

1-1 By: Moody (Senate Sponsor - Whitmire) H.B. No. 2931  
 1-2 (In the Senate - Received from the House May 3, 2017;  
 1-3 May 4, 2017, read first time and referred to Committee on Criminal  
 1-4 Justice; May 17, 2017, reported favorably by the following vote:  
 1-5 Yeas 8, Nays 0; May 17, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15			X	
1-16	X			

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to the nonsubstantive revision of certain provisions of  
 1-20 the Code of Criminal Procedure, including conforming amendments.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 ARTICLE 1. NONSUBSTANTIVE REVISION OF CERTAIN PROVISIONS OF THE  
 1-23 CODE OF CRIMINAL PROCEDURE

1-24 SECTION 1.01. Title 1, Code of Criminal Procedure, is  
 1-25 amended by adding Chapter 18A to read as follows:

1-26 CHAPTER 18A. DETECTION, INTERCEPTION, AND USE OF WIRE, ORAL, AND  
 1-27 ELECTRONIC COMMUNICATIONS  
 1-28 SUBCHAPTER A. GENERAL PROVISIONS

1-29 Art. 18A.001. DEFINITIONS

1-30 Art. 18A.002. NONAPPLICABILITY

1-31 SUBCHAPTER B. APPLICATION FOR INTERCEPTION ORDER

1-32 Art. 18A.051. JUDGE OF COMPETENT JURISDICTION

1-33 Art. 18A.052. REQUEST FOR FILING OF INTERCEPTION

1-34 APPLICATION

1-35 Art. 18A.053. JURISDICTION

1-36 Art. 18A.054. ALTERNATE JURISDICTION

1-37 Art. 18A.055. APPLICATION FOR INTERCEPTION ORDER

1-38 SUBCHAPTER C. ISSUANCE OF INTERCEPTION ORDER AND RELATED ORDERS

1-39 Art. 18A.101. OFFENSES FOR WHICH INTERCEPTION ORDER

1-40 MAY BE ISSUED

1-41 Art. 18A.102. JUDICIAL DETERMINATIONS REQUIRED FOR

1-42 ISSUANCE OF INTERCEPTION ORDER

1-43 Art. 18A.103. CONTENTS OF INTERCEPTION ORDER

1-44 Art. 18A.104. LIMITATION ON COVERT ENTRY

1-45 Art. 18A.105. AUTHORITY TO ISSUE CERTAIN ANCILLARY

1-46 ORDERS

1-47 Art. 18A.106. ORDER TO THIRD PARTY TO ASSIST WITH

1-48 EXECUTION OF INTERCEPTION ORDER

1-49 Art. 18A.107. DURATION OF INTERCEPTION ORDER

1-50 Art. 18A.108. EXTENSION OF INTERCEPTION ORDER

1-51 Art. 18A.109. REPORT ON NEED FOR CONTINUED

1-52 INTERCEPTION

1-53 Art. 18A.110. SUBSEQUENT CRIMINAL PROSECUTION RELATED

1-54 TO INTERCEPTION ORDER

1-55 SUBCHAPTER D. INTERCEPTION ORDER FOR COMMUNICATION BY

1-56 SPECIFIED PERSON

1-57 Art. 18A.151. REQUIREMENTS REGARDING INTERCEPTION

1-58 ORDER FOR COMMUNICATION BY SPECIFIED

1-59 PERSON

1-60 Art. 18A.152. IMPLEMENTATION OF INTERCEPTION ORDER

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2-1	Art. 18A.153.	MOTION TO MODIFY OR QUASH INTERCEPTION
2-2		ORDER
2-3	SUBCHAPTER E.	EMERGENCY INSTALLATION AND USE OF INTERCEPTION
2-4		DEVICE
2-5	Art. 18A.201.	DEFINITIONS
2-6	Art. 18A.202.	POSSESSION AND USE OF INTERCEPTION
2-7		DEVICE IN EMERGENCY SITUATION
2-8	Art. 18A.203.	CONSENT FOR EMERGENCY INTERCEPTION
2-9	Art. 18A.204.	WRITTEN ORDER AUTHORIZING INTERCEPTION
2-10	Art. 18A.205.	CERTAIN EVIDENCE NOT ADMISSIBLE
2-11	SUBCHAPTER F.	DETECTION OF CELLULAR TELEPHONE OR OTHER WIRELESS
2-12		COMMUNICATIONS DEVICE IN CORRECTIONAL OR DETENTION FACILITY
2-13	Art. 18A.251.	DEFINITION
2-14	Art. 18A.252.	USE OF INTERCEPTION DEVICE BY INSPECTOR
2-15		GENERAL
2-16	Art. 18A.253.	REPORTING USE OF INTERCEPTION DEVICE
2-17	Art. 18A.254.	NO EXPECTATION OF PRIVACY
2-18	SUBCHAPTER G.	AGENCIES AND PERSONNEL AUTHORIZED TO POSSESS AND USE
2-19		INTERCEPTION DEVICES
2-20	Art. 18A.301.	DEPARTMENT OF PUBLIC SAFETY AUTHORIZED
2-21		TO POSSESS AND USE INTERCEPTION DEVICE
2-22	Art. 18A.302.	TEXAS DEPARTMENT OF CRIMINAL JUSTICE
2-23		AUTHORIZED TO POSSESS AND USE
2-24		INTERCEPTION DEVICE
2-25	Art. 18A.303.	TEXAS JUVENILE JUSTICE DEPARTMENT
2-26		AUTHORIZED TO POSSESS AND USE
2-27		INTERCEPTION DEVICE
2-28	SUBCHAPTER H.	DISCLOSURE AND USE OF INTERCEPTED COMMUNICATIONS
2-29	Art. 18A.351.	DISCLOSURE OR USE OF INTERCEPTED
2-30		COMMUNICATIONS
2-31	Art. 18A.352.	DISCLOSURE UNDER OATH
2-32	Art. 18A.353.	PRIVILEGED COMMUNICATIONS
2-33	Art. 18A.354.	DISCLOSURE OR USE OF INCIDENTALLY
2-34		INTERCEPTED COMMUNICATIONS
2-35	Art. 18A.355.	NOTICE AND DISCLOSURE OF INTERCEPTION
2-36		APPLICATION, INTERCEPTION ORDER, AND
2-37		INTERCEPTED COMMUNICATIONS
2-38	Art. 18A.356.	NOTICE OF INTERCEPTION REQUIRED
2-39	Art. 18A.357.	COMMUNICATIONS RECEIVED IN EVIDENCE
2-40	Art. 18A.358.	SUPPRESSION OF CONTENTS OF INTERCEPTED
2-41		COMMUNICATIONS
2-42	SUBCHAPTER I.	USE AND DISPOSITION OF APPLICATIONS AND ORDERS
2-43	Art. 18A.401.	SEALING OF APPLICATION OR ORDER
2-44	Art. 18A.402.	CUSTODY OF APPLICATIONS AND ORDERS
2-45	Art. 18A.403.	DISCLOSURE OF APPLICATION OR ORDER
2-46	Art. 18A.404.	DESTRUCTION OF APPLICATION OR ORDER
2-47	SUBCHAPTER J.	CREATION, USE, AND DISPOSITION OF RECORDINGS
2-48	Art. 18A.451.	CREATION OF RECORDINGS
2-49	Art. 18A.452.	DUPLICATION OF RECORDINGS
2-50	Art. 18A.453.	SEALING AND CUSTODY OF RECORDINGS
2-51	Art. 18A.454.	DESTRUCTION OF RECORDINGS
2-52	Art. 18A.455.	PREREQUISITE FOR USE OR DISCLOSURE OF
2-53		RECORDING IN CERTAIN PROCEEDINGS
2-54		SUBCHAPTER K. VIOLATION; SANCTIONS
2-55	Art. 18A.501.	CONTEMPT
2-56	Art. 18A.502.	RECOVERY OF CIVIL DAMAGES BY AGGRIEVED
2-57		PERSON
2-58	Art. 18A.503.	ACTION BROUGHT BY FEDERAL OR STATE
2-59		GOVERNMENT; INJUNCTION; PENALTIES
2-60	Art. 18A.504.	GOOD FAITH DEFENSE AVAILABLE
2-61	Art. 18A.505.	NO CAUSE OF ACTION
2-62		SUBCHAPTER L. REPORTS
2-63	Art. 18A.551.	REPORT OF INTERCEPTED COMMUNICATIONS BY
2-64		JUDGE
2-65	Art. 18A.552.	REPORT OF INTERCEPTED COMMUNICATIONS BY
2-66		PROSECUTOR
2-67	Art. 18A.553.	REPORT OF INTERCEPTED COMMUNICATIONS BY
2-68		DEPARTMENT OF PUBLIC SAFETY
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3-1 CHAPTER 18A. DETECTION, INTERCEPTION, AND USE OF WIRE, ORAL, AND  
3-2 ELECTRONIC COMMUNICATIONS  
3-3 SUBCHAPTER A. GENERAL PROVISIONS  
3-4 Art. 18A.001. DEFINITIONS. In this chapter:  
3-5 (1) "Access," "computer," "computer network,"  
3-6 "computer system," and "effective consent" have the meanings  
3-7 assigned by Section 33.01, Penal Code.  
3-8 (2) "Aggrieved person" means a person who was a party  
3-9 to an intercepted wire, oral, or electronic communication or a  
3-10 person against whom the interception was directed.  
3-11 (3) "Aural transfer" means a transfer containing the  
3-12 human voice at any point between and including the point of origin  
3-13 and the point of reception.  
3-14 (4) "Communication common carrier" means a person  
3-15 engaged as a common carrier for hire in the transmission of wire or  
3-16 electronic communications.  
3-17 (5) "Computer trespasser" means a person who accesses  
3-18 a protected computer without effective consent of the owner and has  
3-19 no reasonable expectation of privacy in a communication transmitted  
3-20 to, through, or from the protected computer. The term does not  
3-21 include a person who accesses the protected computer under an  
3-22 existing contractual relationship with the owner or operator of the  
3-23 computer.  
3-24 (6) "Contents," with respect to a wire, oral, or  
3-25 electronic communication, includes any information concerning the  
3-26 substance, purport, or meaning of that communication.  
3-27 (7) "Covert entry" means an entry that is made into or  
3-28 onto premises and that, if not authorized by a court order under  
3-29 this chapter, would violate the Penal Code.  
3-30 (8) "Department" means the Department of Public Safety  
3-31 of the State of Texas.  
3-32 (9) "Director" means:  
3-33 (A) the public safety director of the department;  
3-34 or  
3-35 (B) if the public safety director is absent or  
3-36 unable to serve, the assistant director of the department.  
3-37 (10) "Electronic communication" means a transfer of  
3-38 any signs, signals, writing, images, sounds, data, or intelligence  
3-39 transmitted wholly or partly by a wire, radio, electromagnetic,  
3-40 photoelectronic, or photo-optical system. The term does not  
3-41 include:  
3-42 (A) a wire or oral communication;  
3-43 (B) a communication made through a tone-only  
3-44 paging device; or  
3-45 (C) a communication from a tracking device.  
3-46 (11) "Electronic communications service" means a  
3-47 service that provides to users of the service the ability to send or  
3-48 receive wire or electronic communications.  
3-49 (12) "ESN reader," "pen register," and "trap and trace  
3-50 device" have the meanings assigned by Article 18B.001.  
3-51 (13) "Intercept" means the aural or other acquisition  
3-52 of the contents of a wire, oral, or electronic communication  
3-53 through the use of an interception device.  
3-54 (14) "Interception device" means an electronic,  
3-55 mechanical, or other device that may be used for the nonconsensual  
3-56 interception of wire, oral, or electronic communications. The term  
3-57 does not include a telephone or telegraph instrument, the equipment  
3-58 or a facility used for the transmission of electronic  
3-59 communications, or a component of the equipment or a facility used  
3-60 for the transmission of electronic communications if the  
3-61 instrument, equipment, facility, or component is:  
3-62 (A) provided to a subscriber or user by a  
3-63 provider of a wire or electronic communications service in the  
3-64 ordinary course of the service provider's business and used by the  
3-65 subscriber or user in the ordinary course of the subscriber's or  
3-66 user's business;  
3-67 (B) provided by a subscriber or user for  
3-68 connection to the facilities of a wire or electronic communications  
3-69 service for use in the ordinary course of the subscriber's or user's

4-1 business;

4-2 (C) used by a communication common carrier in the  
4-3 ordinary course of the carrier's business; or

4-4 (D) used by an investigative or law enforcement  
4-5 officer in the ordinary course of the officer's duties.

4-6 (15) "Interception order" means an order authorizing  
4-7 the interception of a wire, oral, or electronic communication.

4-8 (16) "Investigative or law enforcement officer"  
4-9 means:

4-10 (A) an officer of this state or a political  
4-11 subdivision of this state who is authorized by law to investigate or  
4-12 make arrests for offenses described by Article 18A.101; or

4-13 (B) an attorney authorized by law to prosecute or  
4-14 participate in the prosecution of those offenses.

4-15 (17) "Judge of competent jurisdiction" means a judge  
4-16 described by Article 18A.051.

4-17 (18) "Mobile tracking device" has the meaning assigned  
4-18 by Article 18B.201.

4-19 (19) "Oral communication" means a communication  
4-20 uttered by a person exhibiting an expectation that the  
4-21 communication is not subject to interception under circumstances  
4-22 justifying that expectation. The term does not include an  
4-23 electronic communication.

4-24 (20) "Prosecutor" means a district attorney, criminal  
4-25 district attorney, or county attorney performing the duties of a  
4-26 district attorney, with jurisdiction in the county within an  
4-27 administrative judicial region described by Article 18A.053.

4-28 (21) "Protected computer" means a computer, computer  
4-29 network, or computer system that is:

4-30 (A) owned by a financial institution or  
4-31 governmental entity; or

4-32 (B) used by or for a financial institution or  
4-33 governmental entity, if conduct constituting an offense affects  
4-34 that use.

4-35 (22) "Residence" means a structure or the portion of a  
4-36 structure used as a person's home or fixed place of habitation to  
4-37 which the person indicates an intent to return after a temporary  
4-38 absence.

4-39 (23) "User" means a person who uses an electronic  
4-40 communications service and is authorized by the service provider to  
4-41 use the service.

4-42 (24) "Wire communication" means an aural transfer made  
4-43 wholly or partly through the use of facilities for the transmission  
4-44 of communications by the aid of wire, cable, or other similar  
4-45 connection between the point of origin and the point of reception,  
4-46 including the use of the connection in a switching station, if those  
4-47 facilities are provided or operated by a person authorized to  
4-48 provide or operate the facilities for the transmission of  
4-49 communications as a communication common carrier. (Code Crim.  
4-50 Proc., Art. 18.20, Secs. 1(1), (2), (3), (4), (5), (6), (7) (part),  
4-51 (8), (9), (10), (11), (12), (13), (14), (15), (16), (18), (21),  
4-52 (24), (25), (26); New.)

4-53 Art. 18A.002. NONAPPLICABILITY. This chapter does not  
4-54 apply to conduct described as an affirmative defense under Section  
4-55 16.02(c), Penal Code, except as otherwise specifically provided by  
4-56 that section. (Code Crim. Proc., Art. 18.20, Sec. 17.)

#### 4-57 SUBCHAPTER B. APPLICATION FOR INTERCEPTION ORDER

4-58 Art. 18A.051. JUDGE OF COMPETENT JURISDICTION. (a) For  
4-59 purposes of this chapter, a judge of competent jurisdiction is a  
4-60 judge from the panel of nine active district judges with criminal  
4-61 jurisdiction who is appointed by the presiding judge of the court of  
4-62 criminal appeals under this article.

4-63 (b) The presiding judge of the court of criminal appeals, by  
4-64 order filed with the clerk of that court, shall appoint one district  
4-65 judge from each of the administrative judicial regions of this  
4-66 state to serve at the presiding judge's pleasure as the judge of  
4-67 competent jurisdiction in that administrative judicial region.

4-68 (c) The presiding judge shall fill vacancies as those  
4-69 vacancies occur in the same manner. (Code Crim. Proc., Art. 18.20,

5-1 Secs. 1(7), 3(a).)

5-2 Art. 18A.052. REQUEST FOR FILING OF INTERCEPTION  
5-3 APPLICATION. (a) The director may, based on written affidavits,  
5-4 request in writing that a prosecutor apply for an interception  
5-5 order.

5-6 (b) The head of a local law enforcement agency or, if the  
5-7 head of the agency is absent or unable to serve, the acting head of  
5-8 the local law enforcement agency may, based on written affidavits,  
5-9 request in writing that a prosecutor apply for an interception  
5-10 order.

5-11 (c) Before making a request under Subsection (b), the head  
5-12 of a local law enforcement agency must submit the request and  
5-13 supporting affidavits to the director. The director shall make a  
5-14 written finding as to whether the request and supporting affidavits  
5-15 establish that other investigative procedures have been attempted  
5-16 and have failed or those procedures reasonably appear unlikely to  
5-17 succeed or to be too dangerous if attempted, is feasible, is  
5-18 justifiable, and whether the department has the necessary resources  
5-19 available.

