

By: Moody

H.B. No. 3493

A BILL TO BE ENTITLED

AN ACT

relating to the interception of wire, oral, or electronic communications for law enforcement purposes.

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

SECTION 1. Section 5(a), Article 18.20, Code of Criminal Procedure, is amended to read as follows:

(a) Except as otherwise provided by this section and Sections 8A and 8B, only the Department of Public Safety is authorized by this article to own, possess, install, operate, or monitor an electronic, mechanical, or other device. The Department of Public Safety may be assisted by an investigative or law enforcement officer or other person in the operation and monitoring of an interception of wire, oral, or electronic communications, provided that the officer or other person:

(1) is designated by the director for that purpose;

and

(2) acts ~~[in the presence and]~~ under the direction of a commissioned officer of the Department of Public Safety.

SECTION 2. Section 1, Article 18.21, Code of Criminal Procedure, is amended by amending Subdivisions (3-a) and (6) and adding Subdivision (6-a) to read as follows:

(3-a) "Designated law enforcement office or agency" means:

(A) the sheriff's department of a county with a

1 population of 500,000 [~~3.3 million~~] or more;

2 (B) a police department in a municipality with a
3 population of 500,000 or more; or

4 (C) the office of inspector general of the Texas
5 Department of Criminal Justice.

6 (6) "Pen register" means a device or process that
7 records or decodes pen register information [~~dialing, routing,
8 addressing, or signaling information transmitted by an instrument
9 or facility from which a wire or electronic communication is
10 transmitted, if the information does not include the contents of
11 the communication~~]. The term does not include a device used by a
12 provider or customer of a wire or electronic communication service
13 in the ordinary course of the provider's or customer's business for
14 purposes of:

15 (A) billing or recording as an incident to
16 billing for communications services; or

17 (B) cost accounting, security control, or other
18 ordinary business purposes.

19 (6-a) "Pen register information" means the dialing,
20 routing, addressing, or signaling information transmitted by an
21 instrument or facility from which a wire or electronic
22 communication is transmitted, if the information does not include
23 the contents of the communication.

24 SECTION 3. Section 2, Article 18.21, Code of Criminal
25 Procedure, is amended by amending Subsection (e) and adding
26 Subsection (e-1) to read as follows:

27 (e) On presentation of the application, the judge may order

1 the installation and use of the trap and trace device or similar
2 equipment by the communication common carrier, the provider of an
3 electronic communications service, or other person on the
4 appropriate line. The judge may direct the communication common
5 carrier, electronic communications service provider, or other
6 person, including any landlord or other custodian of equipment, to
7 furnish all information, facilities, and technical assistance
8 necessary to install or use the device or equipment unobtrusively
9 and with a minimum of interference to the services provided by the
10 communication common carrier[~~, landlord, custodian,~~] or other
11 person. Unless otherwise ordered by the court, the results of the
12 trap and trace device or similar equipment shall be provided
13 [~~furnished~~] to the applicant, designated by the court, at
14 reasonable intervals during regular business hours, for the
15 duration of the order. The carrier or other person is entitled to
16 compensation at the prevailing rates for the facilities and
17 assistance provided to the designated law enforcement office or
18 agency.

19 (e-1) If for technical reasons pen register information is
20 obtained from an electronic communications service provider
21 through the installation of a trap and trace device and if the pen
22 register information for those technical reasons will be delivered
23 directly to law enforcement across a secure line, on an application
24 under Subsection (b)(2) for the installation and use of a trap and
25 trace device, the judge may order the applicable service provider
26 to install the trap and trace device and deliver to the appropriate
27 law enforcement agency the pen register information in addition to

1 the other information acquired as a result of the installation and
2 use of the trap and trace device. Separate applications are not
3 required to obtain the pen register information and information
4 from the trap and trace device.

5 SECTION 4. This Act takes effect September 1, 2013.