

BILL ANALYSIS

Senate Research Center

H.B. 3185
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Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 3185 enhances cybercrime investigations by giving Texas prosecutors the clearer authority to issue administrative subpoenas for digital records. Currently, law enforcement entities face delays in obtaining crucial data, as subpoenas often require court approval and cooperation from out-of-state service providers. Cybercriminals exploit these delays, deleting or altering records before they can be retrieved. This issue was raised due to data retention challenges faced by law enforcement, particularly in cases where critical evidence disappears before it can be legally accessed. This administrative subpoena power is currently afforded to prosecutors when investigating internet crimes against children (ICAC).

H.B. 3185 amends current law relating to investigations of certain cybercrimes.

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 Subtitle B, Title 4, Government Code, by adding Chapter 426, as follows:

CHAPTER 426. CYBERCRIMES

Sec. 426.001. DEFINITION. Defines "cybercrime."

Sec. 426.002. ADMINISTRATIVE SUBPOENA. (a) Authorizes a prosecuting attorney to issue and cause to be served an administrative subpoena that requires the production of records or other documentation as described by Subsection (c) if the subpoena relates to an investigation of a cybercrime and there is reasonable cause to believe that the Internet or electronic service account provided through an electronic communication service or remote computing service has been used in the commission of a cybercrime.

(b) Requires that a subpoena under Subsection (a) describe any objects or items to be produced and prescribe a reasonable return date by which those objects or items are required to be assembled and made available.

(c) Authorizes a subpoena issued under Subsection (a), except as provided by Subsection (d), to require the production of any records or other documentation relevant to the investigation, including certain information.

(d) Prohibits a provider of an electronic communication service or remote computing service from disclosing the following information in response to a subpoena issued under Subsection (a): an in-transit electronic communication; an account membership related to an Internet group, newsgroup, mailing list, or specific area of interest; an account password; or any account content, including any form of electronic mail, an address book, contact list, or buddy list, or Internet proxy content or Internet history.

(e) Requires a provider of an electronic communication service or remote computing service to disclose the information described by Subsection (d) if that disclosure is required by court order or warrant, to the extent that the disclosure is not prohibited by other law.

(f) Authorizes a person authorized to serve process under the Texas Rules of Civil Procedure to serve a subpoena issued under Subsection (a). Requires the person to serve the subpoena in accordance with the Texas Rules of Civil Procedure.

(g) Authorizes the person receiving the subpoena, before the return date specified on a subpoena issued under Subsection (a), in an appropriate court located in the county where the subpoena was issued, to petition for an order to modify or quash the subpoena or to prohibit disclosure of applicable information by a court.

(h) Requires a prosecuting attorney, if a criminal case or proceeding does not result from the production of records or other documentation under this section within a reasonable period, as appropriate, to destroy the records or documentation or return the records or documentation to the person who produced the records or documentation.

Sec. 426.003. CONFIDENTIALITY OF INFORMATION. Provides that any information, records, or data reported or obtained under a subpoena issued under Section 426.002(a) is confidential and is prohibited from being disclosed to any other person unless the disclosure is made as part of a criminal case related to those materials.

SECTION 2. Effective date: September 1, 2025.