5-20 (d) A prosecutor may file the application requested under  
5-21 Subsection (b) only after a written positive finding by the  
5-22 director on all of the requirements provided by Subsection (c).  
5-23 (Code Crim. Proc., Art. 18.20, Sec. 6.)

5-24 Art. 18A.053. JURISDICTION. Except as provided by Article  
5-25 18A.054, a judge of competent jurisdiction may act on an  
5-26 application for an interception order if any of the following is  
5-27 located in the administrative judicial region with respect to which  
5-28 the judge is appointed:

5-29 (1) the site of:

5-30 (A) the proposed interception; or

5-31 (B) the interception device to be installed or  
5-32 monitored;

5-33 (2) the communication device to be intercepted;

5-34 (3) the billing, residential, or business address of  
5-35 the subscriber to the electronic communications service to be  
5-36 intercepted;

5-37 (4) the headquarters of the law enforcement agency  
5-38 that makes the request for or will execute the interception order;  
5-39 or

5-40 (5) the headquarters of the service provider. (Code  
5-41 Crim. Proc., Art. 18.20, Sec. 3(b).)

5-42 Art. 18A.054. ALTERNATE JURISDICTION. (a) An application  
5-43 for an interception order may be made to the judge of competent  
5-44 jurisdiction in an administrative judicial region adjacent to a  
5-45 region described by Article 18A.053 if:

5-46 (1) the judge of competent jurisdiction for the  
5-47 administrative judicial region described by Article 18A.053 is  
5-48 absent or unable to serve; or

5-49 (2) exigent circumstances exist.

5-50 (b) Exigent circumstances under Subsection (a)(2) do not  
5-51 include a denial of a previous application on the same facts and  
5-52 circumstances. (Code Crim. Proc., Art. 18.20, Secs. 3(b) (part),  
5-53 (c) (part).)

5-54 Art. 18A.055. APPLICATION FOR INTERCEPTION ORDER. (a) A  
5-55 prosecutor applying for an interception order must make the  
5-56 application in writing under oath to a judge of competent  
5-57 jurisdiction.

5-58 (b) An application must:

5-59 (1) identify the prosecutor making the application and  
5-60 state the prosecutor's authority to make the application;

5-61 (2) identify the officer requesting the application;

5-62 (3) include a complete statement of the facts and  
5-63 circumstances relied on by the prosecutor to justify the  
5-64 prosecutor's belief that an order should be issued, including:

5-65 (A) details about the particular offense that has  
5-66 been, is being, or is about to be committed;

5-67 (B) except as otherwise provided by this chapter,  
5-68 a particular description of the nature and location of the  
5-69 facilities from which or the place where the communication is to be



6-1 intercepted;

6-2 (C) a particular description of the type of  
6-3 communication sought to be intercepted; and

6-4 (D) the identity of the person, if known,  
6-5 committing the offense and whose communications are to be  
6-6 intercepted;

6-7 (4) include a complete statement as to whether other  
6-8 investigative procedures have been attempted and have failed or why  
6-9 those procedures reasonably appear to be unlikely to succeed or to  
6-10 be too dangerous if attempted;

6-11 (5) include a statement of the period for which the  
6-12 interception is required to be maintained and, if the nature of the  
6-13 investigation indicates that the interception order should not  
6-14 automatically terminate when the described type of communication is  
6-15 first obtained, a particular description of facts establishing  
6-16 probable cause to believe that additional communications of the  
6-17 same type will occur after the described type of communication is  
6-18 obtained;

6-19 (6) include a statement whether a covert entry will be  
6-20 necessary to properly and safely install wiretapping, electronic  
6-21 surveillance, or eavesdropping equipment and, if a covert entry is  
6-22 requested, a statement as to why a covert entry is necessary and  
6-23 proper under the facts of the particular investigation, including a  
6-24 complete statement as to whether other investigative techniques  
6-25 have been attempted and have failed or why those techniques  
6-26 reasonably appear to be unlikely to succeed or to be too dangerous  
6-27 if attempted or are not feasible under the circumstances or  
6-28 exigencies of time;

6-29 (7) include a complete statement of the facts  
6-30 concerning all applications known to the prosecutor that have been  
6-31 previously made to a judge for an interception order involving any  
6-32 persons, facilities, or places specified in the application and of  
6-33 the action taken by the judge on each application;

6-34 (8) if the application is for the extension of an  
6-35 order, include a statement providing the results already obtained  
6-36 from the interception or a reasonable explanation of the failure to  
6-37 obtain results; and

6-38 (9) if the application is made under Article 18A.054,  
6-39 fully explain the circumstances justifying application under that  
6-40 article.

6-41 (c) In an ex parte hearing in chambers, the judge may  
6-42 require additional testimony or documentary evidence to support the  
6-43 application. The testimony or documentary evidence must be  
6-44 preserved as part of the application. (Code Crim. Proc., Art.  
6-45 18.20, Secs. 3(c) (part), 8.)

#### 6-46 SUBCHAPTER C. ISSUANCE OF INTERCEPTION ORDER AND RELATED ORDERS

6-47 Art. 18A.101. OFFENSES FOR WHICH INTERCEPTION ORDER MAY BE  
6-48 ISSUED. A judge of competent jurisdiction may issue an  
6-49 interception order only if the prosecutor applying for the order  
6-50 shows probable cause to believe that the interception will provide  
6-51 evidence of the commission of:

6-52 (1) a felony under any of the following provisions of  
6-53 the Health and Safety Code:

6-54 (A) Chapter 481, other than felony possession of  
6-55 marihuana;

6-56 (B) Chapter 483; or

6-57 (C) Section 485.032;

6-58 (2) an offense under any of the following provisions  
6-59 of the Penal Code:

6-60 (A) Section 19.02;

6-61 (B) Section 19.03;

6-62 (C) Section 20.03;

6-63 (D) Section 20.04;

6-64 (E) Chapter 20A;

6-65 (F) Chapter 34, if the criminal activity giving  
6-66 rise to the proceeds involves the commission of an offense under  
6-67 Title 5, Penal Code, or an offense under federal law or the laws of  
6-68 another state containing elements that are substantially similar to  
6-69 the elements of an offense under Title 5;

- 7-1 (G) Section 38.11;  
 7-2 (H) Section 43.04;  
 7-3 (I) Section 43.05; or  
 7-4 (J) Section 43.26; or

7-5 (3) an attempt, conspiracy, or solicitation to commit  
 7-6 an offense listed in Subdivision (1) or (2). (Code Crim. Proc., Art.  
 7-7 18.20, Sec. 4.)

7-8 Art. 18A.102. JUDICIAL DETERMINATIONS REQUIRED FOR  
 7-9 ISSUANCE OF INTERCEPTION ORDER. On receipt of an application under  
 7-10 Subchapter B, the judge may issue an ex parte interception order, as  
 7-11 requested or as modified, if the judge determines from the evidence  
 7-12 submitted by the prosecutor that:

7-13 (1) there is probable cause to believe that a person is  
 7-14 committing, has committed, or is about to commit a particular  
 7-15 offense described by Article 18A.101;

7-16 (2) there is probable cause to believe that particular  
 7-17 communications concerning that offense will be obtained through the  
 7-18 interception;

7-19 (3) normal investigative procedures have been  
 7-20 attempted and have failed or reasonably appear to be unlikely to  
 7-21 succeed or to be too dangerous if attempted;

7-22 (4) there is probable cause to believe that the  
 7-23 facilities from which or the place where the wire, oral, or  
 7-24 electronic communications are to be intercepted is being used or is  
 7-25 about to be used in connection with the commission of an offense or  
 7-26 is leased to, listed in the name of, or commonly used by the person;  
 7-27 and

7-28 (5) a covert entry is or is not necessary to properly  
 7-29 and safely install the wiretapping, electronic surveillance, or  
 7-30 eavesdropping equipment. (Code Crim. Proc., Art. 18.20, Sec. 9(a).)

7-31 Art. 18A.103. CONTENTS OF INTERCEPTION ORDER. (a) An  
 7-32 interception order must specify:

7-33 (1) the identity of the person, if known, whose  
 7-34 communications are to be intercepted;

7-35 (2) except as otherwise provided by this chapter, the  
 7-36 nature and location of the communications facilities as to which or  
 7-37 the place where authority to intercept is granted;

7-38 (3) a particular description of the type of  
 7-39 communication sought to be intercepted and a statement of the  
 7-40 particular offense to which the communication relates;

7-41 (4) the identity of the officer making the request and  
 7-42 the identity of the prosecutor;

7-43 (5) the period during which the interception is  
 7-44 authorized, including a statement of whether the interception will  
 7-45 automatically terminate when the described communication is first  
 7-46 obtained; and

7-47 (6) whether a covert entry or surreptitious entry is  
 7-48 necessary to properly and safely install wiretapping, electronic  
 7-49 surveillance, or eavesdropping equipment.

7-50 (b) Each interception order and extension of that order must  
 7-51 provide that the authorization to intercept be executed as soon as  
 7-52 practicable, be conducted in a way that minimizes the interception  
 7-53 of communications not otherwise subject to interception under this  
 7-54 chapter, and terminate on obtaining the authorized objective or  
 7-55 within 30 days, whichever occurs sooner.

7-56 (c) For purposes of Subsection (b), if the intercepted  
 7-57 communication is in code or a foreign language and an expert in that  
 7-58 code or language is not reasonably available during the period of  
 7-59 interception, minimization may be accomplished as soon as  
 7-60 practicable after the interception. (Code Crim. Proc., Art. 18.20,  
 7-61 Secs. 9(b), (d) (part).)

7-62 Art. 18A.104. LIMITATION ON COVERT ENTRY. (a) An  
 7-63 interception order may not authorize a covert entry for the purpose  
 7-64 of intercepting an oral communication unless:

7-65 (1) the judge, in addition to making the  
 7-66 determinations required under Article 18A.102, determines:

7-67 (A) that:

7-68 (i) the premises into or onto which the  
 7-69 covert entry is authorized or the person whose communications are

8-1 to be obtained has been the subject of a pen register previously  
8-2 authorized in connection with the same investigation;  
8-3 (ii) the premises into or onto which the  
8-4 covert entry is authorized or the person whose communications are  
8-5 to be obtained has been the subject of an interception of wire or  
8-6 electronic communications previously authorized in connection with  
8-7 the same investigation; and  
8-8 (iii) the procedures under Subparagraphs  
8-9 (i) and (ii) have failed; or  
8-10 (B) that the procedures under Paragraph (A)  
8-11 reasonably appear to be unlikely to succeed or to be too dangerous  
8-12 if attempted or are not feasible under the circumstances or  
8-13 exigencies of time; and  
8-14 (2) the interception order, in addition to the matters  
8-15 required to be specified under Article 18A.103(a), specifies that:  
8-16 (A) the covert entry is for the purpose of  
8-17 intercepting oral communications of two or more persons; and  
8-18 (B) there is probable cause to believe that the  
8-19 persons described by Paragraph (A) are committing, have committed,  
8-20 or are about to commit a particular offense described by Article  
8-21 18A.101.  
8-22 (b) An interception order may not authorize a covert entry  
8-23 into a residence solely for the purpose of intercepting a wire or  
8-24 electronic communication. (Code Crim. Proc., Art. 18.20, Secs.  
8-25 9(e), (f).)  
8-26 Art. 18A.105. AUTHORITY TO ISSUE CERTAIN ANCILLARY ORDERS.  
8-27 An interception order may include an order to:  
8-28 (1) install or use a pen register, ESN reader, trap and  
8-29 trace device, or mobile tracking device or similar equipment that  
8-30 combines the function of a pen register and trap and trace device;  
8-31 or  
8-32 (2) disclose a stored communication, information  
8-33 subject to an administrative subpoena, or information subject to  
8-34 access under Chapter 18B. (Code Crim. Proc., Art. 18.20, Sec. 9(c)  
8-35 (part).)  
8-36 Art. 18A.106. ORDER TO THIRD PARTY TO ASSIST WITH EXECUTION  
8-37 OF INTERCEPTION ORDER. (a) On request of the prosecutor applying  
8-38 for an interception order, the judge may issue a separate order  
8-39 directing a provider of a wire or electronic communications  
8-40 service, communication common carrier, landlord, custodian, or  
8-41 other person to provide to the prosecutor all information,  
8-42 facilities, and technical assistance necessary to accomplish the  
8-43 interception unobtrusively and with a minimum of interference with  
8-44 the services that the service provider, carrier, landlord,  
8-45 custodian, or other person is providing the person whose  
8-46 communications are to be intercepted.  
8-47 (b) A provider of a wire or electronic communications  
8-48 service, communication common carrier, landlord, custodian, or  
8-49 other person that provides facilities or technical assistance under  
8-50 an order described by Subsection (a) is entitled to compensation,  
8-51 at the prevailing rates, by the prosecutor for reasonable expenses  
8-52 incurred in providing the facilities or assistance. (Code Crim.  
8-53 Proc., Art. 18.20, Sec. 9(c) (part).)  
8-54 Art. 18A.107. DURATION OF INTERCEPTION ORDER. An  
8-55 interception order may not authorize the interception of a  
8-56 communication for a period that:  
8-57 (1) is longer than is necessary to achieve the  
8-58 objective of the authorization; or  
8-59 (2) exceeds 30 days. (Code Crim. Proc., Art. 18.20,  
8-60 Sec. 9(d) (part).)  
8-61 Art. 18A.108. EXTENSION OF INTERCEPTION ORDER. (a) A judge  
8-62 who issues an interception order may grant extensions of the order.  
8-63 (b) An extension of an interception order may be granted  
8-64 only if:  
8-65 (1) an application for an extension is made in  
8-66 accordance with Article 18A.055; and  
8-67 (2) the judge makes the findings required by Article  
8-68 18A.102.  
8-69 (c) The period of extension may not:



9-1 (1) be longer than the judge considers necessary to  
9-2 achieve the purposes for which the extension is granted; or  
9-3 (2) exceed 30 days. (Code Crim. Proc., Art. 18.20,  
9-4 Sec. 9(d) (part).)

9-5 Art. 18A.109. REPORT ON NEED FOR CONTINUED INTERCEPTION.  
9-6 (a) An interception order may require reports to the judge who  
9-7 issued the order that show any progress toward achieving the  
9-8 authorized objective and the need for continued interception.

9-9 (b) Reports under this article must be made at any interval  
9-10 the judge requires. (Code Crim. Proc., Art. 18.20, Sec. 9(g).)

9-11 Art. 18A.110. SUBSEQUENT CRIMINAL PROSECUTION RELATED TO  
9-12 INTERCEPTION ORDER. A judge who issues an interception order may  
9-13 not hear a criminal prosecution in which:

9-14 (1) evidence derived from the interception may be  
9-15 used; or

9-16 (2) the order may be an issue. (Code Crim. Proc., Art.  
9-17 18.20, Sec. 9(h).)

9-18 SUBCHAPTER D. INTERCEPTION ORDER FOR COMMUNICATION BY  
9-19 SPECIFIED PERSON

9-20 Art. 18A.151. REQUIREMENTS REGARDING INTERCEPTION ORDER  
9-21 FOR COMMUNICATION BY SPECIFIED PERSON. The requirements of  
9-22 Articles 18A.055(b)(3)(B) and 18A.103(a)(2) relating to the  
9-23 specification of the facilities from which or the place where a  
9-24 communication is to be intercepted do not apply if:

9-25 (1) in the case of an application for an interception  
9-26 order that authorizes the interception of an oral communication:

9-27 (A) the application contains a complete  
9-28 statement as to why the specification is not practical and  
9-29 identifies the person committing or believed to be committing the  
9-30 offense and whose communications are to be intercepted; and

9-31 (B) a judge of competent jurisdiction finds that  
9-32 the specification is not practical; or

9-33 (2) in the case of an application for an interception  
9-34 order that authorizes the interception of a wire or electronic  
9-35 communication:

9-36 (A) the application identifies the person  
9-37 committing or believed to be committing the offense and whose  
9-38 communications are to be intercepted;

9-39 (B) a judge of competent jurisdiction finds that  
9-40 the prosecutor has made an adequate showing of probable cause to  
9-41 believe that the actions of the person identified in the  
9-42 application could have the effect of preventing interception from a  
9-43 specified facility; and

9-44 (C) the authority to intercept a wire or  
9-45 electronic communication under the interception order is limited to  
9-46 a period in which it is reasonable to presume that the person  
9-47 identified in the application will be reasonably proximate to the  
9-48 interception device. (Code Crim. Proc., Art. 18.20, Sec. 9A(a).)

