

By: Smith

H.B. No. 2421

A BILL TO BE ENTITLED

AN ACT

relating to the issuance of certain warrants and orders for searches performed on wireless communications devices and for the installation and use of certain tracking equipment.

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

SECTION 1. Articles 18.0215(b) and (c), Code of Criminal Procedure, are amended to read as follows:

(b) A warrant under this article may be issued only by a judge in the same judicial district or county as the site of:

(1) the law enforcement agency that employs the peace officer, if the cellular telephone or other wireless communications device is in the officer's possession; or

(2) the likely location of the telephone or device.

(c) A judge may issue a warrant under this article only on the application of a peace officer. An application must be written and signed and sworn to or affirmed before the judge. The application must:

(1) state the name, department, agency, and address of the applicant;

(2) identify the cellular telephone or other wireless communications device to be searched;

(3) state the name of the owner or possessor of the telephone or device to be searched;

(4) state the judicial district or county, as

1 applicable, in which:

2 (A) the law enforcement agency that employs the
3 peace officer is located, if the telephone or device is in the
4 officer's possession; or

5 (B) the telephone or device is likely to be
6 located; and

7 (5) state the facts and circumstances that provide the
8 applicant with probable cause to believe that:

9 (A) criminal activity has been, is, or will be
10 committed; and

11 (B) searching the telephone or device is likely
12 to produce evidence in the investigation of the criminal activity
13 described in Paragraph (A).

14 SECTION 2. Article 18B.052, Code of Criminal Procedure, is
15 amended to read as follows:

16 Art. 18B.052. JURISDICTION. (a) Except as otherwise
17 provided by Subsection (b), an ~~[An]~~ application under this
18 subchapter must be filed in a judicial district in which is located:

19 (1) the site of the proposed installation or use of the
20 device or equipment;

21 (2) the site of the communication device on which the
22 device or equipment is proposed to be installed or used;

23 (3) the billing, residential, or business address of
24 the subscriber to the electronic communications service on which
25 the device or equipment is proposed to be installed or used;

26 (4) the headquarters of:

27 (A) the office of the prosecutor filing an

1 application under this subchapter; or

2 (B) a law enforcement agency that requests the
3 prosecutor to file an application under this subchapter or that
4 proposes to execute an order authorizing installation and use of
5 the device or equipment; or

6 (5) the headquarters of a service provider ordered to
7 install the device or equipment.

8 (b) If a district judge in the judicial district described
9 by Subsection (a) is not available, the application may be filed
10 with a district judge in a judicial district for a county that is
11 contiguous with a county containing any of the locations specified
12 by Subsection (a).

13 SECTION 3. Article 18B.203, Code of Criminal Procedure, is
14 amended by amending Subsection (a) and adding Subsection (a-1) to
15 read as follows:

16 (a) As authorized under Subsection (a-1), a [A] district
17 judge may issue an order for the installation and use of a mobile
18 tracking device in the same judicial district as the site of:

19 (1) the investigation; or

20 (2) the person, vehicle, container, item, or object
21 the movement of which will be tracked by the device.

22 (a-1) An order under Subsection (a) may be issued by a
23 district judge in a judicial district containing a location
24 specified by that subsection or, if that district judge is not
25 available, with a district judge in a judicial district for a county
26 that is contiguous with a county containing any of the locations
27 specified by Subsection (a).

1 SECTION 4. The changes in law made by this Act apply only to
2 an application for a warrant or court order submitted on or after
3 the effective date of this Act. An application for a warrant or
4 court order submitted before the effective date of this Act is
5 governed by the law in effect on the date the application was
6 submitted, and the former law is continued in effect for that
7 purpose.

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