

By: Fletcher

H.B. No. 3790

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the electronic customer data that certain peace  
3 officers may obtain by warrant, order, or other legal process from a  
4 provider of a wire or electronic communications service or remote  
5 computing service or from a communication common carrier.

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

7 SECTION 1. Section 1, Article 18.21, Code of Criminal  
8 Procedure, is amended by adding Subdivisions (2-a), (4-c), and  
9 (9-a) and amending Subdivisions (4) and (6) to read as follows:

10 (2-a) "Call detail record" means information produced  
11 by a telephone exchange or other telecommunications device or  
12 equipment that documents the details of a wire or electronic  
13 communication that passes through the exchange, device, or  
14 equipment. The term includes information such as the time,  
15 duration, completion status, source number, and destination number  
16 of an electronic communication, but does not include the content of  
17 the communication.

18 (4) "ESN reader" means a device that records  
19 telecommunication identifying information [~~the electronic serial~~  
20 ~~number~~] from the data track of a [~~wireless telephone,~~  
21 telephone~~]~~ or other wireless communications [~~similar~~  
22 ~~communication~~] device that transmits its operational status to a  
23 base site, if the telephone or device does not intercept the  
24 contents of a communication.

1           (4-c) "Location information" means any information  
2 that concerns the current or past location of a cellular telephone  
3 or other wireless communications device that is created, or is  
4 accessed with technology, by a provider of a wire or electronic  
5 communications service or remote computing service or by a  
6 communication common carrier. The term does not include a  
7 subscriber's or customer's account information and any wireless  
8 Internet access point transactional records or other electronic  
9 customer data not relating to the current or past location of the  
10 telephone or device.

11           (6) "Pen register" means a device or process that  
12 records, ~~or~~ decodes, or intercepts dialing, routing, addressing,  
13 or signaling information, location information, or  
14 telecommunication identifying information that is transmitted by  
15 an instrument or facility from which a wire or electronic  
16 communication is transmitted, if the information does not include  
17 the contents of the communication. The term does not include a  
18 device used by a provider or customer of a wire or electronic  
19 communication service in the ordinary course of the provider's or  
20 customer's business for purposes of:

21                   (A) billing or recording as an incident to  
22 billing for communications services; or

23                   (B) cost accounting, security control, or other  
24 ordinary business purposes.

25           (9-a) "Telecommunication identifying information"  
26 means an electronic serial number or other number or signal that  
27 identifies a specific:

1                   (A) cellular telephone or other wireless  
2 communications device;

3                   (B) customer or subscriber account; or

4                   (C) electronic communication.

5           SECTION 2. Section 4, Article 18.21, Code of Criminal  
6 Procedure, is amended by amending Subsections (a) and (b) and  
7 adding Subsections (b-1) and (b-2) to read as follows:

8           (a) An authorized peace officer may require a provider of a  
9 wire or [an] electronic communications service or a provider of a  
10 remote computing service to disclose electronic customer data that  
11 is in electronic storage by obtaining a warrant under Section 5A.

12           (b) An authorized peace officer may require a provider of a  
13 wire or [an] electronic communications service or a provider of a  
14 remote computing service to disclose information described by  
15 Subsection (b-1) or (b-2) [only electronic customer data that is  
16 information revealing the identity of customers of the applicable  
17 service or information about a customer's use of the applicable  
18 service,] without giving the subscriber or customer notice:

19                   (1) by obtaining an administrative subpoena  
20 authorized by statute;

21                   (2) by obtaining a grand jury subpoena;

22                   (3) by obtaining a warrant under Section 5A;

23                   (4) by obtaining the consent of the subscriber or  
24 customer to the disclosure of the data;

25                   (5) by obtaining a court order under Section 5; or

26                   (6) as otherwise permitted by applicable federal law.

27           (b-1) Under Subsection (b), an authorized peace officer may

1 obtain:

2 (1) call detail records;

3 (2) records relating to the Internet Protocol address  
4 used by a computer or wireless communications device;

5 (3) telephone call toll billing records;

6 (4) records relating to a short message service or  
7 text message service that do not include the contents of the  
8 messages;

9 (5) wireless Internet access point transactional  
10 records;

11 (6) telecommunication identifying information;

12 (7) any stored data that is published on a social  
13 networking Internet website, including any profile information,  
14 images, or text published by the user of the social networking  
15 Internet website; or

16 (8) any other electronic customer data that:

17 (A) reveals the identity of customers or  
18 subscribers of the applicable service; or

19 (B) provides information about a customer's or  
20 subscriber's use of the applicable service.

21 (b-2) In an ongoing criminal investigation, an authorized  
22 peace officer may obtain under Subsection (b), for the purpose of  
23 locating a suspect or wireless communications device or identifying  
24 an unknown suspect or wireless communications device by means of a  
25 pen register or trap and trace device, bulk records of a wire or  
26 electronic communications service or remote computing service or a  
27 communication common carrier. Bulk records sought under this

1 subsection may contain information described by Subsection (b-1)  
2 for all subscribers and customers in a specific geographic area.

3 SECTION 3. The change in law made by this Act applies to the  
4 disclosure of certain information by a provider of a wire or  
5 electronic communications service or remote computing service or by  
6 a communication common carrier under a warrant, order, or other  
7 legal process on or after the effective date of this Act.

8 SECTION 4. This Act takes effect September 1, 2015.