9-49 Art. 18A.152. IMPLEMENTATION OF INTERCEPTION ORDER. A  
9-50 person implementing an interception order that authorizes the  
9-51 interception of an oral communication and that, as permitted by  
9-52 this subchapter, does not specify the facility from which or the  
9-53 place where a communication is to be intercepted may begin  
9-54 interception only after the person ascertains the place where the  
9-55 communication is to be intercepted. (Code Crim. Proc., Art. 18.20,  
9-56 Sec. 9A(b).)

9-57 Art. 18A.153. MOTION TO MODIFY OR QUASH INTERCEPTION ORDER.

9-58 (a) A provider of a wire or electronic communications service that  
9-59 receives an interception order that authorizes the interception of  
9-60 a wire or electronic communication and that, as permitted by this  
9-61 subchapter, does not specify the facility from which or the place  
9-62 where a communication is to be intercepted may move the court to  
9-63 modify or quash the order on the ground that the service provider's  
9-64 assistance with respect to the interception cannot be performed in  
9-65 a timely or reasonable manner.

9-66 (b) On notice to the state, the court shall decide the  
9-67 motion expeditiously. (Code Crim. Proc., Art. 18.20, Sec. 9A(c).)

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SUBCHAPTER E. EMERGENCY INSTALLATION AND USE OF INTERCEPTION  
DEVICE

Art. 18A.201. DEFINITIONS. In this subchapter:

(1) "Immediate life-threatening situation" means a hostage, barricade, or other emergency situation in which a person unlawfully and directly:

(A) threatens another with death; or  
(B) exposes another to a substantial risk of serious bodily injury.

(2) "Member of a law enforcement unit specially trained to respond to and deal with life-threatening situations" means a peace officer who, as evidenced by the submission of appropriate documentation to the Texas Commission on Law Enforcement:

(A) receives each year a minimum of 40 hours of training in hostage and barricade suspect situations; or

(B) has received a minimum of 24 hours of training on kidnapping investigations and is:

(i) the sheriff of a county with a population of 3.3 million or more or the sheriff's designee; or

(ii) the police chief of a police department in a municipality with a population of 500,000 or more or the chief's designee. (Code Crim. Proc., Art. 18.20, Secs. 1(22), (23).)

Art. 18A.202. POSSESSION AND USE OF INTERCEPTION DEVICE IN EMERGENCY SITUATION. (a) The prosecutor in a county in which an interception device is to be installed or used shall designate in writing each peace officer in the county, other than a commissioned officer of the department, who is:

(1) a member of a law enforcement unit specially trained to respond to and deal with life-threatening situations; and

(2) authorized to possess an interception device and responsible for the installation, operation, and monitoring of the device in an immediate life-threatening situation.

(b) A peace officer designated under Subsection (a) or Article 18A.301(c) may possess, install, operate, or monitor an interception device if the officer:

(1) reasonably believes an immediate life-threatening situation exists that:

(A) is within the territorial jurisdiction of the officer or another officer the officer is assisting; and

(B) requires interception of communications before an interception order can, with due diligence, be obtained under this subchapter;

(2) reasonably believes there are sufficient grounds under this subchapter on which to obtain an interception order; and

(3) before beginning the interception, obtains oral or written consent to the interception from:

(A) a judge of competent jurisdiction;

(B) a district judge for the county in which the device will be installed or used; or

(C) a judge or justice of a court of appeals or of a higher court.

(c) If a peace officer installs or uses an interception device under Subsection (b), the officer shall:

(1) promptly report the installation or use to the prosecutor in the county in which the device is installed or used; and

(2) within 48 hours after the installation is complete or the interception begins, whichever occurs first, obtain a written interception order from a judge of competent jurisdiction.

(d) A peace officer may certify to a communication common carrier that the officer is acting lawfully under this subchapter. (Code Crim. Proc., Art. 18.20, Secs. 8A(a), (b), (d), (g).)

Art. 18A.203. CONSENT FOR EMERGENCY INTERCEPTION. (a) An official described by Article 18A.202(b)(3) may give oral or written consent to the interception of communications under this subchapter to provide evidence of the commission of a felony, or of

11-1 a threat, attempt, or conspiracy to commit a felony, in an immediate  
 11-2 life-threatening situation.

11-3 (b) Oral or written consent given under this subchapter  
 11-4 expires on the earlier of:

11-5 (1) 48 hours after the grant of consent; or  
 11-6 (2) the conclusion of the emergency justifying the  
 11-7 interception. (Code Crim. Proc., Art. 18.20, Sec. 8A(c).)

11-8 Art. 18A.204. WRITTEN ORDER AUTHORIZING INTERCEPTION. (a)  
 11-9 A judge of competent jurisdiction under Article 18A.051 or under  
 11-10 Article 18A.202(b) may issue a written interception order under  
 11-11 this subchapter during the 48-hour period prescribed by Article  
 11-12 18A.202(c)(2).

11-13 (b) A written interception order under this subchapter  
 11-14 expires on the earlier of:

11-15 (1) the 30th day after the date of execution of the  
 11-16 order; or  
 11-17 (2) the conclusion of the emergency that initially  
 11-18 justified the interception.

11-19 (c) If an interception order is denied or is not issued  
 11-20 within the 48-hour period, the officer shall terminate use of and  
 11-21 remove the interception device promptly on the earlier of:

11-22 (1) the denial;  
 11-23 (2) the end of the emergency that initially justified  
 11-24 the interception; or  
 11-25 (3) the expiration of 48 hours. (Code Crim. Proc.,  
 11-26 Art. 18.20, Sec. 8A(e).)

11-27 Art. 18A.205. CERTAIN EVIDENCE NOT ADMISSIBLE. The state  
 11-28 may not use as evidence in a criminal proceeding information gained  
 11-29 through the use of an interception device installed under this  
 11-30 subchapter if authorization for the device is not sought or is  
 11-31 sought but not obtained. (Code Crim. Proc., Art. 18.20,  
 11-32 Secs. 8A(b) (part), (f).)

11-33 SUBCHAPTER F. DETECTION OF CELLULAR TELEPHONE OR OTHER WIRELESS  
 11-34 COMMUNICATIONS DEVICE IN CORRECTIONAL OR DETENTION FACILITY

11-35 Art. 18A.251. DEFINITION. In this subchapter,  
 11-36 "correctional facility" means:

11-37 (1) a place described by Section 1.07(a)(14), Penal  
 11-38 Code; or  
 11-39 (2) a "secure correctional facility" or "secure  
 11-40 detention facility" as defined by Section 51.02, Family Code. (Code  
 11-41 Crim. Proc., Art. 18.20, Sec. 8B(a).)

11-42 Art. 18A.252. USE OF INTERCEPTION DEVICE BY INSPECTOR  
 11-43 GENERAL. (a) Notwithstanding any other provision of this chapter  
 11-44 or Chapter 18B, the office of inspector general of the Texas  
 11-45 Department of Criminal Justice may:

11-46 (1) without a warrant, use an interception device to  
 11-47 detect the presence or use of a cellular telephone or other wireless  
 11-48 communications device in a correctional facility;  
 11-49 (2) without a warrant, intercept, monitor, detect, or,  
 11-50 as authorized by applicable federal laws and regulations, prevent  
 11-51 the transmission of a communication through a cellular telephone or  
 11-52 other wireless communications device in a correctional facility;  
 11-53 and  
 11-54 (3) use, to the extent authorized by law, any  
 11-55 information obtained under Subdivision (2), including the contents  
 11-56 of an intercepted communication, in a criminal or civil proceeding  
 11-57 before a court or other governmental agency or entity.

11-58 (b) When using an interception device under Subsection (a),  
 11-59 the office of inspector general shall minimize the impact of the  
 11-60 device on a communication that is not reasonably related to the  
 11-61 detection of the presence or use of a cellular telephone or other  
 11-62 wireless communications device in a correctional facility. (Code  
 11-63 Crim. Proc., Art. 18.20, Secs. 8B(b), (d).)

11-64 Art. 18A.253. REPORTING USE OF INTERCEPTION DEVICE. Not  
 11-65 later than the 30th day after the date on which the office of  
 11-66 inspector general uses an interception device under Article  
 11-67 18A.252(a), the inspector general shall report the use of the  
 11-68 device to:

11-69 (1) a prosecutor with jurisdiction in the county in



12-1 which the device was used; or

12-2 (2) the special prosecution unit established under  
12-3 Subchapter E, Chapter 41, Government Code, if that unit has  
12-4 jurisdiction in the county in which the device was used. (Code  
12-5 Crim. Proc., Art. 18.20, Sec. 8B(c).)

12-6 Art. 18A.254. NO EXPECTATION OF PRIVACY. (a) A person  
12-7 confined in a correctional facility does not have an expectation of  
12-8 privacy with respect to the possession or use of a cellular  
12-9 telephone or other wireless communications device located on the  
12-10 premises of the facility.

12-11 (b) A person confined in a correctional facility, and any  
12-12 person with whom the confined person communicates through the use  
12-13 of a cellular telephone or other wireless communications device,  
12-14 does not have an expectation of privacy with respect to the contents  
12-15 of a communication transmitted by the telephone or device. (Code  
12-16 Crim. Proc., Art. 18.20, Sec. 8B(e).)

12-17 SUBCHAPTER G. AGENCIES AND PERSONNEL AUTHORIZED TO POSSESS AND USE  
12-18 INTERCEPTION DEVICES

12-19 Art. 18A.301. DEPARTMENT OF PUBLIC SAFETY AUTHORIZED TO  
12-20 POSSESS AND USE INTERCEPTION DEVICE. (a) Except as otherwise  
12-21 provided by this subchapter and Subchapters E and F, only the  
12-22 department is authorized by this chapter to own, possess, install,  
12-23 operate, or monitor an interception device.

12-24 (b) An investigative or law enforcement officer or other  
12-25 person may assist the department in the operation and monitoring of  
12-26 an interception of wire, oral, or electronic communications if the  
12-27 officer or other person:

12-28 (1) is designated by the director for that purpose;  
12-29 and

12-30 (2) acts in the presence and under the direction of a  
12-31 commissioned officer of the department.

12-32 (c) The director shall designate in writing the  
12-33 commissioned officers of the department who are responsible for the  
12-34 possession, installation, operation, and monitoring of  
12-35 interception devices for the department. (Code Crim. Proc.,  
12-36 Art. 18.20, Secs. 5(a), (b).)

12-37 Art. 18A.302. TEXAS DEPARTMENT OF CRIMINAL JUSTICE  
12-38 AUTHORIZED TO POSSESS AND USE INTERCEPTION DEVICE. (a) The Texas  
12-39 Department of Criminal Justice may own an interception device for a  
12-40 use or purpose authorized by Section 500.008, Government Code.

12-41 (b) The inspector general of the Texas Department of  
12-42 Criminal Justice, a commissioned officer of that office, or a  
12-43 person acting in the presence and under the direction of the  
12-44 commissioned officer may possess, install, operate, or monitor the  
12-45 interception device as provided by Section 500.008, Government  
12-46 Code. (Code Crim. Proc., Art. 18.20, Sec. 5(c).)

12-47 Art. 18A.303. TEXAS JUVENILE JUSTICE DEPARTMENT AUTHORIZED  
12-48 TO POSSESS AND USE INTERCEPTION DEVICE. (a) The Texas Juvenile  
12-49 Justice Department may own an interception device for a use or  
12-50 purpose authorized by Section 242.103, Human Resources Code.

12-51 (b) The inspector general of the Texas Juvenile Justice  
12-52 Department, a commissioned officer of that office, or a person  
12-53 acting in the presence and under the direction of the commissioned  
12-54 officer may possess, install, operate, or monitor the interception  
12-55 device as provided by Section 242.103, Human Resources Code. (Code  
12-56 Crim. Proc., Art. 18.20, Sec. 5(d).)

12-57 SUBCHAPTER H. DISCLOSURE AND USE OF INTERCEPTED COMMUNICATIONS

12-58 Art. 18A.351. DISCLOSURE OR USE OF INTERCEPTED  
12-59 COMMUNICATIONS. An investigative or law enforcement officer who,  
12-60 by means authorized by this chapter, obtains knowledge of the  
12-61 contents of a wire, oral, or electronic communication or evidence  
12-62 derived from the communication may:

12-63 (1) use the contents or evidence to the extent the use  
12-64 is appropriate to the proper performance of the officer's official  
12-65 duties; or

12-66 (2) disclose the contents or evidence to another  
12-67 investigative or law enforcement officer, including a law  
12-68 enforcement officer or agent of the United States or of another  
12-69 state, to the extent that the disclosure is appropriate to the



13-1 proper performance of the official duties of the officer making or  
 13-2 receiving the disclosure. (Code Crim. Proc., Art. 18.20,  
 13-3 Secs. 7(a), (b).)

13-4 Art. 18A.352. DISCLOSURE UNDER OATH. A person who  
 13-5 receives, by means authorized by this chapter, information  
 13-6 concerning a wire, oral, or electronic communication or evidence  
 13-7 derived from a communication intercepted in accordance with this  
 13-8 chapter may disclose the contents of that communication or evidence  
 13-9 while giving testimony under oath in any proceeding held under the  
 13-10 authority of the United States, this state, or a political  
 13-11 subdivision of this state. (Code Crim. Proc., Art. 18.20,  
 13-12 Sec. 7(c).)

13-13 Art. 18A.353. PRIVILEGED COMMUNICATIONS. (a) An otherwise  
 13-14 privileged wire, oral, or electronic communication intercepted in  
 13-15 accordance with, or in violation of, this chapter does not lose its  
 13-16 privileged character.

13-17 (b) Evidence derived from a privileged communication  
 13-18 described by Subsection (a) against a party to that communication  
 13-19 is privileged. (Code Crim. Proc., Art. 18.20, Sec. 7(d).)

13-20 Art. 18A.354. DISCLOSURE OR USE OF INCIDENTALLY INTERCEPTED  
 13-21 COMMUNICATIONS. (a) This article applies only to the contents of  
 13-22 and evidence derived from wire, oral, or electronic communications  
 13-23 that:

13-24 (1) are intercepted by an investigative or law  
 13-25 enforcement officer while engaged in intercepting wire, oral, or  
 13-26 electronic communications in a manner authorized by this chapter;  
 13-27 and

13-28 (2) relate to offenses other than those specified by  
 13-29 the interception order.

13-30 (b) The contents of and evidence derived from a  
 13-31 communication described by Subsection (a) may be disclosed or used  
 13-32 as provided by Article 18A.351.

13-33 (c) The contents of and evidence derived from a  
 13-34 communication described by Subsection (a) may be used under Article  
 13-35 18A.352 when authorized by a judge of competent jurisdiction if the  
 13-36 judge finds, on subsequent application, that the contents were  
 13-37 otherwise intercepted in accordance with this chapter.

13-38 (d) An application under Subsection (c) must be made as soon  
 13-39 as practicable. (Code Crim. Proc., Art. 18.20, Sec. 7(e).)

13-40 Art. 18A.355. NOTICE AND DISCLOSURE OF INTERCEPTION  
 13-41 APPLICATION, INTERCEPTION ORDER, AND INTERCEPTED COMMUNICATIONS.

13-42 (a) Within a reasonable period but not later than the 90th day  
 13-43 after the date an application for an interception order is denied or  
 13-44 after the date an interception order or the last extension, if any,  
 13-45 expires, the judge who granted or denied the application shall  
 13-46 cause to be served on each person named in the order or application  
 13-47 and any other party to an intercepted communication, if any, an  
 13-48 inventory that must include notice of:

13-49 (1) the application or the issuance of the order;

13-50 (2) the date of denial of the application, or the date  
 13-51 of the issuance of the order and the authorized interception  
 13-52 period; and

13-53 (3) whether during any authorized interception period  
 13-54 wire, oral, or electronic communications were intercepted.

13-55 (b) The judge may, on motion, make available for inspection  
 13-56 to a person or the person's counsel any portion of an intercepted  
 13-57 communication, application, or order that the judge determines to  
 13-58 disclose to that person in the interest of justice.

13-59 (c) On an ex parte showing of good cause to the judge, the  
 13-60 serving of the inventory required under Subsection (a) may be  
 13-61 postponed.

13-62 (d) Evidence derived from an order under this chapter may  
 13-63 not be disclosed in a trial until after the inventory has been  
 13-64 served. (Code Crim. Proc., Art. 18.20, Sec. 13.)

13-65 Art. 18A.356. NOTICE OF INTERCEPTION REQUIRED. (a) The  
 13-66 contents of an intercepted wire, oral, or electronic communication  
 13-67 or evidence derived from the communication may not be received in  
 13-68 evidence or otherwise disclosed in a trial, hearing, or other  
 13-69 proceeding in a federal or state court unless each party, not later

14-1 than the 10th day before the date of the trial, hearing, or other  
 14-2 proceeding, has been provided with a copy of the interception order  
 14-3 and application under which the interception was authorized.

14-4 (b) The judge may waive the 10-day period described by  
 14-5 Subsection (a) on a finding that:

14-6 (1) it is not possible to provide the party with the  
 14-7 information 10 days before the trial, hearing, or proceeding; and

14-8 (2) the party will not be prejudiced by the delay in  
 14-9 receiving the information. (Code Crim. Proc., Art. 18.20, Sec.  
 14-10 14(a).)

