

1-1 By: Frullo, et al. (Senate Sponsor - Carona) H.B. No. 3746
1-2 (In the Senate - Received from the House May 16, 2011;
1-3 May 16, 2011, read first time and referred to Committee on Criminal
1-4 Justice; May 21, 2011, reported favorably by the following vote:
1-5 Yeas 6, Nays 0; May 21, 2011, sent to printer.)

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

1-8 relating to investigations of certain offenses involving the
1-9 Internet-based sexual exploitation of a minor; creating the
1-10 Internet crimes against children account to support those
1-11 activities.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. This Act shall be known as Alicia's Law.

1-14 SECTION 2. Subtitle B, Title 4, Government Code, is amended
1-15 by adding Chapter 422 to read as follows:

1-16 CHAPTER 422. INTERNET-BASED SEXUAL EXPLOITATION OF MINOR

1-17 Sec. 422.001. DEFINITION. In this chapter, "ICAC task
1-18 force" means an Internet Crimes Against Children task force that
1-19 is:

1-20 (1) located in this state; and

1-21 (2) recognized by the United States Department of
1-22 Justice.

1-23 Sec. 422.002. INTERNET CRIMES AGAINST CHILDREN ACCOUNT.

1-24 (a) The Internet crimes against children account is an account in
1-25 the general revenue fund.

1-26 (b) The account consists of:

1-27 (1) money transferred by the legislature directly to
1-28 the account; and

1-29 (2) gifts, grants, or donations.

1-30 (c) Interest earned on the account shall be credited to the
1-31 account.

1-32 (d) Section 403.095 does not apply to the account.

1-33 (e) Money in the account may be appropriated only to support
1-34 the administration and activities of an ICAC task force.

1-35 (f) Any money in the account that is appropriated in a state
1-36 fiscal year under Subsection (e) shall be appropriated in equal
1-37 amounts to each ICAC task force.

1-38 Sec. 422.003. ADMINISTRATIVE SUBPOENA. (a) The attorney
1-39 general shall assist persons authorized under this section in
1-40 obtaining administrative subpoenas to investigate and prosecute
1-41 offenses that involve the Internet-based sexual exploitation of a
1-42 minor.

1-43 (b) A prosecuting attorney or an officer of an ICAC task
1-44 force may issue and cause to be served an administrative subpoena
1-45 that requires the production of records or other documentation as
1-46 described by Subsection (d) if:

1-47 (1) the subpoena relates to an investigation of an
1-48 offense that involves the sexual exploitation of a minor; and

1-49 (2) there is reasonable cause to believe that an
1-50 Internet or electronic service account provided through an
1-51 electronic communication service or remote computing service has
1-52 been used in the sexual exploitation or attempted sexual
1-53 exploitation of the minor.

1-54 (c) A subpoena under Subsection (b) must:

1-55 (1) describe any objects or items to be produced; and

1-56 (2) prescribe a reasonable return date by which those
1-57 objects or items must be assembled and made available.

1-58 (d) Except as provided by Subsection (e), a subpoena issued
1-59 under Subsection (b) may require the production of any records or
1-60 other documentation relevant to the investigation, including:

1-61 (1) a name;

1-62 (2) an address;

1-63 (3) a local or long distance telephone connection
1-64 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

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

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

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

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

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

(1) destroy the records or documentation; or

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

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

(1) is confidential; and

(2) may not be disclosed to any other person unless the disclosure is made as part of a criminal case related to those materials.

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

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