86R1257 JSC-D

By:  Blanco H.B. No. 353

A BILL TO BE ENTITLED

AN ACT

relating to law enforcement access to cell site information stored by certain entities providing wireless service to a wireless communications device.

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

SECTION 1.  Article 18.02(a), Code of Criminal Procedure, is amended to read as follows:

(a)  A search warrant may be issued to search for and seize:

(1)  property acquired by theft or in any other manner which makes its acquisition a penal offense;

(2)  property specially designed, made, or adapted for or commonly used in the commission of an offense;

(3)  arms and munitions kept or prepared for the purposes of insurrection or riot;

(4)  weapons prohibited by the Penal Code;

(5)  gambling devices or equipment, altered gambling equipment, or gambling paraphernalia;

(6)  obscene materials kept or prepared for commercial distribution or exhibition, subject to the additional rules set forth by law;

(7)  a drug, controlled substance, immediate precursor, chemical precursor, or other controlled substance property, including an apparatus or paraphernalia kept, prepared, or manufactured in violation of the laws of this state;

(8)  any property the possession of which is prohibited by law;

(9)  implements or instruments used in the commission of a crime;

(10)  property or items, except the personal writings by the accused, constituting evidence of an offense or constituting evidence tending to show that a particular person committed an offense;

(11)  persons;

(12)  contraband subject to forfeiture under Chapter 59 of this code;

(13)  electronic customer data held in electronic storage, including:

(A)  the contents of and records and other information related to a wire communication or electronic communication held in electronic storage; and

(B)  cell site information; or

(14)  a cellular telephone or other wireless communications device, subject to Article 18.0215.

SECTION 2.  Article 18.02(b)(2), Code of Criminal Procedure, as effective January 1, 2019, is amended to read as follows:

(2)  "Cell site information," "electronic [~~"Electronic~~] customer data," [~~data"~~] and "electronic storage" have the meanings assigned by Article 18B.001.

SECTION 3.  Article 18B.001, Code of Criminal Procedure, is amended by adding Subdivision (1-a) and amending Subdivision (7) to read as follows:

(1-a) "Cell site information" means information that reveals the location of a cellular telephone or other wireless communications device and that is derived from the device's connections to radio antennas through which a provider of an electronic communications service or provider of a remote computing service provides wireless service to that device.

(7)  "Electronic customer data" means data or records that:

(A)  are in the possession, care, custody, or control of a provider of an electronic communications service or provider of a remote computing service; and

(B)  contain:

(i)  information revealing the identity of customers of the applicable service;

(ii)  information about a customer's use of the applicable service;

(iii)  information that identifies the recipient or destination of a wire or electronic communication sent to or by a customer;

(iv)  the content of a wire or electronic communication sent to or by a customer; [~~and~~]

(v)  cell site information; and

(vi) any data stored with the applicable service provider by or on behalf of a customer.

SECTION 4.  The changes in law made by this Act apply only to a warrant issued on or after the effective date of this Act. A warrant issued before the effective date of this Act is governed by the law in effect on the date the warrant was issued, and the former law is continued in effect for that purpose.

SECTION 5.  This Act takes effect September 1, 2019.