14-11 Art. 18A.357. COMMUNICATIONS RECEIVED IN EVIDENCE. (a)  
 14-12 The contents of an intercepted communication and evidence derived  
 14-13 from the communication may be received in evidence in any trial,  
 14-14 hearing, or other proceeding in or before any court, grand jury,  
 14-15 department, officer, agency, regulatory body, legislative  
 14-16 committee, or other authority of the United States, this state, or a  
 14-17 political subdivision of this state unless:

14-18 (1) the communication was intercepted in violation of  
 14-19 this chapter, Section 16.02, Penal Code, or federal law; or

14-20 (2) the disclosure of the contents of the  
 14-21 communication or evidence derived from the communication would  
 14-22 violate a law described by Subdivision (1).

14-23 (b) The contents of an intercepted communication and  
 14-24 evidence derived from the communication may be received in a civil  
 14-25 trial, hearing, or other proceeding only if the civil trial,  
 14-26 hearing, or other proceeding arises out of a violation of a penal  
 14-27 law.

14-28 (c) This article does not prohibit the use or admissibility  
 14-29 of the contents of an intercepted communication or evidence derived  
 14-30 from the communication if the communication was intercepted in a  
 14-31 jurisdiction outside this state in compliance with the law of that  
 14-32 jurisdiction. (Code Crim. Proc., Art. 18.20, Sec. 2.)

14-33 Art. 18A.358. SUPPRESSION OF CONTENTS OF INTERCEPTED  
 14-34 COMMUNICATIONS. (a) An aggrieved person charged with an offense in  
 14-35 a trial, hearing, or proceeding in or before a court, department,  
 14-36 officer, agency, regulatory body, or other authority of the United  
 14-37 States, this state, or a political subdivision of this state may  
 14-38 move to suppress the contents of an intercepted wire, oral, or  
 14-39 electronic communication or evidence derived from the  
 14-40 communication on the ground that:

14-41 (1) the communication was unlawfully intercepted;

14-42 (2) the interception order is insufficient on its  
 14-43 face; or

14-44 (3) the interception was not made in conformity with  
 14-45 the interception order.

14-46 (b) A person identified by a party to an intercepted wire,  
 14-47 oral, or electronic communication during the course of that  
 14-48 communication may move to suppress the contents of the  
 14-49 communication on:

14-50 (1) a ground provided under Subsection (a); or

14-51 (2) the ground that the harm to the person resulting  
 14-52 from the person's identification in court exceeds the value to the  
 14-53 prosecution of the disclosure of the contents.

14-54 (c) The motion to suppress must be made before the trial,  
 14-55 hearing, or proceeding unless:

14-56 (1) there was not an opportunity to make the motion; or

14-57 (2) the aggrieved person was not aware of the grounds  
 14-58 of the motion.

14-59 (d) The hearing on the motion to suppress shall be held in  
 14-60 camera on the written request of the aggrieved person.

14-61 (e) If the motion to suppress is granted, the contents of  
 14-62 the intercepted wire, oral, or electronic communication and  
 14-63 evidence derived from the communication shall be treated as having  
 14-64 been obtained in violation of this chapter.

14-65 (f) The judge, on the filing of the motion to suppress by the  
 14-66 aggrieved person, shall make available to the aggrieved person or  
 14-67 the person's counsel for inspection any portion of the intercepted  
 14-68 communication or evidence derived from the communication that the  
 14-69 judge determines to make available in the interest of justice.

15-1 (g) A judge of this state, on hearing a pretrial motion  
 15-2 regarding conversations intercepted by wire in accordance with this  
 15-3 chapter, or who otherwise becomes informed that there exists on  
 15-4 such an intercepted wire, oral, or electronic communication  
 15-5 identification of a specific individual who is not a suspect or a  
 15-6 party to the subject of interception shall:

15-7 (1) give notice and an opportunity to be heard on the  
 15-8 matter of suppression of references to that individual if  
 15-9 identification is sufficient to give notice; or

15-10 (2) suppress references to that individual if  
 15-11 identification is:

15-12 (A) sufficient to potentially cause  
 15-13 embarrassment or harm that outweighs the probative value, if any,  
 15-14 of the mention of that individual; and

15-15 (B) insufficient to require the notice under  
 15-16 Subdivision (1). (Code Crim. Proc., Art. 18.20, Secs. 14(b), (c),  
 15-17 (d), (e).)

#### 15-18 SUBCHAPTER I. USE AND DISPOSITION OF APPLICATIONS AND ORDERS

15-19 Art. 18A.401. SEALING OF APPLICATION OR ORDER. The judge  
 15-20 shall seal each application made and order issued under this  
 15-21 chapter. (Code Crim. Proc., Art. 18.20, Sec. 11 (part).)

15-22 Art. 18A.402. CUSTODY OF APPLICATIONS AND ORDERS. Custody  
 15-23 of applications and orders issued under this chapter shall be  
 15-24 wherever the judge directs. (Code Crim. Proc., Art. 18.20, Sec. 11  
 15-25 (part).)

15-26 Art. 18A.403. DISCLOSURE OF APPLICATION OR ORDER. An  
 15-27 application made or order issued under this chapter may be  
 15-28 disclosed only on a showing of good cause before a judge of  
 15-29 competent jurisdiction. (Code Crim. Proc., Art. 18.20, Sec. 11  
 15-30 (part).)

15-31 Art. 18A.404. DESTRUCTION OF APPLICATION OR ORDER. An  
 15-32 application made or order issued under this chapter may be  
 15-33 destroyed only on or after the 10th anniversary of the date the  
 15-34 application or order was sealed and only if the judge of competent  
 15-35 jurisdiction for the administrative judicial region in which the  
 15-36 application was made or the order was issued orders the  
 15-37 destruction. (Code Crim. Proc., Art. 18.20, Sec. 11 (part).)

#### 15-38 SUBCHAPTER J. CREATION, USE, AND DISPOSITION OF RECORDINGS

15-39 Art. 18A.451. CREATION OF RECORDINGS. The contents of a  
 15-40 wire, oral, or electronic communication intercepted by means  
 15-41 authorized by this chapter shall be recorded on tape, wire, or other  
 15-42 comparable device in a way that protects the recording from editing  
 15-43 or other alterations. (Code Crim. Proc., Art. 18.20, Sec. 10(a).)

15-44 Art. 18A.452. DUPLICATION OF RECORDINGS. Recordings under  
 15-45 Article 18A.451 may be duplicated for use or disclosure under  
 15-46 Article 18A.351 for investigations. (Code Crim. Proc., Art. 18.20,  
 15-47 Sec. 10(c).)

15-48 Art. 18A.453. SEALING AND CUSTODY OF RECORDINGS. (a)  
 15-49 Immediately on the expiration of the period of an interception  
 15-50 order and all extensions, if any, the recordings under Article  
 15-51 18A.451 shall be:

15-52 (1) made available to the judge issuing the order; and

15-53 (2) sealed under the judge's directions.

15-54 (b) Custody of the recordings shall be wherever the judge  
 15-55 orders. (Code Crim. Proc., Art. 18.20, Sec. 10(b) (part).)

15-56 Art. 18A.454. DESTRUCTION OF RECORDINGS. A recording under  
 15-57 Article 18A.451 may be destroyed only on or after the 10th  
 15-58 anniversary of the date of expiration of the interception order and  
 15-59 the last extension, if any, and only if the judge of competent  
 15-60 jurisdiction for the administrative judicial region in which the  
 15-61 interception was authorized orders the destruction. (Code Crim.  
 15-62 Proc., Art. 18.20, Sec. 10(b) (part).)

15-63 Art. 18A.455. PREREQUISITE FOR USE OR DISCLOSURE OF  
 15-64 RECORDING IN CERTAIN PROCEEDINGS. The presence of the seal  
 15-65 required by Article 18A.453(a) or a satisfactory explanation of the  
 15-66 seal's absence is a prerequisite for the use or disclosure of the  
 15-67 contents of a wire, oral, or electronic communication or evidence  
 15-68 derived from the communication under Article 18A.352. (Code Crim.  
 15-69 Proc., Art. 18.20, Sec. 10(d).)

## SUBCHAPTER K. VIOLATION; SANCTIONS

16-1 Art. 18A.501. CONTEMPT. A violation of Subchapter I or J  
16-2 may be punished as contempt of court. (Code Crim. Proc., Art.  
16-3 18.20, Sec. 12.)

16-4 Art. 18A.502. RECOVERY OF CIVIL DAMAGES BY AGGRIEVED  
16-5 PERSON. A person whose wire, oral, or electronic communication is  
16-6 intercepted, disclosed, or used in violation of this chapter or  
16-7 Chapter 16, Penal Code:

16-8 (1) has a civil cause of action against any person who  
16-9 intercepts, discloses, or uses or solicits another person to  
16-10 intercept, disclose, or use the communication; and

16-11 (2) is entitled to recover from the person:

16-12 (A) actual damages but not less than liquidated  
16-13 damages computed at a rate of \$100 for each day the violation occurs  
16-14 or \$1,000, whichever is higher;

16-15 (B) punitive damages; and

16-16 (C) reasonable attorney's fees and other  
16-17 litigation costs reasonably incurred. (Code Crim. Proc., Art.  
16-18 18.20, Sec. 16(a).)

16-19 Art. 18A.503. ACTION BROUGHT BY FEDERAL OR STATE  
16-20 GOVERNMENT; INJUNCTION; PENALTIES. (a) A person is subject to suit  
16-21 by the federal or state government in a court of competent  
16-22 jurisdiction for appropriate injunctive relief if the person  
16-23 engages in conduct that:

16-24 (1) constitutes an offense under Section 16.05, Penal  
16-25 Code, but is not for a tortious or illegal purpose or for the  
16-26 purpose of direct or indirect commercial advantage or private  
16-27 commercial gain; and

16-28 (2) involves a radio communication that is:

16-29 (A) transmitted on frequencies allocated under  
16-30 Subpart D of Part 74 of the rules of the Federal Communications  
16-31 Commission; and

16-32 (B) not scrambled or encrypted.

16-33 (b) The attorney general or the county or district attorney  
16-34 of the county in which the conduct described by Subsection (a) is  
16-35 occurring may file suit under that subsection on behalf of the  
16-36 state.

16-37 (c) A defendant is liable for a civil penalty of \$500 if it  
16-38 is shown at the trial of the civil suit brought under Subsection (a)  
16-39 that the defendant has been:

16-40 (1) convicted of an offense under Section 16.05, Penal  
16-41 Code; or

16-42 (2) found liable in a civil action brought under  
16-43 Article 18A.502.

16-44 (d) Each violation of an injunction ordered under  
16-45 Subsection (a) is punishable by a fine of \$500. (Code Crim. Proc.,  
16-46 Art. 18.20, Secs. 16(c), (d), (e), (f).)

16-47 Art. 18A.504. GOOD FAITH DEFENSE AVAILABLE. A good faith  
16-48 reliance on a court order or legislative authorization constitutes  
16-49 a complete defense to an action brought under Article 18A.502 or  
16-50 18A.503. (Code Crim. Proc., Art. 18.20, Sec. 16(b).)

16-51 Art. 18A.505. NO CAUSE OF ACTION. A computer trespasser or  
16-52 a user, aggrieved person, subscriber, or customer of a  
16-53 communication common carrier or provider of an electronic  
16-54 communications service does not have a cause of action against the  
16-55 carrier or service provider, the officers, employees, or agents of  
16-56 the carrier or service provider, or other specified persons for  
16-57 providing information, facilities, or assistance as required by a  
16-58 good faith reliance on:

16-59 (1) legislative authority; or

16-60 (2) a court order, warrant, subpoena, or certification  
16-61 under this chapter. (Code Crim. Proc., Art. 18.20, Sec. 16(g).)

## SUBCHAPTER L. REPORTS

16-62 Art. 18A.551. REPORT OF INTERCEPTED COMMUNICATIONS BY  
16-63 JUDGE. (a) Within 30 days after the date an interception order or  
16-64 the last extension, if any, expires or after the denial of an  
16-65 interception order, the issuing or denying judge shall report to  
16-66 the Administrative Office of the United States Courts:

16-67 (1) the fact that an order or extension was applied  
16-68  
16-69



17-1 for;

17-2 (2) the kind of order or extension applied for;

17-3 (3) the fact that the order or extension was granted as

17-4 applied for, was modified, or was denied;

17-5 (4) the period of interceptions authorized by the

17-6 order and the number and duration of any extensions of the order;

17-7 (5) the offense specified in the order or application

17-8 or extension;

17-9 (6) the identity of the requesting officer and the

17-10 prosecutor; and

17-11 (7) the nature of the facilities from which or the

17-12 place where communications were to be intercepted.

17-13 (b) A judge required to file a report under this article

17-14 shall forward a copy of the report to the director. (Code Crim.

17-15 Proc., Art. 18.20, Secs. 15(a), (c) (part).)

17-16 Art. 18A.552. REPORT OF INTERCEPTED COMMUNICATIONS BY

17-17 PROSECUTOR. (a) In January of each year each prosecutor shall

17-18 report to the Administrative Office of the United States Courts the

17-19 following information for the preceding calendar year:

17-20 (1) the information required by Article 18A.551(a)

17-21 with respect to each application for an interception order or

17-22 extension made;

17-23 (2) a general description of the interceptions made

17-24 under each order or extension, including:

17-25 (A) the approximate nature and frequency of

17-26 incriminating communications intercepted;

17-27 (B) the approximate nature and frequency of other

17-28 communications intercepted;

17-29 (C) the approximate number of persons whose

17-30 communications were intercepted; and

17-31 (D) the approximate nature, amount, and cost of

17-32 the personnel and other resources used in the interceptions;

17-33 (3) the number of arrests resulting from interceptions

17-34 made under each order or extension and the offenses for which the

17-35 arrests were made;

17-36 (4) the number of trials resulting from interceptions;

17-37 (5) the number of motions to suppress made with

17-38 respect to interceptions and the number granted or denied;

17-39 (6) the number of convictions resulting from

17-40 interceptions, the offenses for which the convictions were

17-41 obtained, and a general assessment of the importance of the

17-42 interceptions; and

17-43 (7) the information required by Subdivisions (2)

17-44 through (6) with respect to orders or extensions obtained.

17-45 (b) A prosecutor required to file a report under this

17-46 article shall forward a copy of the report to the director. (Code

17-47 Crim. Proc., Art. 18.20, Secs. 15(b), (c) (part).)

17-48 Art. 18A.553. REPORT OF INTERCEPTED COMMUNICATIONS BY

17-49 DEPARTMENT OF PUBLIC SAFETY. (a) On or before March 1 of each year,

17-50 the director shall submit a report of all intercepts conducted

17-51 under this chapter and terminated during the preceding calendar

17-52 year to:

17-53 (1) the governor;

17-54 (2) the lieutenant governor;

17-55 (3) the speaker of the house of representatives;

17-56 (4) the chair of the senate jurisprudence committee;

17-57 and

17-58 (5) the chair of the house of representatives criminal

17-59 jurisprudence committee.

