

BILL ANALYSIS

Senate Research Center
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S.B. 1203
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Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current state law provides that an Internet service provider must respond within 10 days (or petition the court to excuse from compliance) to a subpoena, search warrant, or other court order in connection with an investigation or prosecution of certain crimes involving children. This special provision was added to statute in 2007 through S.B. 6 by Senator Zaffirini.

In addition, Internet service providers must comply within two business days if the subpoena, search warrant, or other court order pertains to a life-threatening situation, as well as preserve all records or potential evidence for a period of 90 days after the issuance of a subpoena, search warrant, or other court order.

S.B. 1203 amends Subchapter 24A, Code of Criminal Procedure, to expand the 10-day expedited response requirement to apply to human trafficking and other sex offenses. The bill also replaces Internet service provider with online service provider to ensure applicability to online entities that may have critical information that is relevant to a case involving trafficking of children and other offenses.

As proposed, S.B. 1203 amends current law relating to the issuance of subpoenas or certain other court orders with respect to an online service provider in the investigation or prosecution of certain criminal offenses.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 24A.001, Code of Criminal Procedure, as follows:

Art. 24A.001. APPLICABILITY OF SUBCHAPTER. Provides that this subchapter (Responding to Subpoenas and Certain Other Court Orders) applies only to a subpoena, search warrant, or other court order that:

(1) relates to the investigation or prosecution of a criminal offense under certain statutes, including: Sections 21.02 (Continuous Sexual Abuse of Young Child or Children), 21.11 (Indecency with a Child), 22.011 (Sexual Assault), or 22.021 (Aggravated Sexual Assault), Penal Code; Chapter 20A (Trafficking of Persons), Penal Code; or Chapter 43 (Public Indecency), Penal Code; and

(2) is served on or issued with respect to an online, rather than Internet, service provider that provides service in this state.

SECTION 2. Amends Subchapter A, Chapter 24A, Code of Criminal Procedure, by adding Article 24A.0015, as follows:

Art. 24A.0015. DEFINITION. Defines "online service provider."

SECTION 3. Amends Articles 24A.002(a) and (b), Code of Criminal Procedure, as follows:

(a) Requires the online service provider to, except as provided by Subsection (b), not later than a certain date on which an online service provider is served with or otherwise receives certain court orders, take certain actions, rather than requires the Internet service provider to, except as provided by Subsection (b), not later than a certain date on which an Internet service provider is served with or otherwise receives certain court orders, take certain actions. Makes a conforming change.

(b) Makes conforming changes.

SECTION 4. Amends Article 24A.003, Code of Criminal Procedure, to authorize an online, rather than Internet, service provider that disobeys certain court orders and was not excused from complying with those orders to be punished in any manner provided by the law.

SECTION 5. Amends Article 24A.051, Code of Criminal Procedure, as follows:

Art. 24A.051. PRESERVING INFORMATION. (a) Requires an online, rather than Internet, service provider to take all steps necessary to preserve all records or other potential evidence in a criminal trial that is in the possession of the online service provider, on written request of certain law enforcement agencies and pending the issuance of certain court orders. Makes a conforming change.

(b) to (c) Makes conforming changes.

SECTION 6. Makes application of this Act prospective.

SECTION 7. Effective date: September 1, 2017.