

BILL ANALYSIS

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S.B. 1659
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The rise of the commercial data market has enabled governmental entities to access detailed location information about individuals without traditional oversight. Data brokers and electronic personal data trackers—businesses that collect and sell personal data, often harvested from smartphones or apps—offer law enforcement a way to bypass Fourth Amendment protections requiring warrants for direct surveillance like phone taps or GPS tracking. Reports, such as those from privacy advocates, reveal instances of agencies purchasing geolocation data to monitor citizens without judicial approval, sparking concerns over privacy erosion. In Texas, this practice poses significant risks to civil liberties. S.B. 1659 seeks to close this loophole by imposing stricter rules on such data use.

S.B. 1659 amends the Texas Code of Criminal Procedure to require a warrant before governmental entities (state, local, or federal) can search location information purchased from data brokers or electronic personal data trackers, effective. "Location information" includes past or current geolocation data linked to U.S. citizens, collected by entities that profit from personal data trade or app/website interactions. The bill mandates that peace officers obtain a warrant from a district judge, backed by probable cause, to search this data for evidence of a crime or to apprehend fugitives. Warrants for prospective data expire after 60 days (extendable), remain sealed until expiration, and any evidence from warrantless searches is inadmissible. Violations require notifying affected citizens and destroying their data, ensuring accountability.

S.B. 1659 strengthens privacy protections by subjecting purchased location data to the same judicial scrutiny as traditional surveillance methods, addressing a critical gap in Texas law. It balances public safety with individual rights, curbing potential abuses in an era of pervasive data collection. By requiring warrants, the bill aligns with constitutional principles, offering a model for other states while reinforcing Texas' commitment to safeguarding its citizens against unchecked governmental overreach.

As proposed, S.B. 1659 amends current law relating to requiring a warrant to search certain location information purchased by a governmental entity from a data broker or electronic personal data tracker.

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 18.02(a), Code of Criminal Procedure, to authorize a search warrant to be issued to search for and seize certain property, including location information described by Article 18B.372(a), and to make nonsubstantive changes.

SECTION 2. Amends Article 18B.001, Code of Criminal Procedure, by adding Subdivisions (2-a), (7-a), and (10-a) to define "data broker," "electronic personal data tracker," and "personal data" and amending Subdivision (9-b) to redefine "location information."

SECTION 3. Amends the heading to Subchapter G-1, Chapter 18B, Code of Criminal Procedure, to read as follows:

SUBCHAPTER G-1. REQUIRED DISCLOSURE OF PROSPECTIVE LOCATION INFORMATION

SECTION 4. Amends Chapter 18B, Code of Criminal Procedure, by adding Subchapter H-1, as follows:

SUBCHAPTER H-1. SEARCH OF CERTAIN PROSPECTIVE OR HISTORICAL LOCATION INFORMATION PURCHASED FROM DATA BROKER OR ELECTRONIC PERSONAL DATA TRACKER

Art. 18B.371. **DEFINITIONS.** Defines "governmental entity" and "purchase."

Art. 18B.372. **WARRANT REQUIRED FOR SEARCH OF CERTAIN LOCATION INFORMATION PURCHASED FROM DATA BROKER OR ELECTRONIC PERSONAL DATA TRACKER.** (a) Prohibits a governmental entity that has purchased location information from a data broker or an electronic personal data tracker from searching that location information without first obtaining a warrant under this subchapter if any of the location information may relate to a United States citizen.

(b) Provides that Subsection (a) applies to the search of location information described by that subsection, regardless of whether the location information is created before or after the issuance of the warrant.

(c) Authorizes an authorized peace officer to file an application for a warrant under this subchapter with a district judge in the judicial district in which the peace officer's employing law enforcement agency is headquartered.

(d) Requires that the application be supported by the sworn affidavit required by Article 18.01(b) (relating to the filing of a sworn affidavit establishing probable cause before the issuance of a search warrant).

Art. 18B.373. **ISSUANCE OF WARRANT.** (a) Authorizes a district judge, on the filing of an application for a warrant under this subchapter, to issue the warrant permitting an authorized peace officer to search location information described by Article 18B.372(a).

(b) Prohibits a warrant from being issued under this article unless the sworn affidavit required by Article 18.01(b) provides sufficient and substantial facts to establish probable cause that the search of the location information will produce evidence of an offense under investigation or result in the apprehension of a fugitive from justice.

Art. 18B.374. **DURATION AND SEALING FOR PROSPECTIVE LOCATION INFORMATION.** (a) Provides that, if a search for which a warrant is required under this subchapter is authorized to involve location information created after the issuance of the warrant, the warrant expires not later than the 60th day after the date the warrant was issued, unless the district judge provides a shorter expiration period.

(b) Authorizes the authorized peace officer to apply for and obtain an extension of the expiration period described by Subsection (a) from the court before the warrant expires. Prohibits each extension granted under this subsection from exceeding a period of 60 days.

(c) Provides that Article 18.011 (Sealing of Affidavit) does not apply to an affidavit presented under Article 18.01(b) for the issuance of a warrant under this subchapter. Requires a district court that issues a warrant described by Subsection

(a) to order the warrant and the application for the warrant sealed and prohibits it from unsealing the warrant and application until after the warrant expires.

Art. 18B.375. CERTAIN EVIDENCE NOT ADMISSIBLE. Prohibits the state from using as evidence in a criminal proceeding any information obtained through the search of location information described by Article 18B.372(a) unless a warrant authorizing the search is obtained under this subchapter before the search is conducted.

Art. 18B.376. OTHER REMEDIES FOR VIOLATION OF SUBCHAPTER. Requires a governmental entity that searches location information described by Article 18B.372(a) in violation of this subchapter to:

- (1) notify each United States citizen whose location information was included in the results of the search; and
- (2) for each person described by Subdivision (1), provide to the person a copy of the location information resulting from the search that relates to the person and destroy that location information.

SECTION 5. Makes application of Article 18B.373(a), Code of Criminal Procedure, as added by this Act, prospective.

SECTION 6. Effective date: September 1, 2025.