17-60 (b) The report must include:

17-61 (1) the reports of judges and prosecuting attorneys

17-62 forwarded to the director as required by Articles 18A.551(b) and

17-63 18A.552(b);

17-64 (2) the number of department personnel authorized to

17-65 possess, install, or operate an interception device;

17-66 (3) the number of department and other law enforcement

17-67 personnel who participated or engaged in the seizure of intercepts

17-68 under this chapter during the preceding calendar year; and

17-69 (4) the total cost to the department of all activities

18-1 and procedures relating to the seizure of intercepts during the  
 18-2 preceding calendar year, including costs of equipment, personnel,  
 18-3 and expenses incurred as compensation for use of facilities or  
 18-4 technical assistance provided to the department. (Code Crim.  
 18-5 Proc., Art. 18.20, Sec. 15(c) (part).)  
 18-6 SECTION 1.02. Title 1, Code of Criminal Procedure, is  
 18-7 amended by adding Chapter 18B to read as follows:  
 18-8 CHAPTER 18B. INSTALLATION AND USE OF TRACKING EQUIPMENT; ACCESS TO  
 18-9 COMMUNICATIONS  
 18-10 SUBCHAPTER A. GENERAL PROVISIONS  
 18-11 Art. 18B.001. DEFINITIONS  
 18-12 SUBCHAPTER B. APPLICATION FOR ORDER AUTHORIZING INSTALLATION AND  
 18-13 USE OF EQUIPMENT  
 18-14 Art. 18B.051. REQUIREMENTS REGARDING REQUEST FOR AND  
 18-15 FILING OF APPLICATION  
 18-16 Art. 18B.052. JURISDICTION  
 18-17 Art. 18B.053. APPLICATION REQUIREMENTS  
 18-18 SUBCHAPTER C. ORDER AUTHORIZING INSTALLATION AND USE OF EQUIPMENT  
 18-19 Art. 18B.101. ORDER AUTHORIZING INSTALLATION AND USE  
 18-20 OF PEN REGISTER, ESN READER, OR  
 18-21 SIMILAR EQUIPMENT  
 18-22 Art. 18B.102. ORDER AUTHORIZING INSTALLATION AND USE  
 18-23 OF TRAP AND TRACE DEVICE OR SIMILAR  
 18-24 EQUIPMENT  
 18-25 Art. 18B.103. COMPENSATION FOR CARRIER OR SERVICE  
 18-26 PROVIDER  
 18-27 Art. 18B.104. DURATION OF ORDER  
 18-28 Art. 18B.105. SEALING RECORDS OF APPLICATION AND ORDER  
 18-29 SUBCHAPTER D. EMERGENCY INSTALLATION AND USE OF CERTAIN EQUIPMENT  
 18-30 Art. 18B.151. EMERGENCY INSTALLATION AND USE OF PEN  
 18-31 REGISTER OR TRAP AND TRACE DEVICE  
 18-32 Art. 18B.152. ORDER AUTHORIZING EMERGENCY INSTALLATION  
 18-33 AND USE  
 18-34 Art. 18B.153. ADMISSIBILITY OF EVIDENCE OBTAINED  
 18-35 SUBCHAPTER E. MOBILE TRACKING DEVICES  
 18-36 Art. 18B.201. DEFINITION  
 18-37 Art. 18B.202. ORDER AUTHORIZING INSTALLATION AND USE  
 18-38 OF MOBILE TRACKING DEVICE  
 18-39 Art. 18B.203. JURISDICTION  
 18-40 Art. 18B.204. NOTIFICATION OF JUDGE FOLLOWING  
 18-41 ACTIVATION OF MOBILE TRACKING DEVICE  
 18-42 Art. 18B.205. DURATION OF ORDER  
 18-43 Art. 18B.206. REMOVAL OF DEVICE  
 18-44 Art. 18B.207. NONAPPLICABILITY  
 18-45 SUBCHAPTER F. LAW ENFORCEMENT POWERS AND DUTIES  
 18-46 Art. 18B.251. POLICY REQUIRED  
 18-47 Art. 18B.252. PEACE OFFICERS AUTHORIZED TO POSSESS,  
 18-48 INSTALL, OPERATE, OR MONITOR EQUIPMENT  
 18-49 Art. 18B.253. LIMITATION: PEN REGISTERS  
 18-50 Art. 18B.254. APPLICATION OR ORDER NOT REQUIRED FOR  
 18-51 CERTAIN SEARCHES  
 18-52 SUBCHAPTER G. OVERSIGHT  
 18-53 Art. 18B.301. COMPLIANCE AUDIT  
 18-54 Art. 18B.302. REPORT OF EXPENDITURES  
 18-55 SUBCHAPTER H. ACCESS TO STORED COMMUNICATIONS AND OTHER STORED  
 18-56 CUSTOMER DATA  
 18-57 Art. 18B.351. GOVERNMENT ACCESS TO ELECTRONIC CUSTOMER  
 18-58 DATA  
 18-59 Art. 18B.352. COURT ORDER FOR GOVERNMENT ACCESS TO  
 18-60 STORED CUSTOMER DATA  
 18-61 Art. 18B.353. WARRANT ISSUED IN THIS STATE:  
 18-62 APPLICABILITY  
 18-63 Art. 18B.354. WARRANT ISSUED IN THIS STATE:  
 18-64 APPLICATION AND ISSUANCE OF WARRANT  
 18-65 Art. 18B.355. WARRANT ISSUED IN THIS STATE: EXECUTION  
 18-66 OF WARRANT  
 18-67 Art. 18B.356. WARRANT ISSUED IN THIS STATE:  
 18-68 COMPLIANCE WITH WARRANT  
 18-

- 19-1 Art. 18B.357. WARRANT ISSUED IN THIS STATE:  
 19-2 AUTHENTICATION OF RECORDS BY SERVICE  
 19-3 PROVIDER  
 19-4 Art. 18B.358. WARRANT ISSUED IN ANOTHER STATE  
 19-5 Art. 18B.359. GOVERNMENT ACCESS TO CERTAIN STORED  
 19-6 CUSTOMER DATA WITHOUT LEGAL PROCESS  
 19-7 SUBCHAPTER I. BACKUP PRESERVATION OF ELECTRONIC CUSTOMER DATA  
 19-8 Art. 18B.401. BACKUP PRESERVATION OF ELECTRONIC  
 19-9 CUSTOMER DATA  
 19-10 Art. 18B.402. NOTICE TO SUBSCRIBER OR CUSTOMER  
 19-11 Art. 18B.403. RELEASE OF COPY OF ELECTRONIC CUSTOMER  
 19-12 DATA  
 19-13 Art. 18B.404. DESTRUCTION OF COPY OF ELECTRONIC  
 19-14 CUSTOMER DATA  
 19-15 Art. 18B.405. REQUEST FOR COPY OF ELECTRONIC CUSTOMER  
 19-16 DATA BY AUTHORIZED PEACE OFFICER  
 19-17 Art. 18B.406. PROCEEDINGS TO QUASH SUBPOENA OR VACATE  
 19-18 COURT ORDER  
 19-19 SUBCHAPTER J. PRODUCTION OF CERTAIN BUSINESS RECORDS  
 19-20 Art. 18B.451. SUBPOENA AUTHORITY  
 19-21 Art. 18B.452. REPORT OF ISSUANCE OF SUBPOENA  
 19-22 Art. 18B.453. COMPLIANCE WITH POLICY FOR INSTALLATION  
 19-23 AND USE OF EQUIPMENT  
 19-24 SUBCHAPTER K. SERVICE PROVIDER POWERS AND DUTIES  
 19-25 Art. 18B.501. PRECLUSION OF NOTIFICATION  
 19-26 Art. 18B.502. DISCLOSURE BY SERVICE PROVIDER  
 19-27 PROHIBITED  
 19-28 Art. 18B.503. REIMBURSEMENT OF COSTS  
 19-29 SUBCHAPTER L. REMEDIES  
 19-30 Art. 18B.551. CAUSE OF ACTION  
 19-31 Art. 18B.552. NO CAUSE OF ACTION  
 19-32 Art. 18B.553. EXCLUSIVITY OF REMEDIES  
 19-33 CHAPTER 18B. INSTALLATION AND USE OF TRACKING EQUIPMENT; ACCESS TO  
 19-34 COMMUNICATIONS  
 19-35 SUBCHAPTER A. GENERAL PROVISIONS  
 19-36 Art. 18B.001. DEFINITIONS. In this chapter:  
 19-37 (1) "Authorized peace officer" means:  
 19-38 (A) a sheriff or deputy sheriff;  
 19-39 (B) a constable or deputy constable;  
 19-40 (C) a marshal or police officer of a  
 19-41 municipality;  
 19-42 (D) a ranger or officer commissioned by the  
 19-43 Public Safety Commission or the director of the department;  
 19-44 (E) an investigator of a prosecutor's office;  
 19-45 (F) a law enforcement agent of the Texas  
 19-46 Alcoholic Beverage Commission;  
 19-47 (G) a law enforcement officer commissioned by the  
 19-48 Parks and Wildlife Commission;  
 19-49 (H) an enforcement officer appointed by the  
 19-50 inspector general of the Texas Department of Criminal Justice under  
 19-51 Section 493.019, Government Code;  
 19-52 (I) an investigator commissioned by the attorney  
 19-53 general under Section 402.009, Government Code; or  
 19-54 (J) a member of an arson investigating unit  
 19-55 commissioned by a municipality, a county, or the state.  
 19-56 (2) "Communication common carrier," "electronic  
 19-57 communication," "electronic communications service," "user," and  
 19-58 "wire communication" have the meanings assigned by Article 18A.001.  
 19-59 (3) "Department" means the Department of Public Safety  
 19-60 of the State of Texas.  
 19-61 (4) "Designated law enforcement office or agency"  
 19-62 means:  
 19-63 (A) the sheriff's department of a county with a  
 19-64 population of 3.3 million or more;  
 19-65 (B) a police department in a municipality with a  
 19-66 population of 500,000 or more; or  
 19-67 (C) the office of inspector general of the Texas  
 19-68 Department of Criminal Justice.  
 19-69 (5) "Domestic entity" has the meaning assigned by

20-1 Section 1.002, Business Organizations Code.

20-2 (6) "Electronic communications system" means:

20-3 (A) a wire, radio, electromagnetic,  
20-4 photo-optical, or photoelectronic facility for the transmission of  
20-5 wire or electronic communications; and

20-6 (B) any computer facility or related electronic  
20-7 equipment for the electronic storage of wire or electronic  
20-8 communications.

20-9 (7) "Electronic customer data" means data or records  
20-10 that:

20-11 (A) are in the possession, care, custody, or  
20-12 control of a provider of an electronic communications service or  
20-13 provider of a remote computing service; and

20-14 (B) contain:

20-15 (i) information revealing the identity of  
20-16 customers of the applicable service;

20-17 (ii) information about a customer's use of  
20-18 the applicable service;

20-19 (iii) information that identifies the  
20-20 recipient or destination of a wire or electronic communication sent  
20-21 to or by a customer;

20-22 (iv) the content of a wire or electronic  
20-23 communication sent to or by a customer; and

20-24 (v) any data stored with the applicable  
20-25 service provider by or on behalf of a customer.

20-26 (8) "Electronic storage" means storage of electronic  
20-27 customer data in a computer, computer network, or computer system,  
20-28 regardless of whether the data is subject to recall, further  
20-29 manipulation, deletion, or transmission. The term includes storage  
20-30 of a wire or electronic communication by an electronic  
20-31 communications service or a remote computing service.

20-32 (9) "ESN reader" means a device that, without  
20-33 intercepting the contents of a communication, records the  
20-34 electronic serial number from the data track of a wireless  
20-35 telephone, cellular telephone, or similar communication device  
20-36 that transmits its operational status to a base site.

20-37 (10) "Pen register" means a device or process that  
20-38 records or decodes dialing, routing, addressing, or signaling  
20-39 information transmitted by an instrument or facility from which a  
20-40 wire or electronic communication is transmitted, if the information  
20-41 does not include the contents of the communication. The term does  
20-42 not include a device used by a provider or customer of a wire or  
20-43 electronic communications service in the ordinary course of the  
20-44 service provider's or customer's business for purposes of:

20-45 (A) billing or recording incident to billing for  
20-46 communications services; or

20-47 (B) cost accounting, security control, or other  
20-48 ordinary business purposes.

20-49 (11) "Prosecutor" means a district attorney, criminal  
20-50 district attorney, or county attorney performing the duties of a  
20-51 district attorney.

20-52 (12) "Remote computing service" means the provision of  
20-53 computer storage or processing services to the public by means of an  
20-54 electronic communications system.

20-55 (13) "Trap and trace device" means a device or process  
20-56 that records an incoming electronic or other impulse that  
20-57 identifies the originating number or other dialing, routing,  
20-58 addressing, or signaling information reasonably likely to identify  
20-59 the source of a wire or electronic communication, if the  
20-60 information does not include the contents of the communication.  
20-61 The term does not include a device or telecommunications network  
20-62 used in providing:

20-63 (A) a caller identification service authorized  
20-64 by the Public Utility Commission of Texas under Subchapter E,  
20-65 Chapter 55, Utilities Code;

20-66 (B) the services referenced by Section  
20-67 55.102(b), Utilities Code; or

20-68 (C) a caller identification service provided by a  
20-69 commercial mobile radio service provider licensed by the Federal



21-1 Communications Commission. (Code Crim. Proc., Art. 18.20, Secs.  
 21-2 1(17), (20); Art. 18.21, Secs. 1(1) (part), (2), (3), (3-a), (3-b),  
 21-3 (3-c), (4), (6), (7), (8), (10).)

21-4 SUBCHAPTER B. APPLICATION FOR ORDER AUTHORIZING INSTALLATION AND  
 21-5 USE OF EQUIPMENT

21-6 Art. 18B.051. REQUIREMENTS REGARDING REQUEST FOR AND FILING  
 21-7 OF APPLICATION. (a) A prosecutor with jurisdiction in a county  
 21-8 within a judicial district described by Article 18B.052 may file  
 21-9 with a district judge in the judicial district an application for  
 21-10 the installation and use of a pen register, ESN reader, trap and  
 21-11 trace device, or similar equipment that combines the function of a  
 21-12 pen register and a trap and trace device.

21-13 (b) A prosecutor may file an application under this  
 21-14 subchapter or under federal law on:

- 21-15 (1) the prosecutor's own motion; or
- 21-16 (2) the request of an authorized peace officer,  
 21-17 regardless of whether the peace officer is commissioned by the  
 21-18 department.

21-19 (c) A prosecutor must make an application personally and may  
 21-20 not make the application through an assistant or other person  
 21-21 acting on the prosecutor's behalf if the prosecutor:

- 21-22 (1) files an application on the prosecutor's own  
 21-23 motion; or
- 21-24 (2) files an application for the installation and use  
 21-25 of a pen register, ESN reader, or similar equipment on the request  
 21-26 of an authorized peace officer not commissioned by the department,  
 21-27 other than an authorized peace officer employed by a designated law  
 21-28 enforcement office or agency.

21-29 (d) A prosecutor may make an application through an  
 21-30 assistant or other person acting on the prosecutor's behalf if the  
 21-31 prosecutor files an application for the installation and use of:

- 21-32 (1) a pen register, ESN reader, or similar equipment  
 21-33 on the request of:
  - 21-34 (A) an authorized peace officer who is  
 21-35 commissioned by the department; or
  - 21-36 (B) an authorized peace officer of a designated  
 21-37 law enforcement office or agency; or
- 21-38 (2) a trap and trace device or similar equipment on the  
 21-39 request of an authorized peace officer, regardless of whether the  
 21-40 peace officer is commissioned by the department. (Code Crim.  
 21-41 Proc., Art. 18.21, Secs. 2(a) (part), (b).)

21-42 Art. 18B.052. JURISDICTION. An application under this  
 21-43 subchapter must be filed in a judicial district in which is located:

- 21-44 (1) the site of the proposed installation or use of the  
 21-45 device or equipment;
- 21-46 (2) the site of the communication device on which the  
 21-47 device or equipment is proposed to be installed or used;
- 21-48 (3) the billing, residential, or business address of  
 21-49 the subscriber to the electronic communications service on which  
 21-50 the device or equipment is proposed to be installed or used;
- 21-51 (4) the headquarters of:

21-52 (A) the office of the prosecutor filing an  
 21-53 application under this subchapter; or

21-54 (B) a law enforcement agency that requests the  
 21-55 prosecutor to file an application under this subchapter or that  
 21-56 proposes to execute an order authorizing installation and use of  
 21-57 the device or equipment; or

21-58 (5) the headquarters of a service provider ordered to  
 21-59 install the device or equipment. (Code Crim. Proc., Art. 18.21,  
 21-60 Sec. 2(a) (part).)

21-61 Art. 18B.053. APPLICATION REQUIREMENTS. An application  
 21-62 under this subchapter must:

- 21-63 (1) be made in writing under oath;
- 21-64 (2) include the name of the subscriber and the  
 21-65 telephone number and location of the communication device on which  
 21-66 the pen register, ESN reader, trap and trace device, or similar  
 21-67 equipment will be used, to the extent that information is known or  
 21-68 is reasonably ascertainable; and
- 21-69 (3) state that the installation and use of the device

22-1 or equipment will likely produce information that is material to an  
22-2 ongoing criminal investigation. (Code Crim. Proc., Art. 18.21,  
22-3 Sec. 2(c).)

22-4 SUBCHAPTER C. ORDER AUTHORIZING INSTALLATION AND USE OF EQUIPMENT

22-5 Art. 18B.101. ORDER AUTHORIZING INSTALLATION AND USE OF PEN  
22-6 REGISTER, ESN READER, OR SIMILAR EQUIPMENT. (a) On presentation of  
22-7 an application under Subchapter B, a judge may order the  
22-8 installation and use of a pen register, ESN reader, or similar  
22-9 equipment by an authorized peace officer commissioned by the  
22-10 department or an authorized peace officer of a designated law  
22-11 enforcement office or agency.

22-12 (b) On request of the applicant, the judge shall direct in  
22-13 the order that a communication common carrier or a provider of an  
22-14 electronic communications service provide all information,  
22-15 facilities, and technical assistance necessary to facilitate the  
22-16 installation and use of the device or equipment by the department or  
22-17 designated law enforcement office or agency unobtrusively and with  
22-18 a minimum of interference to the services provided by the carrier or  
22-19 service provider. (Code Crim. Proc., Art. 18.21, Sec. 2(d)  
22-20 (part).)

