

By: Hughes

S.B. No. 1659

A BILL TO BE ENTITLED

AN ACT

relating to requiring a warrant to search certain location information purchased by a governmental entity from a data broker or electronic personal data tracker.

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

SECTION 1. Article 18.02(a), Code of Criminal Procedure, is amended to read as follows:

(a) A search warrant may be issued to search for and seize:

(1) property acquired by theft or in any other manner which makes its acquisition a penal offense;

(2) property specially designed, made, or adapted for or commonly used in the commission of an offense;

(3) arms and munitions kept or prepared for the purposes of insurrection or riot;

(4) weapons prohibited by the Penal Code;

(5) gambling devices or equipment, altered gambling equipment, or gambling paraphernalia;

(6) obscene materials kept or prepared for commercial distribution or exhibition, subject to the additional rules set forth by law;

(7) a drug, controlled substance, immediate precursor, chemical precursor, or other controlled substance property, including an apparatus or paraphernalia kept, prepared, or manufactured in violation of the laws of this state;

(8) any property the possession of which is prohibited by law;

(9) implements or instruments used in the commission of a crime;

(10) property or items, except the personal writings by the accused, constituting evidence of an offense or constituting evidence tending to show that a particular person committed an offense;

(11) persons;

(12) contraband subject to forfeiture under Chapter 59 of this code;

(13) electronic customer data held in electronic storage, including the contents of and records and other information related to a wire communication or electronic communication held in electronic storage; ~~or~~

(14) a cellular telephone or other wireless communications device, subject to Article 18.0215; or

(15) location information described by Article 18B.372(a).

SECTION 2. Article 18B.001, Code of Criminal Procedure, is amended by adding Subdivisions (2-a), (7-a), and (10-a) and amending Subdivision (9-b) to read as follows:

(2-a) "Data broker" means a business entity who for compensation collects, processes, or transfers personal data that the entity did not collect directly from the person linked or linkable to the personal data. The term does not include an electronic communications service or a remote computing service.

1           (7-a) "Electronic personal data tracker" means a  
2 business entity that directly collects, with or without the user's  
3 consent, the personal data of a user of an electronic application or  
4 program or a user of an Internet website through the user's  
5 interaction with the application, program, or website or an  
6 interaction that occurs automatically between the user's device and  
7 the application, program, or website. The term includes a third  
8 party who collects the personal data of the user under an agreement  
9 with the business entity, regardless of whether the third party  
10 administers or maintains the application, program, or website.

11           (9-b) "Location information" means data, records, or  
12 other information that:

13           (A) is created by or accessible to a provider of  
14 an electronic communications service, ~~or~~ a provider of a remote  
15 computing service, a data broker, or an electronic personal data  
16 tracker; and

17           (B) may be used to identify the previous or  
18 current geographic physical location of a communication device,  
19 including the ~~current~~ real-time~~7~~ or prospective geographic  
20 physical location of a communication device.

21           (10-a) "Personal data" means any information that is  
22 linked or reasonably linkable to an identified or identifiable  
23 person. The term includes:

24           (A) pseudonymous data when the information is  
25 used by a controller or processor in conjunction with additional  
26 information that reasonably links the information to an identified  
27 or identifiable person; and

(B) location information.

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

SUBCHAPTER G-1. REQUIRED DISCLOSURE OF PROSPECTIVE LOCATION  
INFORMATION

SECTION 4. Chapter 18B, Code of Criminal Procedure, is amended by adding Subchapter H-1 to read 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. In this subchapter:

(1) "Governmental entity" means:

(A) an agency, department, commission, bureau, board, office, council, or other entity that is in any branch of state government and that is created by the constitution or a statute of this state, including a university system or an institution of higher education as defined by Section 61.003,  
Education Code;

(B) a political subdivision of this state,  
including a municipality, county, or special-purpose district or  
authority; or

(C) a federal agency.

(2) "Purchase" includes access to location  
information obtained by the exchange of anything of value.

Art. 18B.372. WARRANT REQUIRED FOR SEARCH OF CERTAIN  
LOCATION INFORMATION PURCHASED FROM DATA BROKER OR ELECTRONIC  
PERSONAL DATA TRACKER. (a) A governmental entity that has

1 purchased location information from a data broker or an electronic  
2 personal data tracker may not search that location information  
3 without first obtaining a warrant under this subchapter if any of  
4 the location information may relate to a United States citizen.

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

9 (c) An authorized peace officer may file an application for  
10 a warrant under this subchapter with a district judge in the  
11 judicial district in which the peace officer's employing law  
12 enforcement agency is headquartered.

13 (d) The application must be supported by the sworn affidavit  
14 required by Article 18.01(b).

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

19 (b) A warrant may not be issued under this article unless  
20 the sworn affidavit required by Article 18.01(b) provides  
21 sufficient and substantial facts to establish probable cause that  
22 the search of the location information will:

23 (1) produce evidence of an offense under  
24 investigation; or

25 (2) result in the apprehension of a fugitive from  
26 justice.

27 Art. 18B.374. DURATION AND SEALING FOR PROSPECTIVE LOCATION

1 INFORMATION. (a) If a search for which a warrant is required under  
2 this subchapter may involve location information created after the  
3 issuance of the warrant, the warrant expires not later than the 60th  
4 day after the date the warrant was issued, unless the district judge  
5 provides a shorter expiration period.

6 (b) The authorized peace officer may apply for and obtain an  
7 extension of the expiration period described by Subsection (a) from  
8 the court before the warrant expires. Each extension granted under  
9 this subsection may not exceed a period of 60 days.

10 (c) Article 18.011 does not apply to an affidavit presented  
11 under Article 18.01(b) for the issuance of a warrant under this  
12 subchapter. A district court that issues a warrant described by  
13 Subsection (a) shall order the warrant and the application for the  
14 warrant sealed and may not unseal the warrant and application until  
15 after the warrant expires.

16 Art. 18B.375. CERTAIN EVIDENCE NOT ADMISSIBLE. The state  
17 may not use as evidence in a criminal proceeding any information  
18 obtained through the search of location information described by  
19 Article 18B.372(a) unless a warrant authorizing the search is  
20 obtained under this subchapter before the search is conducted.

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

24 (1) notify each United States citizen whose location  
25 information was included in the results of the search; and

26 (2) for each person described by Subdivision (1),  
27 provide to the person a copy of the location information resulting

1 from the search that relates to the person and destroy that location  
2 information.

3         SECTION 5. The changes in law made by this Act apply only to  
4 a search of location information described by Article 18B.373(a),  
5 Code of Criminal Procedure, as added by this Act, that is conducted  
6 on or after the effective date of this Act. A search of location  
7 information conducted before the effective date of this Act is  
8 governed by the law in effect on the date the search was conducted,  
9 and the former law is continued in effect for that purpose.

10         SECTION 6. This Act takes effect September 1, 2025.