

BILL ANALYSIS

C.S.H.B. 1972
By: Kleinschmidt
Homeland Security & Public Safety
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that existing statutory language relating to the provision of 9-1-1 services and the administration of emergency communications is outdated in light of the public's use of modern communications technologies. Historically, service providers of telecommunications have been provided liability protections consistent with the critical public safety purpose of delivering and responding to 9-1-1 emergency calls. In addition, personal end user identifying information, such as unlisted telephone numbers, of a telecommunications caller obtained from service providers of telecommunications is confidential information under state law. In an effort to update existing language in statutes relating to 9-1-1 service in a technology-neutral manner to address the public's use of modern communications technologies, C.S.H.B. 1972 seeks to revise provisions relating to liability, confidentiality, and the offenses for silent or abusive 9-1-1 calls and interference with emergency calls.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1972 amends the Health and Safety Code to redefine "9-1-1 service," for purposes of statutory provisions relating to state and local administration of emergency communications, to mean a communications service that connects users to a public safety answering point through a 9-1-1 system, rather than a telecommunications service that provides the user of the public telephone system the ability to reach a public safety answering point by dialing 9-1-1. The bill makes provisions regarding the liability of communications service and equipment providers in providing 9-1-1 service apply also to a developer of software used in providing 9-1-1 service, a third party or other entity involved in providing 9-1-1 service, and a director of a service provider, manufacturer, developer, third party, or other entity involved in providing 9-1-1 service. The bill requires the liability provisions to be interpreted to provide protection relating to confidentiality and immunity and protection from liability with at least the same scope and to at least the same extent as described by federal law.

C.S.H.B. 1972 specifies that the governmental entities to which a communications service provider is required to furnish information in providing 9-1-1 services that is confidential and unavailable for public inspection include a regional planning commission, emergency communications district, or public safety answering point and makes this confidentiality apply also to information that a service provider, third party, or other entity voluntarily furnishes at the request of a governmental entity in providing 9-1-1 service. The bill requires the confidentiality provisions to be interpreted to provide protection relating to confidentiality and immunity and protection from liability with at least the same scope and to at least the same extent as described by federal law. The bill removes the specification in the confidentiality provisions that the 9-1-1 service provided is computerized.

C.S.H.B. 1972 establishes that the bill's provisions defining "9-1-1 service" as a communications service and other amendments effective September 1, 2013, do not expand or change the authority or jurisdiction of a public agency or the Commission on State Emergency Communications over commercial mobile service or wireline service including Voice over Internet Protocol service or Internet Protocol enabled service or expand the authority of a public agency or the commission to assess 911 fees. The bill establishes that statutory provisions related to state and local administration of emergency communications do not affect the prohibition against a department, agency, or political subdivision of the state from, by rule, order, or other means, directly or indirectly regulating rates charged for, service or contract terms for, conditions for, or requirements for entry into the market for Voice over Internet Protocol services or other Internet Protocol enabled services.

C.S.H.B. 1972 amends the Penal Code to expand the conduct that constitutes the offense of silent or abusive calls to a 9-1-1 service when there is no emergency to include requesting 9-1-1 service using an electronic communications device. The bill changes the offense of interference with an emergency telephone call to interference with an emergency request for assistance and specifies that the offense applies to placing an emergency call, rather than an emergency telephone call, and includes requesting assistance using an electronic communications device.

C.S.H.B. 1972 repeals Section 772.401, Health and Safety Code.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1972 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 771.001(6), Health and Safety Code, is amended.

SECTION 2. The heading to Section 771.053, Health and Safety Code, is amended.

SECTION 3. Section 771.053, Health and Safety Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) A service provider of communications [~~telecommunications~~] service involved in providing 9-1-1 service, a manufacturer of equipment used in providing 9-1-1 service, a developer of software used in providing 9-1-1 service, a third party or other entity involved in providing 9-1-1 service, or an officer, director, or employee of the [a] service provider, manufacturer, developer,

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Same as introduced version.

SECTION 3. Section 771.053, Health and Safety Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) A service provider of communications [~~telecommunications~~] service involved in providing 9-1-1 service, a manufacturer of equipment used in providing 9-1-1 service, a developer of software used in providing 9-1-1 service, a third party or other entity involved in providing 9-1-1 service, or an officer, director, or employee of the [a] service provider, manufacturer, developer,

third party, or other entity involved in providing 9-1-1 service is not liable for any claim, damage, or loss arising from the provision of 9-1-1 service unless the act or omission proximately causing the claim, damage, or loss constitutes gross negligence, recklessness, or intentional misconduct.

(c) This section shall be interpreted to provide protection relating to confidentiality and immunity and protection from liability with at least the same scope and to at least the same extent as described by federal law, including 47 U.S.C. Section 1472.

SECTION 4. Section 771.061, Health and Safety Code, is amended to read as follows:

Sec. 771.061. STATEWIDE CONFIDENTIALITY OF INFORMATION. (a) Information that a service provider of communications [telecommunications] service is required to furnish to a governmental entity, including a regional planning commission, emergency communications district, or public safety answering point, in providing 9-1-1 service or that a service provider, third party, or other entity voluntarily furnishes at the request of a governmental entity in providing [computerized] 9-1-1 service is confidential and is not available for public inspection. Information that is contained in an address database maintained by a governmental entity or a third party used in providing [computerized] 9-1-1 service is confidential and is not available for public inspection. The service provider or third party is not liable to any person who uses a [computerized] 9-1-1 service for the release of information furnished by the service provider or third party in providing [computerized] 9-1-1 service, unless the act or omission proximately causing the claim, damage, or loss constitutes gross negligence, recklessness, or intentional misconduct.

