

By: Thompson of Harris

H.B. No. 2622

A BILL TO BE ENTITLED

AN ACT

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.

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

SECTION 1. Article 24A.001, Code of Criminal Procedure, is amended to read as follows:

Art. 24A.001. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a subpoena, search warrant, or other court order that:

(1) relates to the investigation or prosecution of a criminal offense under:

(A) Section 21.02, 21.11, 22.011, or 22.021, Penal Code;

(B) Chapter 20A, Penal Code;

(C) Section 33.021, Penal Code; or

(D) Chapter 43, Penal Code; and

(2) is served on or issued with respect to an online [~~Internet~~] service provider that provides service in this state.

SECTION 2. Subchapter A, Chapter 24A, Code of Criminal Procedure, is amended by adding Article 24A.0015 to read as follows:

Art. 24A.0015. DEFINITION. In this chapter, "online service provider" means an Internet service provider, search

1 engine, web hosting company, web browsing company, manufacturer of
2 devices providing online application platforms, or company
3 providing online social media platforms.

4 SECTION 3. Articles 24A.002(a) and (b), Code of Criminal
5 Procedure, are amended to read as follows:

6 (a) Except as provided by Subsection (b), not later than the
7 10th day after the date on which an online [~~Internet~~] service
8 provider is served with or otherwise receives a subpoena, search
9 warrant, or other court order described by Article 24A.001, the
10 online [~~Internet~~] service provider shall:

11 (1) fully comply with the subpoena, warrant, or order;

12 or

13 (2) petition a court to excuse the online [~~Internet~~]
14 service provider from complying with the subpoena, warrant, or
15 order.

16 (b) As soon as is practicable, and in no event later than the
17 second business day after the date the online [~~Internet~~] service
18 provider is served with or otherwise receives a subpoena, search
19 warrant, or other court order described by Article 24A.001, the
20 online [~~Internet~~] service provider shall fully comply with the
21 subpoena, search warrant, or order if the subpoena, search warrant,
22 or order indicates that full compliance is necessary to address a
23 situation that threatens a person with death or other serious
24 bodily injury.

25 SECTION 4. Article 24A.003, Code of Criminal Procedure, is
26 amended to read as follows:

27 Art. 24A.003. DISOBEYING SUBPOENA, WARRANT, OR ORDER. An

1 online [~~Internet~~] service provider that disobeys a subpoena, search
2 warrant, or other court order described by Article 24A.001 and that
3 was not excused from complying with the subpoena, warrant, or order
4 under Article 24A.002(a)(2) may be punished in any manner provided
5 by law.

6 SECTION 5. Article 24A.051, Code of Criminal Procedure, is
7 amended to read as follows:

8 Art. 24A.051. PRESERVING INFORMATION. (a) On written
9 request of a law enforcement agency in this state or a federal law
10 enforcement agency and pending the issuance of a subpoena or other
11 court order described by Article 24A.001, an online [~~Internet~~]
12 service provider that provides service in this state shall take all
13 steps necessary to preserve all records or other potential evidence
14 in a criminal trial that is in the possession of the online
15 [~~Internet~~] service provider.

16 (b) Subject to Subsection (c), an online [~~Internet~~] service
17 provider shall preserve information under Subsection (a) for a
18 period of 90 days after the date the online [~~Internet~~] service
19 provider receives the written request described by Subsection (a).

20 (c) An online [~~Internet~~] service provider shall preserve
21 information under Subsection (a) for the 90-day period immediately
22 following the 90-day period described by Subsection (b) if the
23 requesting law enforcement agency in writing requests an extension
24 of the preservation period.

25 SECTION 6. The change in law made by this Act to Chapter
26 24A, Code of Criminal Procedure, applies only to a subpoena, search
27 warrant, or other court order issued on or after the effective date

1 of this Act. A subpoena, search warrant, or other court order
2 issued before the effective date of this Act is governed by the law
3 in effect on the date the warrant was issued, and the former law is
4 continued in effect for that purpose.

5 SECTION 7. This Act takes effect September 1, 2017.