

BILL ANALYSIS

Senate Research Center
87R778 JCG-D

S.B. 112
By: West
Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current Texas law under Article 18B.202(c)(5), Code of Criminal Procedure, allows an affidavit to be submitted to the courts for a law enforcement agency to obtain permission to install a mobile tracking device to further a criminal investigation to help prove that an alleged criminal activity has taken place or will take place.

The language of Section(c)(5) now reads that a law enforcement agency must only meet the standard of reasonable suspicion regarding the occurrence of criminal activity for the court to order the installation of a mobile tracking device.

The reasonable suspicion standard is inconsistent with other sections of Chapter 18, Code of Criminal Procedure, on the issuance of search warrants and with federal search warrant requirements that require the probable cause standard to be met by law enforcement for a search warrant to be issued or to permit a device to be installed.

S.B. 112 would amend Article 18B.202(c)(5), Code of Criminal Procedure, to bring state law into conformity with other sections of this code and also with the United States Constitution 4th Amendment protections against unreasonable searches and seizures.

S.B. 112 would apply the probable cause standard to Article 18B.202 of this code to require a peace officer's affidavit to state facts and circumstances related to the case that would lead the officer to believe that criminal activity has been or will be committed to request the installation of a mobile tracking device.

As proposed, S.B. 112 amends current law relating to the requirements of an affidavit supporting the installation and use of a mobile tracking device.

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 18B.202(c), Code of Criminal Procedure, to require an affidavit for the use of a mobile tracking device to meet certain criteria, including stating the facts and circumstances that provide the applicant with probable cause to believe, rather than provide the applicant with a reasonable suspicion of, certain matters relating to criminal activity.

SECTION 2. Effective date: September 1, 2021.