

By: West

S.B. No. 324

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the powers and duties of certain prosecutors and  
3 authorized peace officers of the offices of those prosecutors with  
4 respect to certain laws governing the installation and use of  
5 tracking equipment and access to certain communications.

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

7 SECTION 1. Article 18B.001(4), Code of Criminal Procedure,  
8 is amended to read as follows:

9 (4) "Designated law enforcement office or agency"  
10 means:

11 (A) the sheriff's department of a county with a  
12 population of 3.3 million or more;

13 (B) a police department in a municipality with a  
14 population of 200,000 or more; ~~[or]~~

15 (C) the office of inspector general of the Texas  
16 Department of Criminal Justice; or

17 (D) the office of a prosecutor in a county with a  
18 population of more than 1.8 million.

19 SECTION 2. Article 18B.252(b), Code of Criminal Procedure,  
20 is amended to read as follows:

21 (b) If the director of the department or the director's  
22 designee approves the policy submitted under Article 18B.251, the  
23 inspector general of the Texas Department of Criminal Justice or  
24 the inspector general's designee, or the sheriff, ~~[or]~~ chief, or

1 prosecutor of a designated law enforcement office or agency or the  
2 sheriff's, [~~or~~] chief's, or prosecutor's designee, as applicable,  
3 shall submit to the director a written list of all peace officers in  
4 the designated law enforcement office or agency who are authorized  
5 to possess, install, operate, or monitor pen registers, ESN  
6 readers, or similar equipment.

7 SECTION 3. Article 18B.302(a), Code of Criminal Procedure,  
8 is amended to read as follows:

9 (a) The inspector general of the Texas Department of  
10 Criminal Justice or the sheriff, [~~or~~] chief, or prosecutor of a  
11 designated law enforcement office or agency, as applicable, shall  
12 submit to the director of the department a written report of  
13 expenditures made by the designated law enforcement office or  
14 agency to purchase and maintain a pen register, ESN reader, or  
15 similar equipment authorized under this chapter.

16 SECTION 4. Article 18B.451, Code of Criminal Procedure, is  
17 amended to read as follows:

18 Art. 18B.451. SUBPOENA AUTHORITY. The director of the  
19 department or the director's designee, the inspector general of the  
20 Texas Department of Criminal Justice or the inspector general's  
21 designee, or the sheriff, [~~or~~] chief, or prosecutor of a designated  
22 law enforcement office or agency or the sheriff's, [~~or~~] chief's, or  
23 prosecutor's designee may issue an administrative subpoena to a  
24 communication common carrier or a provider of an electronic  
25 communications service to compel the production of any carrier's or  
26 service provider's business records that:

27 (1) disclose information about:

1 (A) the carrier's or service provider's  
2 customers; or

3 (B) users of the services offered by the carrier  
4 or service provider; and

5 (2) are material to a criminal investigation.

6 SECTION 5. Article 18B.452, Code of Criminal Procedure, is  
7 amended to read as follows:

8 Art. 18B.452. REPORT OF ISSUANCE OF SUBPOENA. Not later  
9 than the 30th day after the date on which an administrative subpoena  
10 is issued under Article 18B.451, the inspector general of the Texas  
11 Department of Criminal Justice or the sheriff, ~~or~~ chief, or  
12 prosecutor of a designated law enforcement office or agency, as  
13 applicable, shall report to the department the issuance of the  
14 subpoena.

15 SECTION 6. This Act takes effect September 1, 2021.