

By: Stickland

H.B. No. 3164

A BILL TO BE ENTITLED

AN ACT

relating to requiring a search warrant for government access to stored communications.

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

SECTION 1. Article 18.21, Code of Criminal Procedure, is amended by amending section 4 to read as follows:

Sec. 4. ~~[(a)]~~ An authorized peace officer may require a provider of electronic communications service to disclose the contents of a wire communication or an electronic communication ~~[that has been]~~ in electronic storage ~~[for not longer than 180 days]~~ by obtaining a warrant.

~~[(b) An authorized peace officer may require a provider of electronic communications service to disclose the contents of a wire communication or an electronic communication that has been in electronic storage for longer than 180 days:~~

~~(1) if notice is not being given to the subscriber or customer, by obtaining a warrant,~~

~~(2) if notice is being given to the subscriber or customer, by obtaining:~~

~~(A) an administrative subpoena authorized by statute,~~

~~(B) a grand jury subpoena, or~~

~~(C) a court order issued under Section 5 of this article, or~~

1 ~~(3) as otherwise permitted by applicable federal law.~~

2 ~~(c)(1) An authorized peace officer may require a provider of~~
3 ~~a remote computing service to disclose the contents of a wire~~
4 ~~communication or an electronic communication as described in~~
5 ~~Subdivision (2) of this subsection:~~

6 ~~(A) if notice is not being given to the~~
7 ~~subscriber or customer, by obtaining a warrant issued under this~~
8 ~~code;~~

9 ~~(B) if notice is being given to the subscriber or~~
10 ~~customer, by:~~

11 ~~(i) an administrative subpoena authorized~~
12 ~~by statute;~~

13 ~~(ii) a grand jury subpoena; or~~

14 ~~(iii) a court order issued under Section 5~~
15 ~~of this article; or~~

16 ~~(C) as otherwise permitted by applicable federal~~
17 ~~law.~~

18 ~~(2) Subdivision (1) of this subsection applies only to~~
19 ~~a wire communication or an electronic communication that is in~~
20 ~~electronic storage:~~

21 ~~(A) on behalf of a subscriber or customer of the~~
22 ~~service and is received by means of electronic transmission from or~~
23 ~~created by means of computer processing of communications received~~
24 ~~by means of electronic transmission from the subscriber or~~
25 ~~customer; and~~

26 ~~(B) solely for the purpose of providing storage~~
27 ~~or computer processing services to the subscriber or customer if~~

1 ~~the provider of the service is not authorized to obtain access to~~
2 ~~the contents of those communications for purposes of providing any~~
3 ~~service other than storage or computer processing.~~

4 ~~(d) An authorized peace officer may require a provider of~~
5 ~~remote computing service to disclose records or other information~~
6 ~~pertaining to a subscriber or customer of the service, other than~~
7 ~~communications described in Subsection (c) of this section, without~~
8 ~~giving the subscriber or customer notice:~~

9 ~~(1) by obtaining an administrative subpoena authorized~~
10 ~~by statute;~~

11 ~~(2) by obtaining a grand jury subpoena;~~

12 ~~(3) by obtaining a warrant;~~

13 ~~(4) by obtaining the consent of the subscriber or~~
14 ~~customer to the disclosure of the records or information;~~

15 ~~(5) by obtaining a court order under Section 5 of this~~
16 ~~article; or~~

17 ~~(6) as otherwise permitted by applicable federal law.~~

18 ~~(e) A provider of telephonic communications service shall~~
19 ~~disclose to an authorized peace officer, without any form of legal~~
20 ~~process, subscriber listing information, including name, address,~~
21 ~~and telephone number or similar access code that:~~

22 ~~(1) the service provides to others in the course of~~
23 ~~providing publicly available directory or similar assistance; or~~

24 ~~(2) is solely for use in the dispatch of emergency~~
25 ~~vehicles and personnel responding to a distress call directed to an~~
26 ~~emergency dispatch system or when the information is reasonably~~
27 ~~necessary to aid in the dispatching of emergency vehicles and~~

1 ~~personnel for the immediate prevention of death, personal injury,~~
2 ~~or destruction of property.~~

3 ~~(f) A provider of telephonic communications service shall~~
4 ~~provide an authorized peace officer with the name of the subscriber~~
5 ~~of record whose published telephone number is provided to the~~
6 ~~service by an authorized peace officer.]~~

7 SECTION 2. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2013.