(b) Information that a service provider [~~of telecommunications service~~] furnishes to the commission or an emergency communication district to verify or audit emergency service fees or surcharge remittances and that includes access line or market share information of an individual

third party, or other entity involved in providing 9-1-1 service is not liable for any claim, damage, or loss arising from the provision of 9-1-1 service unless the act or omission proximately causing the claim, damage, or loss constitutes gross negligence, recklessness, or intentional misconduct.

(c) This section shall be interpreted to provide protection relating to confidentiality and immunity and protection from liability with at least the same scope and to at least the same extent as described by federal law, including 47 U.S.C. Section 615a and 47 U.S.C. Section 1472.

SECTION 4. Section 771.061, Health and Safety Code, is amended to read as follows:

Sec. 771.061. STATEWIDE CONFIDENTIALITY OF INFORMATION. (a) Information that a service provider of communications [telecommunications] service is required to furnish to a governmental entity, including a regional planning commission, emergency communications district, or public safety answering point, in providing 9-1-1 service or that a service provider, third party, or other entity voluntarily furnishes at the request of a governmental entity in providing [computerized] 9-1-1 service is confidential and is not available for public inspection. Information that is contained in an address database maintained by a governmental entity or a third party used in providing [computerized] 9-1-1 service is confidential and is not available for public inspection. The service provider or third party is not liable to any person who uses a [computerized] 9-1-1 service for the release of information furnished by the service provider or third party in providing [computerized] 9-1-1 service, unless the act or omission proximately causing the claim, damage, or loss constitutes gross negligence, recklessness, or intentional misconduct.

(b) Information that a service provider [~~of telecommunications service~~] furnishes to the commission or an emergency communication district to verify or audit emergency service fees or surcharge remittances and that includes access line or market share information of an individual

service provider is confidential and not available for public inspection.

(c) This section shall be interpreted to provide protection relating to confidentiality and immunity and protection from liability with at least the same scope and to at least the same extent as described by federal law, including 47 U.S.C. Section 1472.

SECTION 5. Section 772.001(6), Health and Safety Code, is amended.

SECTION 6. Sections 42.061(a), (b), and (c), Penal Code, are amended.

SECTION 7. The heading to Section 42.062, Penal Code, is amended.

SECTION 8. Sections 42.062(a), (b), and (d), Penal Code, are amended.

SECTION 9. Section 772.401, Health and Safety Code, is repealed.

No equivalent provision.

service provider is confidential and not available for public inspection.

(c) This section shall be interpreted to provide protection relating to confidentiality and immunity and protection from liability with at least the same scope and to at least the same extent as described by federal law, including 47 U.S.C. Section 615a and 47 U.S.C. Section 1472.

SECTION 5. Same as introduced version.

SECTION 6. Substantially the same as introduced version.

SECTION 7. Same as introduced version.

SECTION 8. Same as introduced version.

SECTION 9. Same as introduced version.

SECTION 10. Section 771.0512, Health and Safety Code, is added to read as follows:

Section. 771.0512. OBLIGATIONS OR REQUIREMENTS CONCERNING VOICE OVER INTERNET PROTOCOL, INTERNET PROTOCOL ENABLED SERVICE, OR COMMERCIAL MOBILE SERVICE OR WIRELINE SERVICE
Defining "9-1-1 service" as a communications service and other amendments effective September 1, 2013 do not expand or change the authority or jurisdiction of a public agency or the commission over commercial mobile service or wireline service including Voice over Internet Protocol service or Internet Protocol enabled service or expand the authority of a public agency or the commission to assess 911 fees. Nothing in this Chapter affects Section 52.002(d), Chapter 52, Texas Utilities Code. In this section "Voice over Internet Protocol service," "Internet Protocol enabled service"

and "commercial mobile service" have the meanings assigned by Sections 51.002 and 51.003, Chapter 51, Texas Utilities Code.

No equivalent provision.

SECTION 11. Section 772.003, Health and Safety Code, is added to read as follows:
Section. 772.003. OBLIGATIONS OR REQUIREMENTS CONCERNING VOICE OVER INTERNET PROTOCOL, INTERNET PROTOCOL ENABLED SERVICE, OR COMMERCIAL MOBILE SERVICE OR WIRELINE SERVICE
Defining "9-1-1 service" as a communications service and other amendments effective September 1, 2013 do not expand or change the authority or jurisdiction of a public agency or the commission over commercial mobile service or wireline service including Voice over Internet Protocol service or Internet Protocol enabled service or expand the authority of a public agency or the commission to assess 911 fees. Nothing in this Chapter affects Section 52.002(d), Chapter 52, Texas Utilities Code. In this section "Voice over Internet Protocol service," "Internet Protocol enabled service" and "commercial mobile service" have the meanings assigned by Sections 51.002 and 51.003, Chapter 51, Texas Utilities Code.

SECTION 10. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 12. Same as introduced version.

SECTION 11. This Act takes effect September 1, 2013.

SECTION 13. Same as introduced version.