

By: Blanco

H.B. No. 353

A BILL TO BE ENTITLED

AN ACT

1
2 relating to law enforcement access to cell site information stored
3 by certain entities providing wireless service to a wireless
4 communications device.

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

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

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

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

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

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

15 (4) weapons prohibited by the Penal Code;

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

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

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

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

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

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

9 (11) persons;

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

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

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

17 (B) cell site information; or

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

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

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

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

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

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

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

12 (B) contain:

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

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

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

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

22 (v) cell site information; and

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

25 SECTION 4. The changes in law made by this Act apply only to
26 a warrant issued on or after the effective date of this Act. A
27 warrant issued before the effective date of this Act is governed by

1 the law in effect on the date the warrant was issued, and the former
2 law is continued in effect for that purpose.

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