production and testimony described by Subsection (c).

(c) Except as provided by Subsection (d), a subpoena issued under this section is authorized to require the production of any records or other documentation relevant to the investigation including:

- (1) name;
- (2) address;
- (3) local and long distance telephone connection records, or records of session times and durations;
- (4) length of service, including start date, and types of service utilized;
- (5) telephone or instrument number or other subscriber number of identity, including any temporarily assigned network

1 address; and

2 (6) means and source of payment for such service,  
3 including any credit card or bank account number.

4 (d) The provider of electronic communication service or  
5 remote computing service may not disclose the following pursuant to  
6 a subpoena but shall do so pursuant to a warrant issued by a court of  
7 competent jurisdiction:

8 (1) in-transit electronic communications;

9 (2) account memberships related to internet groups,  
10 newsgroups, mailing lists or specific areas of interest;

11 (3) account passwords; and

12 (4) account content to include:

13 (A) electronic mail in any form;

14 (B) address books, contact lists, or buddy lists;

15 (C) financial records;

16 (D) Internet proxy content or Internet history;

17 and

18 (E) files or other digital documents stored  
19 within the account or pursuant to use of the account.

20 (e) At any time before the return date specified on the  
21 subpoena, the person summoned may, in the appropriate court of the  
22 county in which the person resides or does business, petition for an  
23 order modifying or quashing the subpoena, or a prohibition of  
24 disclosure by a court.

25 (f) A subpoena under this section must describe the objects  
26 required to be produced and must prescribe a return date within a  
27 reasonable period within which the objects can be assembled and

1 made available.

2 (g) If no case or proceeding arises from the production of  
3 records or other documentation pursuant to this section within a  
4 reasonable time after those records or documentation are produced,  
5 the prosecuting attorney shall either destroy the records and  
6 documentation or return them to the person who produced them.

7 (h) A subpoena issued under this section may be served by  
8 any person who is authorized to serve process under the Texas Rules  
9 of Civil Procedure and the subpoena shall be served in accordance  
10 with those rules.

11 (i) Any information, records, or data reported or obtained  
12 under a subpoena issued pursuant to this section is confidential  
13 and may not be further disclosed unless in connection with a  
14 criminal case related to the subpoenaed materials.

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