22-21 Art. 18B.102. ORDER AUTHORIZING INSTALLATION AND USE OF  
22-22 TRAP AND TRACE DEVICE OR SIMILAR EQUIPMENT. (a) On presentation of  
22-23 an application under Subchapter B, a judge may order the  
22-24 installation and use of a trap and trace device or similar equipment  
22-25 on the appropriate line by a communication common carrier or other  
22-26 person.

22-27 (b) The judge may direct the communication common carrier or  
22-28 other person, including any landlord or other custodian of  
22-29 equipment, to provide all information, facilities, and technical  
22-30 assistance necessary to install or use the device or equipment  
22-31 unobtrusively and with a minimum of interference to the services  
22-32 provided by the communication common carrier, landlord, custodian,  
22-33 or other person.

22-34 (c) Unless otherwise ordered by the court, the results of  
22-35 the device or equipment shall be provided to the applicant, as  
22-36 designated by the court, at reasonable intervals during regular  
22-37 business hours, for the duration of the order. (Code Crim. Proc.,  
22-38 Art. 18.21, Sec. 2(e) (part).)

22-39 Art. 18B.103. COMPENSATION FOR CARRIER OR SERVICE PROVIDER.

22-40 (a) A communication common carrier or a provider of an electronic  
22-41 communications service that provides facilities and assistance to  
22-42 the department or a designated law enforcement office or agency  
22-43 under Article 18B.101(b) is entitled to compensation at the  
22-44 prevailing rates for the facilities and assistance.

22-45 (b) A communication common carrier that provides facilities  
22-46 and assistance to a designated law enforcement office or agency  
22-47 under Article 18B.102(b) is entitled to compensation at the  
22-48 prevailing rates for the facilities and assistance. (Code Crim.  
22-49 Proc., Art. 18.21, Secs. 2(d) (part), (e) (part).)

22-50 Art. 18B.104. DURATION OF ORDER. (a) An order for the  
22-51 installation and use of a device or equipment under this subchapter  
22-52 is valid for a period not to exceed 60 days after the earlier of the  
22-53 date the device or equipment is installed or the 10th day after the  
22-54 date the order is entered, unless the prosecutor applies for and  
22-55 obtains an extension of the order from the court before the order  
22-56 expires.

22-57 (b) Each extension granted under Subsection (a) may not  
22-58 exceed a period of 60 days, except that the court may extend an  
22-59 order for a period not to exceed one year with the consent of the  
22-60 subscriber or customer of the service on which the device or  
22-61 equipment is used. (Code Crim. Proc., Art. 18.21, Sec. 2(f).)

22-62 Art. 18B.105. SEALING RECORDS OF APPLICATION AND ORDER. A  
22-63 district court shall seal an application and order granted under  
22-64 this chapter. (Code Crim. Proc., Art. 18.21, Sec. 2(g).)

22-65 SUBCHAPTER D. EMERGENCY INSTALLATION AND USE OF CERTAIN EQUIPMENT

22-66 Art. 18B.151. EMERGENCY INSTALLATION AND USE OF PEN  
22-67 REGISTER OR TRAP AND TRACE DEVICE. (a) In this article, "immediate  
22-68 life-threatening situation" has the meaning assigned by Article  
22-69 18A.201.

23-1 (b) A peace officer authorized to possess, install,  
23-2 operate, or monitor a device under Subchapter E, Chapter 18A, may  
23-3 install and use a pen register or trap and trace device if the peace  
23-4 officer reasonably believes:

23-5 (1) an immediate life-threatening situation exists  
23-6 that:

23-7 (A) is within the territorial jurisdiction of the  
23-8 peace officer or another officer the peace officer is assisting;  
23-9 and

23-10 (B) requires the installation of a pen register  
23-11 or trap and trace device before an order authorizing the  
23-12 installation and use can, with due diligence, be obtained under  
23-13 this chapter; and

23-14 (2) there are sufficient grounds under this chapter on  
23-15 which to obtain an order authorizing the installation and use of a  
23-16 pen register or trap and trace device. (Code Crim. Proc., Art.  
23-17 18.21, Secs. 1(1) (part), 3(a).)

23-18 Art. 18B.152. ORDER AUTHORIZING EMERGENCY INSTALLATION AND  
23-19 USE. (a) A peace officer who installs or uses a pen register or  
23-20 trap and trace device under Article 18B.151 shall:

23-21 (1) promptly report the installation or use of the  
23-22 device to the prosecutor in the county in which the device is  
23-23 installed or used; and

23-24 (2) within 48 hours after the installation of the  
23-25 device is complete or the use of the device begins, whichever occurs  
23-26 first, obtain an order under Subchapter C authorizing the  
23-27 installation and use of the device.

23-28 (b) A judge may issue an order authorizing the installation  
23-29 and use of a device under this subchapter during the 48-hour period  
23-30 prescribed by Subsection (a)(2). If an order is denied or is not  
23-31 issued within the 48-hour period, the peace officer shall terminate  
23-32 use of and remove the pen register or trap and trace device promptly  
23-33 on the earlier of the denial or the expiration of 48 hours. (Code  
23-34 Crim. Proc., Art. 18.21, Secs. 3(a) (part), (b), (c).)

23-35 Art. 18B.153. ADMISSIBILITY OF EVIDENCE OBTAINED. The  
23-36 state may not use as evidence in a criminal proceeding any  
23-37 information gained through the use of a pen register or trap and  
23-38 trace device installed under this subchapter if an authorized peace  
23-39 officer:

23-40 (1) does not apply for authorization for the pen  
23-41 register or trap and trace device; or

23-42 (2) applies for but does not obtain that  
23-43 authorization. (Code Crim. Proc., Art. 18.21, Sec. 3(d).)

23-44 SUBCHAPTER E. MOBILE TRACKING DEVICES

23-45 Art. 18B.201. DEFINITION. In this subchapter, "mobile  
23-46 tracking device" means an electronic or mechanical device that  
23-47 permits tracking the movement of a person, vehicle, container,  
23-48 item, or object. (Code Crim. Proc., Art. 18.21, Sec. 1(5).)

23-49 Art. 18B.202. ORDER AUTHORIZING INSTALLATION AND USE OF  
23-50 MOBILE TRACKING DEVICE. (a) A district judge may issue an order  
23-51 for the installation and use of a mobile tracking device only on the  
23-52 application of an authorized peace officer.

23-53 (b) An application must be written, signed, and sworn to  
23-54 before the judge.

23-55 (c) The affidavit must:

23-56 (1) state the name, department, agency, and address of  
23-57 the applicant;

23-58 (2) identify the vehicle, container, or item to which,  
23-59 in which, or on which the mobile tracking device is to be attached,  
23-60 placed, or otherwise installed;

23-61 (3) state the name of the owner or possessor of the  
23-62 vehicle, container, or item identified under Subdivision (2);

23-63 (4) state the judicial jurisdictional area in which  
23-64 the vehicle, container, or item identified under Subdivision (2) is  
23-65 expected to be found; and

23-66 (5) state the facts and circumstances that provide the  
23-67 applicant with a reasonable suspicion that:

23-68 (A) criminal activity has been, is, or will be  
23-69 committed; and



24-1 (B) the installation and use of a mobile tracking  
 24-2 device is likely to produce information that is material to an  
 24-3 ongoing criminal investigation of that criminal activity. (Code  
 24-4 Crim. Proc., Art. 18.21, Secs. 14(a) (part), (c).)

24-5 Art. 18B.203. JURISDICTION. (a) A district judge may issue  
 24-6 an order for the installation and use of a mobile tracking device in  
 24-7 the same judicial district as the site of:

24-8 (1) the investigation; or  
 24-9 (2) the person, vehicle, container, item, or object  
 24-10 the movement of which will be tracked by the device.

24-11 (b) The order may authorize the use of a mobile tracking  
 24-12 device outside the judicial district but within the state, if the  
 24-13 device is installed within the district. (Code Crim. Proc., Art.  
 24-14 18.21, Secs. 14(a), (b).)

24-15 Art. 18B.204. NOTIFICATION OF JUDGE FOLLOWING ACTIVATION OF  
 24-16 MOBILE TRACKING DEVICE. Within 72 hours after the time a mobile  
 24-17 tracking device is activated in place on or within a vehicle,  
 24-18 container, or item, the applicant for whom an order was issued under  
 24-19 this subchapter shall notify in writing the judge who issued the  
 24-20 order. (Code Crim. Proc., Art. 18.21, Sec. 14(d).)

24-21 Art. 18B.205. DURATION OF ORDER. (a) An order under this  
 24-22 subchapter expires not later than the 90th day after the date that  
 24-23 the mobile tracking device was activated in place on or within the  
 24-24 vehicle, container, or item.

24-25 (b) For good cause shown, the judge may grant an extension  
 24-26 for an additional 90-day period. (Code Crim. Proc., Art. 18.21,  
 24-27 Sec. 14(e).)

24-28 Art. 18B.206. REMOVAL OF DEVICE. (a) The applicant shall  
 24-29 remove or cause to be removed the mobile tracking device as soon as  
 24-30 is practicable after the authorization period expires.

24-31 (b) If removal is not practicable, the device may not be  
 24-32 monitored after the expiration of the order. (Code Crim. Proc.,  
 24-33 Art. 18.21, Sec. 14(f).)

24-34 Art. 18B.207. NONAPPLICABILITY. (a) This subchapter does  
 24-35 not apply to a global positioning or similar device installed in or  
 24-36 on an item of property by the owner or with the consent of the owner  
 24-37 of the property.

24-38 (b) In an emergency, a private entity may monitor a device  
 24-39 described by Subsection (a). (Code Crim. Proc., Art. 18.21, Sec.  
 24-40 14(g).)

24-41 SUBCHAPTER F. LAW ENFORCEMENT POWERS AND DUTIES

24-42 Art. 18B.251. POLICY REQUIRED. Each designated law  
 24-43 enforcement office or agency shall:

24-44 (1) adopt a written policy governing the application  
 24-45 of this chapter to the office or agency; and

24-46 (2) submit the policy to the director of the  
 24-47 department, or the director's designee, for approval. (Code Crim.  
 24-48 Proc., Art. 18.21, Sec. 2(j).)

24-49 Art. 18B.252. PEACE OFFICERS AUTHORIZED TO POSSESS,  
 24-50 INSTALL, OPERATE, OR MONITOR EQUIPMENT. (a) A peace officer of a  
 24-51 designated law enforcement office or agency is authorized to  
 24-52 possess, install, operate, or monitor a pen register, ESN reader,  
 24-53 or similar equipment if the peace officer's name is on the list  
 24-54 submitted to the director of the department under Subsection (b).

24-55 (b) If the director of the department or the director's  
 24-56 designee approves the policy submitted under Article 18B.251, the  
 24-57 inspector general of the Texas Department of Criminal Justice or  
 24-58 the inspector general's designee, or the sheriff or chief of a  
 24-59 designated law enforcement agency or the sheriff's or chief's  
 24-60 designee, as applicable, shall submit to the director a written  
 24-61 list of all peace officers in the designated law enforcement office  
 24-62 or agency who are authorized to possess, install, operate, or  
 24-63 monitor pen registers, ESN readers, or similar equipment. (Code  
 24-64 Crim. Proc., Art. 18.21, Secs. 2(i), (k).)

24-65 Art. 18B.253. LIMITATION: PEN REGISTERS. To prevent  
 24-66 inclusion of the contents of a wire or electronic communication, a  
 24-67 governmental agency authorized to install and use a pen register  
 24-68 under this chapter or other law must use reasonably available  
 24-69 technology to only record and decode electronic or other impulses



25-1 used to identify the numbers dialed, routed, addressed, or  
 25-2 otherwise processed or transmitted by the communication. (Code  
 25-3 Crim. Proc., Art. 18.21, Sec. 16.)

25-4 Art. 18B.254. APPLICATION OR ORDER NOT REQUIRED FOR CERTAIN  
 25-5 SEARCHES. A peace officer is not required to file an application  
 25-6 under Subchapter B or obtain an order under Subchapter C before the  
 25-7 peace officer makes an otherwise lawful search, with or without a  
 25-8 warrant, to determine the contents of a caller identification  
 25-9 message, pager message, or voice message that is contained within  
 25-10 the memory of an end-user's identification, paging, or answering  
 25-11 device. (Code Crim. Proc., Art. 18.21, Sec. 2(h).)

#### 25-12 SUBCHAPTER G. OVERSIGHT

25-13 Art. 18B.301. COMPLIANCE AUDIT. (a) The department may  
 25-14 conduct an audit of a designated law enforcement office or agency to  
 25-15 ensure compliance with this chapter.

25-16 (b) If the department determines from the audit that the  
 25-17 designated law enforcement office or agency is not in compliance  
 25-18 with the policy adopted by the office or agency under Article  
 25-19 18B.251, the department shall notify the office or agency in  
 25-20 writing that the office or agency, as applicable, is not in  
 25-21 compliance.

25-22 (c) If the department determines that the office or agency  
 25-23 still is not in compliance with the policy on the 90th day after the  
 25-24 date the office or agency receives written notice under Subsection  
 25-25 (b), the office or agency loses the authority granted by this  
 25-26 chapter until:

25-27 (1) the office or agency adopts a new written policy  
 25-28 governing the application of this chapter to the office or agency;  
 25-29 and

25-30 (2) the department approves that policy. (Code Crim.  
 25-31 Proc., Art. 18.21, Sec. 2(1).)

25-32 Art. 18B.302. REPORT OF EXPENDITURES. (a) The inspector  
 25-33 general of the Texas Department of Criminal Justice or the sheriff  
 25-34 or chief of a designated law enforcement agency, as applicable,  
 25-35 shall submit to the director of the department a written report of  
 25-36 expenditures made by the designated law enforcement office or  
 25-37 agency to purchase and maintain a pen register, ESN reader, or  
 25-38 similar equipment authorized under this chapter.

25-39 (b) The director of the department shall report the  
 25-40 expenditures publicly on an annual basis on the department's  
 25-41 Internet website or by other comparable means. (Code Crim. Proc.,  
 25-42 Art. 18.21, Sec. 2(m).)

#### 25-43 SUBCHAPTER H. ACCESS TO STORED COMMUNICATIONS AND OTHER STORED 25-44 CUSTOMER DATA

25-45 Art. 18B.351. GOVERNMENT ACCESS TO ELECTRONIC CUSTOMER  
 25-46 DATA. (a) An authorized peace officer may require a provider of an  
 25-47 electronic communications service or a provider of a remote  
 25-48 computing service to disclose electronic customer data that is in  
 25-49 electronic storage by obtaining a warrant under Article 18B.354.

25-50 (b) An authorized peace officer may require a provider of an  
 25-51 electronic communications service or a provider of a remote  
 25-52 computing service to disclose only electronic customer data that is  
 25-53 information revealing the identity of customers of the applicable  
 25-54 service or information about a customer's use of the applicable  
 25-55 service, without giving the subscriber or customer notice:

25-56 (1) by obtaining an administrative subpoena  
 25-57 authorized by statute;

25-58 (2) by obtaining a grand jury subpoena;

25-59 (3) by obtaining a court order under Article 18B.352;

25-60 (4) by obtaining a warrant under Article 18B.354;

25-61 (5) by obtaining the consent of the subscriber or  
 25-62 customer to the disclosure of the data; or

25-63 (6) as otherwise permitted by applicable federal law.

25-64 (Code Crim. Proc., Art. 18.21, Secs. 4(a), (b).)

25-65 Art. 18B.352. COURT ORDER FOR GOVERNMENT ACCESS TO STORED  
 25-66 CUSTOMER DATA. (a) A court shall issue an order authorizing  
 25-67 disclosure of contents, records, or other information of a wire or  
 25-68 electronic communication held in electronic storage if the court  
 25-69 determines that there is a reasonable belief that the information

26-1 sought is relevant to a legitimate law enforcement inquiry.

26-2 (b) A court may grant a motion by the service provider to  
 26-3 quash or modify the order issued under Subsection (a) if the court  
 26-4 determines that:

26-5 (1) the information or records requested are unusually  
 26-6 voluminous; or

26-7 (2) compliance with the order would cause an undue  
 26-8 burden on the provider. (Code Crim. Proc., Art. 18.21, Sec. 5.)

26-9 Art. 18B.353. WARRANT ISSUED IN THIS STATE: APPLICABILITY.  
 26-10 Articles 18B.354-18B.357 apply to a warrant required under Article  
 26-11 18B.351 to obtain electronic customer data, including the contents  
 26-12 of a wire or electronic communication. (Code Crim. Proc.,  
 26-13 Art. 18.21, Sec. 5A(a).)

26-14 Art. 18B.354. WARRANT ISSUED IN THIS STATE: APPLICATION AND  
 26-15 ISSUANCE OF WARRANT. (a) On the filing of an application by an  
 26-16 authorized peace officer, a district judge may issue a search  
 26-17 warrant under this article for electronic customer data held in  
 26-18 electronic storage, including the contents of and records and other  
 26-19 information related to a wire or electronic communication held in  
 26-20 electronic storage, by a provider of an electronic communications  
 26-21 service or a provider of a remote computing service described by  
 26-22 Article 18B.355(b), regardless of whether the customer data is held  
 26-23 at a location in this state or another state. An application made  
 26-24 under this subsection must demonstrate probable cause for the  
 26-25 issuance of the warrant and must be supported by the oath of the  
 26-26 authorized peace officer.

26-27 (b) A search warrant may not be issued under this article  
 26-28 unless the sworn affidavit required by Article 18.01(b) provides  
 26-29 sufficient and substantial facts to establish probable cause that:

26-30 (1) a specific offense has been committed; and

26-31 (2) the electronic customer data sought:

26-32 (A) constitutes evidence of that offense or  
 26-33 evidence that a particular person committed that offense; and

26-34 (B) is held in electronic storage by the service  
 26-35 provider on which the warrant is served under Article 18B.355(c).

26-36 (c) Only the electronic customer data described in the sworn  
 26-37 affidavit required by Article 18.01(b) may be seized under the  
 26-38 warrant.

26-39 (d) A warrant issued under this article shall run in the  
 26-40 name of "The State of Texas."

26-41 (e) Article 18.011 applies to an affidavit presented under  
 26-42 Article 18.01(b) for the issuance of a warrant under this article,  
 26-43 and the affidavit may be sealed in the manner provided by that  
 26-44 article. (Code Crim. Proc., Art. 18.21, Secs. 5A(b), (c), (d),  
 26-45 (e), (f).)

26-46 Art. 18B.355. WARRANT ISSUED IN THIS STATE: EXECUTION OF  
 26-47 WARRANT. (a) Not later than the 11th day after the date of  
 26-48 issuance, an authorized peace officer shall execute a warrant  
 26-49 issued under Article 18B.354, except that the peace officer shall  
 26-50 execute the warrant within a shorter period if the district judge  
 26-51 directs a shorter period in the warrant. For purposes of this  
 26-52 subsection, a warrant is executed when the warrant is served in the  
 26-53 manner described by Subsection (c).

26-54 (b) A warrant issued under Article 18B.354 may be served  
 26-55 only on a provider of an electronic communications service or a  
 26-56 provider of a remote computing service that is a domestic entity or  
 26-57 a company or entity otherwise doing business in this state under a  
 26-58 contract or a terms of service agreement with a resident of this  
 26-59 state, if any part of that contract or agreement is to be performed  
 26-60 in this state.

26-61 (c) A search warrant issued under Article 18B.354 is served  
 26-62 when an authorized peace officer delivers the warrant by hand, by  
 26-63 facsimile transmission, or, in a manner allowing proof of delivery,  
 26-64 by means of the United States mail or a private delivery service to:

26-65 (1) a person specified by Section 5.255, Business  
 26-66 Organizations Code;

26-67 (2) the secretary of state in the case of a company or  
 26-68 entity to which Section 5.251, Business Organizations Code,  
 26-69 applies; or

27-1 (3) any other person or entity designated to receive  
27-2 the service of process.

27-3 (d) The district judge shall hear and decide any motion to  
27-4 quash the warrant not later than the fifth business day after the  
27-5 date the service provider files the motion. The judge may allow the  
27-6 service provider to appear at the hearing by teleconference. (Code  
27-7 Crim. Proc., Art. 18.21, Secs. 5A(b) (part), (g), (h) (part), (i),  
27-8 (m).)

27-9 Art. 18B.356. WARRANT ISSUED IN THIS STATE: COMPLIANCE  
27-10 WITH WARRANT. (a) A district judge shall indicate in a warrant  
27-11 issued under Article 18A.354 that the deadline for compliance by  
27-12 the provider of an electronic communications service or the  
27-13 provider of a remote computing service is the 15th business day  
27-14 after the date the warrant is served if the warrant is to be served  
27-15 on a domestic entity or a company or entity otherwise doing business  
27-16 in this state, except that the deadline for compliance with a  
27-17 warrant served in accordance with Section 5.251, Business  
27-18 Organizations Code, may be extended to a date that is not later than  
27-19 the 30th day after the date the warrant is served.

27-20 (b) The judge may indicate in the warrant that the deadline  
27-21 for compliance is earlier than the 15th business day after the date  
27-22 the warrant is served if the authorized peace officer who applies  
27-23 for the warrant makes a showing and the judge finds that failure to  
27-24 comply with the warrant by the earlier deadline would cause serious  
27-25 jeopardy to an investigation, cause undue delay of a trial, or  
27-26 create a material risk of:

27-27 (1) danger to the life or physical safety of any  
27-28 person;

27-29 (2) flight from prosecution;

27-30 (3) the tampering with or destruction of evidence; or

27-31 (4) intimidation of potential witnesses.

27-32 (c) The service provider shall produce all electronic  
27-33 customer data, contents of communications, and other information  
27-34 sought, regardless of where the information is held and within the  
27-35 period allowed for compliance with the warrant, as provided by  
27-36 Subsection (a) or (b).

27-37 (d) A court may find any designated officer, designated  
27-38 director, or designated owner of a company or entity in contempt of  
27-39 court if the person by act or omission is responsible for the  
27-40 failure of the company or entity to comply with the warrant within  
27-41 the period allowed for compliance.

27-42 (e) The failure of a company or entity to timely deliver the  
27-43 information sought in the warrant does not affect the admissibility  
27-44 of that evidence in a criminal proceeding.

27-45 (f) On a service provider's compliance with a warrant issued  
27-46 under Article 18B.354, an authorized peace officer shall file a  
27-47 return of the warrant and a copy of the inventory of the seized  
27-48 property as required under Article 18.10.

27-49 (g) A provider of an electronic communications service or a  
27-50 provider of a remote computing service responding to a warrant  
27-51 issued under Article 18B.354 may request an extension of the period  
27-52 for compliance with the warrant if extenuating circumstances exist  
27-53 to justify the extension. The district judge shall grant a request  
27-54 for an extension based on those circumstances if:

27-55 (1) the authorized peace officer who applied for the  
27-56 warrant or another appropriate authorized peace officer agrees to  
27-57 the extension; or

27-58 (2) the district judge finds that the need for the  
27-59 extension outweighs the likelihood that the extension will cause an  
27-60 adverse circumstance described by Subsection (b). (Code Crim.  
27-61 Proc., Art. 18.21, Secs. 5A(b) (part), (h) (part), (j), (l), (n).)

27-62 Art. 18B.357. WARRANT ISSUED IN THIS STATE: AUTHENTICATION  
27-63 OF RECORDS BY SERVICE PROVIDER. If an authorized peace officer  
27-64 serving a warrant under Article 18B.355 also delivers an affidavit  
27-65 form to the provider of an electronic communications service or the  
27-66 provider of a remote computing service responding to the warrant,  
27-67 and the peace officer also notifies the service provider in writing  
27-68 that an executed affidavit is required, the service provider shall  
27-69 verify the authenticity of the customer data, contents of



28-1 communications, and other information produced in compliance with  
 28-2 the warrant by including with the information an affidavit form  
 28-3 that:

28-4 (1) is completed and sworn to by a person who is a  
 28-5 custodian of the information or a person otherwise qualified to  
 28-6 attest to the authenticity of the information; and

28-7 (2) states that the information was stored in the  
 28-8 course of regularly conducted business of the service provider and  
 28-9 specifies whether the regular practice of the service provider is  
 28-10 to store that information. (Code Crim. Proc., Art. 18.21, Sec.  
 28-11 5A(k).)

28-12 Art. 18B.358. WARRANT ISSUED IN ANOTHER STATE. Any  
 28-13 domestic entity that provides electronic communications services  
 28-14 or remote computing services to the public shall comply with a  
 28-15 warrant issued in another state and seeking information described  
 28-16 by Article 18B.354(a), if the warrant is served on the entity in a  
 28-17 manner equivalent to the service of process requirements provided  
 28-18 by Article 18B.355(b). (Code Crim. Proc., Art. 18.21, Sec. 5B.)

28-19 Art. 18B.359. GOVERNMENT ACCESS TO CERTAIN STORED CUSTOMER  
 28-20 DATA WITHOUT LEGAL PROCESS. (a) A provider of a telephonic  
 28-21 communications service shall disclose to an authorized peace  
 28-22 officer, without legal process, subscriber listing information,  
 28-23 including name, address, and telephone number or similar access  
 28-24 code:

28-25 (1) that the service provider provides to others in  
 28-26 the course of providing publicly available directory or similar  
 28-27 assistance; or

28-28 (2) that is solely for use in the dispatch of emergency  
 28-29 vehicles and personnel responding to a distress call directed to an  
 28-30 emergency dispatch system or when the information is reasonably  
 28-31 necessary to aid in the dispatching of emergency vehicles and  
 28-32 personnel for the immediate prevention of death, personal injury,  
 28-33 or destruction of property.

28-34 (b) A provider of a telephonic communications service shall  
 28-35 provide to an authorized peace officer the name of the subscriber of  
 28-36 record whose published telephone number is provided to the service  
 28-37 provider by an authorized peace officer. (Code Crim. Proc., Art.  
 28-38 18.21, Secs. 4(c), (d).)

#### 28-39 SUBCHAPTER I. BACKUP PRESERVATION OF ELECTRONIC CUSTOMER DATA

28-40 Art. 18B.401. BACKUP PRESERVATION OF ELECTRONIC CUSTOMER  
 28-41 DATA. (a) A subpoena or court order under Article 18B.351(b) for  
 28-42 disclosure of certain electronic customer data held in electronic  
 28-43 storage by a provider of an electronic communications service or a  
 28-44 provider of a remote computing service may, for the purpose of  
 28-45 preserving the customer data sought by the subpoena or court order,  
 28-46 require that service provider to create a copy of that data.

28-47 (b) The service provider shall create the copy within a  
 28-48 reasonable period as determined by the court issuing the subpoena  
 28-49 or court order.

28-50 (c) On creating a copy under this article, the service  
 28-51 provider shall immediately notify the authorized peace officer who  
 28-52 presented the subpoena or court order requesting the copy.

28-53 (d) The service provider may not inform the subscriber or  
 28-54 customer whose data is being sought that the subpoena or court order  
 28-55 has been issued. (Code Crim. Proc., Art. 18.21, Secs. 6(a), (b).)

28-56 Art. 18B.402. NOTICE TO SUBSCRIBER OR CUSTOMER. Not later  
 28-57 than the third day after the date of the receipt of the notice under  
 28-58 Article 18B.401(c) from the applicable service provider, the  
 28-59 authorized peace officer who presented the subpoena or court order  
 28-60 requesting the copy shall provide notice of the creation of the copy  
 28-61 to the subscriber or customer whose electronic customer data is the  
 28-62 subject of the subpoena or court order. (Code Crim. Proc., Art.  
 28-63 18.21, Secs. 6(b) (part), (c).)

28-64 Art. 18B.403. RELEASE OF COPY OF ELECTRONIC CUSTOMER DATA.  
 28-65 The provider of an electronic communications service or the  
 28-66 provider of a remote computing service shall release a copy created  
 28-67 under this subchapter to the requesting authorized peace officer  
 28-68 not earlier than the 14th day after the date of the peace officer's  
 28-69 notice to the subscriber or customer if the service provider has



29-1 not:

29-2 (1) initiated proceedings to challenge the request of  
29-3 the peace officer for the copy; or

29-4 (2) received notice from the subscriber or customer  
29-5 that the subscriber or customer has initiated proceedings to  
29-6 challenge the request. (Code Crim. Proc., Art. 18.21, Sec. 6(d).)

29-7 Art. 18B.404. DESTRUCTION OF COPY OF ELECTRONIC CUSTOMER  
29-8 DATA. The provider of an electronic communications service or the  
29-9 provider of a remote computing service may not destroy or permit the  
29-10 destruction of a copy created under this subchapter until the later  
29-11 of:

29-12 (1) the delivery of electronic customer data to the  
29-13 applicable law enforcement agency; or

29-14 (2) the resolution of any court proceedings, including  
29-15 appeals of any proceedings, relating to the subpoena or court order  
29-16 requesting the creation of the copy. (Code Crim. Proc., Art. 18.21,  
29-17 Sec. 6(e).)

29-18 Art. 18B.405. REQUEST FOR COPY OF ELECTRONIC CUSTOMER DATA  
29-19 BY AUTHORIZED PEACE OFFICER. (a) An authorized peace officer who  
29-20 reasonably believes that notice to a subscriber or customer  
29-21 regarding a subpoena or court order would result in the destruction  
29-22 of or tampering with the electronic customer data sought may  
29-23 request the creation of a copy of the data.

29-24 (b) The peace officer's belief is not subject to challenge  
29-25 by the subscriber or customer or by a provider of an electronic  
29-26 communications service or a provider of a remote computing service.  
29-27 (Code Crim. Proc., Art. 18.21, Sec. 6(f).)

29-28 Art. 18B.406. PROCEEDINGS TO QUASH SUBPOENA OR VACATE COURT  
29-29 ORDER. (a) Not later than the 14th day after the date a subscriber  
29-30 or customer receives notice under Article 18B.402, the subscriber  
29-31 or customer may file a written motion to quash the subpoena or  
29-32 vacate the court order in the court that issued the subpoena or  
29-33 court order. The motion must contain an affidavit or other sworn  
29-34 statement stating:

29-35 (1) that the applicant is a subscriber or customer of  
29-36 the provider of an electronic communications service or the  
29-37 provider of a remote computing service from which the electronic  
29-38 customer data held in electronic storage for the subscriber or  
29-39 customer has been sought; and

29-40 (2) the applicant's reasons for believing that the  
29-41 customer data sought is not relevant to a legitimate law  
29-42 enforcement inquiry or that there has not been substantial  
29-43 compliance with the provisions of this chapter in some other  
29-44 respect.

29-45 (b) The subscriber or customer shall give written notice to  
29-46 the applicable service provider of the challenge to the subpoena or  
29-47 court order. The authorized peace officer requesting the subpoena  
29-48 or court order must be served a copy of the filed papers by personal  
29-49 delivery or by registered or certified mail.

29-50 (c) The court shall order the authorized peace officer to  
29-51 file a sworn response to the motion filed by the subscriber or  
29-52 customer if the court determines that the subscriber or customer  
29-53 has complied with the requirements of Subsections (a) and (b). On  
29-54 request of the peace officer, the court may permit the response to  
29-55 be filed in camera. The court may conduct any additional  
29-56 proceedings the court considers appropriate if the court is unable  
29-57 to make a determination on the motion on the basis of the parties'  
29-58 initial allegations and response.

29-59 (d) The court shall rule on the motion as soon as  
29-60 practicable after the filing of the peace officer's response. The  
29-61 court shall deny the motion if the court finds that the applicant is  
29-62 not the subscriber or customer whose data is the subject of the  
29-63 subpoena or court order or that there is reason to believe that the  
29-64 peace officer's inquiry is legitimate and that the data sought is  
29-65 relevant to that inquiry. The court shall quash the subpoena or  
29-66 vacate the court order if the court finds that the applicant is the  
29-67 subscriber or customer whose data is the subject of the subpoena or  
29-68 court order and that there is not a reason to believe that the data  
29-69 is relevant to a legitimate law enforcement inquiry or that there

30-1 has not been substantial compliance with the provisions of this  
 30-2 chapter.

30-3 (e) A court order denying a motion or application under this  
 30-4 article is not a final order, and an interlocutory appeal may not be  
 30-5 taken from the denial. (Code Crim. Proc., Art. 18.21, Secs. 6(g),  
 30-6 (h).)

30-7 SUBCHAPTER J. PRODUCTION OF CERTAIN BUSINESS RECORDS

30-8 Art. 18B.451. SUBPOENA AUTHORITY. The director of the  
 30-9 department or the director's designee, the inspector general of the  
 30-10 Texas Department of Criminal Justice or the inspector general's  
 30-11 designee, or the sheriff or chief of a designated law enforcement  
 30-12 agency or the sheriff's or chief's designee may issue an  
 30-13 administrative subpoena to a communication common carrier or a  
 30-14 provider of an electronic communications service to compel the  
 30-15 production of any carrier's or service provider's business records  
 30-16 that:

30-17 (1) disclose information about:

30-18 (A) the carrier's or service provider's  
 30-19 customers; or

30-20 (B) users of the services offered by the carrier  
 30-21 or service provider; and

30-22 (2) are material to a criminal investigation. (Code  
 30-23 Crim. Proc., Art. 18.21, Sec. 15(a).)

30-24 Art. 18B.452. REPORT OF ISSUANCE OF SUBPOENA. Not later  
 30-25 than the 30th day after the date on which an administrative subpoena  
 30-26 is issued under Article 18B.451, the inspector general of the Texas  
 30-27 Department of Criminal Justice or the sheriff or chief of a  
 30-28 designated law enforcement agency, as applicable, shall report to  
 30-29 the department the issuance of the subpoena. (Code Crim. Proc.,  
 30-30 Art. 18.21, Sec. 15(b).)

30-31 Art. 18B.453. COMPLIANCE WITH POLICY FOR INSTALLATION AND  
 30-32 USE OF EQUIPMENT. (a) If, based on a report received under Article  
 30-33 18B.452, the department determines that a designated law  
 30-34 enforcement office or agency is not in compliance with the policy  
 30-35 adopted by the office or agency under Article 18B.251, the  
 30-36 department shall notify the office or agency in writing that the  
 30-37 office or agency, as applicable, is not in compliance.

30-38 (b) If the department determines that the office or agency  
 30-39 still is not in compliance with the policy on the 90th day after the  
 30-40 date the office or agency receives written notice under this  
 30-41 article, the office or agency loses the authority granted by this  
 30-42 chapter until:

30-43 (1) the office or agency adopts a new written policy  
 30-44 governing the application of this chapter to the office or agency;  
 30-45 and

30-46 (2) the department approves that policy. (Code Crim.  
 30-47 Proc., Art. 18.21, Sec. 15(c).)

30-48 SUBCHAPTER K. SERVICE PROVIDER POWERS AND DUTIES

30-49 Art. 18B.501. PRECLUSION OF NOTIFICATION. (a) An  
 30-50 authorized peace officer seeking electronic customer data under  
 30-51 Article 18B.351 may apply to the court for an order commanding the  
 30-52 service provider to whom a warrant, subpoena, or court order is  
 30-53 directed not to disclose to any person the existence of the warrant,  
 30-54 subpoena, or court order. The order is effective for the period the  
 30-55 court considers appropriate.

30-56 (b) The court shall enter the order if the court determines  
 30-57 that there is reason to believe that notification of the existence  
 30-58 of the warrant, subpoena, or court order will have an adverse  
 30-59 result.

30-60 (c) In this article, an "adverse result" means:

30-61 (1) endangering the life or physical safety of an  
 30-62 individual;

30-63 (2) flight from prosecution;

30-64 (3) destruction of or tampering with evidence;

30-65 (4) intimidation of a potential witness; or

30-66 (5) otherwise seriously jeopardizing an investigation  
 30-67 or unduly delaying a trial. (Code Crim. Proc., Art. 18.21, Sec. 8.)

30-68 Art. 18B.502. DISCLOSURE BY SERVICE PROVIDER PROHIBITED.

30-69 (a) Except as provided by Subsection (c), a provider of an

31-1 electronic communications service may not knowingly divulge the  
 31-2 contents of a communication that is in electronic storage.

31-3 (b) Except as provided by Subsection (c), a provider of a  
 31-4 remote computing service may not knowingly divulge the contents of  
 31-5 a communication that:

31-6 (1) is in electronic storage on behalf of a subscriber  
 31-7 or customer of the service provider;

31-8 (2) is received by means of electronic transmission  
 31-9 from the subscriber or customer or created by means of computer  
 31-10 processing of communications received by means of electronic  
 31-11 transmission from the subscriber or customer; and

31-12 (3) is solely for the purpose of providing storage or  
 31-13 computer processing services to the subscriber or customer, if the  
 31-14 service provider is not authorized to obtain access to the contents  
 31-15 of that communication for purposes of providing any service other  
 31-16 than storage or computer processing.

31-17 (c) A provider of an electronic communications service or a  
 31-18 provider of a remote computing service may disclose the contents of  
 31-19 an electronically stored communication:

31-20 (1) to an intended recipient of the communication or  
 31-21 the intended recipient's agent;

31-22 (2) to the addressee or the addressee's agent;

31-23 (3) with the consent of the originator, to the  
 31-24 addressee or the intended recipient of the communication, or the  
 31-25 subscriber of a remote computing service;

31-26 (4) to a person whose facilities are used to transmit  
 31-27 the communication to its destination or the person's employee or  
 31-28 authorized representative;

31-29 (5) as may be necessary to provide the service or to  
 31-30 protect the property or rights of the service provider;

31-31 (6) to a law enforcement agency if the contents were  
 31-32 obtained inadvertently by the service provider and the contents  
 31-33 appear to pertain to the commission of an offense; or

31-34 (7) as authorized under federal or other state law.  
 31-35 (Code Crim. Proc., Art. 18.21, Sec. 11.)

31-36 Art. 18B.503. REIMBURSEMENT OF COSTS. (a) Except as  
 31-37 provided by Subsection (c), an authorized peace officer who obtains  
 31-38 electronic customer data under Article 18B.351 or 18B.359 or other  
 31-39 information under this chapter shall reimburse the person  
 31-40 assembling or providing the data or information for all costs that  
 31-41 are reasonably necessary and that have been directly incurred in  
 31-42 searching for, assembling, reproducing, or otherwise providing the  
 31-43 data or information, including costs arising from necessary  
 31-44 disruption of normal operations of a provider of an electronic  
 31-45 communications service or a provider of a remote computing service  
 31-46 in which the electronic customer data may be held in electronic  
 31-47 storage or in which the other information may be stored.

31-48 (b) The authorized peace officer and the person providing  
 31-49 the electronic customer data or other information may agree on the  
 31-50 amount of reimbursement. If there is not an agreement, the court  
 31-51 that issued the order for production of the data or information  
 31-52 shall determine the amount. If a court order was not issued for  
 31-53 production of the data or information, the court before which any  
 31-54 criminal prosecution relating to the data or information would be  
 31-55 brought shall determine the amount.

31-56 (c) Subsection (a) does not apply to records or other  
 31-57 information that is maintained by a communication common carrier  
 31-58 and that relates to telephone toll records or telephone listings  
 31-59 obtained under Article 18B.359(a), unless the court determines  
 31-60 that:

31-61 (1) the amount of information required was unusually  
 31-62 voluminous; or

31-63 (2) an undue burden was imposed on the service  
 31-64 provider. (Code Crim. Proc., Art. 18.21, Sec. 9.)

31-65 SUBCHAPTER L. REMEDIES

31-66 Art. 18B.551. CAUSE OF ACTION. (a) Except as provided by  
 31-67 Article 18B.552, a provider of an electronic communications service  
 31-68 or a provider of a remote computing service, or a subscriber or  
 31-69 customer of that service provider, that is aggrieved by a violation



32-1 of this chapter has a civil cause of action if the conduct  
32-2 constituting the violation was committed knowingly or  
32-3 intentionally and is entitled to:

- 32-4 (1) injunctive relief;
- 32-5 (2) reasonable attorney's fees and other litigation  
32-6 costs reasonably incurred; and
- 32-7 (3) the amount of the actual damages suffered and any  
32-8 profits made by the violator as a result of the violation or \$1,000,  
32-9 whichever is more.

32-10 (b) The reliance in good faith on a court order, warrant,  
32-11 subpoena, or legislative authorization is a complete defense to any  
32-12 civil action brought under this chapter.

32-13 (c) A civil action under this article may be presented not  
32-14 later than the second anniversary of the date the claimant first  
32-15 discovered or had reasonable opportunity to discover the violation.  
32-16 (Code Crim. Proc., Art. 18.21, Sec. 12.)

32-17 Art. 18B.552. NO CAUSE OF ACTION. A subscriber or customer  
32-18 of a provider of an electronic communications service or a provider  
32-19 of a remote computing service does not have a cause of action  
32-20 against a service provider or the service provider's officers,  
32-21 employees, or agents or against other specified persons for  
32-22 providing information, facilities, or assistance as required by a  
32-23 court order, warrant, subpoena, or certification under this  
32-24 chapter. (Code Crim. Proc., Art. 18.21, Sec. 10.)

32-25 Art. 18B.553. EXCLUSIVITY OF REMEDIES. The remedies and  
32-26 sanctions under this chapter are the exclusive judicial remedies  
32-27 and sanctions for a violation of this chapter, other than a  
32-28 violation that infringes on a right of a party that is guaranteed by  
32-29 a state or federal constitution. (Code Crim. Proc., Art. 18.21,  
32-30 Sec. 13.)

32-31 SECTION 1.03. Title 1, Code of Criminal Procedure, is  
32-32 amended by adding Chapter 66 to read as follows:

32-33 CHAPTER 66. CRIMINAL HISTORY RECORD SYSTEM  
32-34 SUBCHAPTER A. GENERAL PROVISIONS

32-35 Art. 66.001. DEFINITIONS

32-36 SUBCHAPTER B. CRIMINAL JUSTICE INFORMATION SYSTEM

32-37 Art. 66.051. PURPOSE AND FUNCTIONS

32-38 Art. 66.052. IMPLEMENTATION AND OPERATION OF CRIMINAL  
32-39 JUSTICE INFORMATION SYSTEM

32-40 Art. 66.053. INFORMATION COLLECTED

32-41 Art. 66.054. FINGERPRINT AND ARREST INFORMATION IN  
32-42 CRIMINAL JUSTICE INFORMATION SYSTEM

32-43 SUBCHAPTER C. COMPUTERIZED CRIMINAL HISTORY SYSTEM

32-44 Art. 66.101. COMPUTERIZED CRIMINAL HISTORY SYSTEM  
32-45 DATABASE

32-46 Art. 66.102. INFORMATION CONTAINED IN COMPUTERIZED  
32-47 CRIMINAL HISTORY SYSTEM

32-48 Art. 66.103. DUTIES OF TEXAS DEPARTMENT OF CRIMINAL  
32-49 JUSTICE REGARDING CRIMINAL JUSTICE  
32-50 INFORMATION SYSTEM

32-51 Art. 66.104. DUTIES OF LICENSING AGENCIES TO PROVIDE  
32-52 INFORMATION REGARDING LICENSE HOLDERS

32-53 Art. 66.105. INFORMATION RELATED TO MISUSED IDENTITY

32-54 Art. 66.106. INFORMATION RELATED TO NON-FINGERPRINT  
32-55 SUPPORTED ACTIONS

32-56 SUBCHAPTER D. CORRECTIONS TRACKING SYSTEM

32-57 Art. 66.151. CORRECTIONS TRACKING SYSTEM DATABASE

32-58 Art. 66.152. INFORMATION CONTAINED IN CORRECTIONS  
32-59 TRACKING SYSTEM

32-60 SUBCHAPTER E. ACCESS TO INFORMATION IN CRIMINAL JUSTICE  
32-61 INFORMATION SYSTEM

32-62 Art. 66.201. ACCESS TO DATABASES BY CRIMINAL JUSTICE  
32-63 AGENCIES AND OTHER ENTITIES

32-64 Art. 66.202. REQUEST FOR DATA FILE FROM DATABASES

32-65 Art. 66.203. PUBLIC DISCLOSURE OF DATA PROHIBITED

32-66 SUBCHAPTER F. DATA COLLECTION AND SUBMISSION

32-67 Art. 66.251. UNIFORM INCIDENT FINGERPRINT CARD

32-68 Art. 66.252. REPORTING OF INFORMATION BY LOCAL  
32-69 ENTITIES



- 33-1 Art. 66.253. COMPATIBILITY OF DATA
- 33-2 Art. 66.254. ELECTRONIC REPORTING OF INFORMATION
- 33-3 Art. 66.255. INFORMATION ON SUBSEQUENT ARRESTS
- 33-4 SUBCHAPTER G. DUTIES OF CRIMINAL JUSTICE AGENCIES AND CERTAIN
- 33-5 COURT CLERKS
- 33-6 Art. 66.301. DUTIES OF CRIMINAL JUSTICE AGENCIES
- 33-7 Art. 66.302. PUBLIC DISCLOSURE NOT AUTHORIZED
- 33-8 Art. 66.303. PROHIBITED ACTS
- 33-9 Art. 66.304. APPLICABILITY TO DISTRICT COURT AND
- 33-10 COUNTY COURT CLERKS
- 33-11 SUBCHAPTER H. OVERSIGHT AND REPORTING
- 33-12 Art. 66.351. BIENNIAL PLANS
- 33-13 Art. 66.352. EXAMINATION OF RECORDS AND OPERATIONS
- 33-14 Art. 66.353. MONITORING AND REPORTING DUTIES OF
- 33-15 DEPARTMENT OF PUBLIC SAFETY
- 33-16 Art. 66.354. LOCAL DATA ADVISORY BOARDS
- 33-17 SUBCHAPTER I. GRANTS
- 33-18 Art. 66.401. GRANTS FOR CRIMINAL JUSTICE PROGRAMS
- 33-19 Art. 66.402. CERTIFICATION REQUIRED
- 33-20 CHAPTER 66. CRIMINAL HISTORY RECORD SYSTEM
- 33-21 SUBCHAPTER A. GENERAL PROVISIONS
- 33-22 Art. 66.001. DEFINITIONS. In this chapter:
- 33-23 (1) "Administration of criminal justice" means the
- 33-24 detection, apprehension, detention, pretrial release, post-trial
- 33-25 release, prosecution, adjudication, correctional supervision, or
- 33-26 rehabilitation of an offender. The term includes criminal
- 33-27 identification activities and the collection, storage, and
- 33-28 dissemination of criminal history record information.
- 33-29 (2) "Computerized criminal history system" means the
- 33-30 database containing arrest, disposition, and other criminal
- 33-31 history maintained by the Department of Public Safety.
- 33-32 (3) "Corrections tracking system" means the database
- 33-33 maintained by the Texas Department of Criminal Justice on all
- 33-34 offenders under the department's supervision.
- 33-35 (4) "Council" means the Criminal Justice Policy
- 33-36 Council.
- 33-37 (5) "Criminal justice agency" means a federal or state
- 33-38 agency that is engaged in the administration of criminal justice
- 33-39 under a statute or executive order and allocates a substantial part
- 33-40 of the agency's annual budget to the administration of criminal
- 33-41 justice.
- 33-42 (6) "Criminal justice information system" means the
- 33-43 computerized criminal history system and the corrections tracking
- 33-44 system.
- 33-45 (7) "Disposition" means an action that results in the
- 33-46 termination, transfer to another jurisdiction, or indeterminate
- 33-47 suspension of the prosecution of a criminal charge.
- 33-48 (8) "Electronic means" means the transmission of data
- 33-49 between word processors, data processors, or similar automated
- 33-50 information equipment over dedicated cables, commercial lines, or
- 33-51 other similar methods of transmission.
- 33-52 (9) "Incident number" means the unique number assigned
- 33-53 to a specific person during a specific arrest.
- 33-54 (10) "Offender" means any person who is assigned an
- 33-55 incident number.
- 33-56 (11) "Offense code" means the numeric code for each
- 33-57 offense category.
- 33-58 (12) "Release" means the termination of jurisdiction
- 33-59 over an individual by the criminal justice system.
- 33-60 (13) "State identification number" means the unique
- 33-61 number assigned by the Department of Public Safety to each person
- 33-62 whose name appears in the criminal justice information system.
- 33-63 (Code Crim. Proc., Arts. 60.01(1), (3), (4), (5), (6), (7), (8),
- 33-64 (9), (10), (11), (13), (14), (16).)
- 33-65 SUBCHAPTER B. CRIMINAL JUSTICE INFORMATION SYSTEM
- 33-66 Art. 66.051. PURPOSE AND FUNCTIONS. The criminal justice
- 33-67 information system shall be maintained to supply the state with a
- 33-68 system:
- 33-69 (1) that provides an accurate criminal history record

34-1 depository to:

34-2 (A) law enforcement officers; and

34-3 (B) criminal justice agencies for operational

34-4 decision making;

34-5 (2) from which accurate criminal justice system

34-6 modeling can be conducted; and

34-7 (3) that improves:

34-8 (A) the quality of data used to conduct impact

34-9 analyses of proposed legislative changes in the criminal justice

34-10 system; and

34-11 (B) the ability of interested parties to analyze

34-12 the functioning of the criminal justice system. (Code Crim. Proc.,

34-13 Art. 60.02(c).)

34-14 Art. 66.052. IMPLEMENTATION AND OPERATION OF CRIMINAL

34-15 JUSTICE INFORMATION SYSTEM. (a) The Department of Public Safety

34-16 shall designate offense codes and has the sole responsibility for

34-17 designating the state identification number for each person whose

34-18 name appears in the criminal justice information system.

34-19 (b) The Department of Public Safety and the Texas Department

34-20 of Criminal Justice shall implement a system to link the

34-21 computerized criminal history system and the corrections tracking

34-22 system. (Code Crim. Proc., Arts. 60.02(e), (f) (part).)

34-23 Art. 66.053. INFORMATION COLLECTED. For each arrest for a

34-24 felony or misdemeanor other than a misdemeanor punishable by fine

34-25 only, the criminal justice information system must include

34-26 information relating to:

34-27 (1) offenders;

34-28 (2) arrests;

34-29 (3) prosecutions;

34-30 (4) the disposition of cases by courts;

34-31 (5) sentencing; and

34-32 (6) the handling of offenders received by a

34-33 correctional agency, facility, or other institution. (Code Crim.

34-34 Proc., Art. 60.05.)

34-35 Art. 66.054. FINGERPRINT AND ARREST INFORMATION IN CRIMINAL

34-36 JUSTICE INFORMATION SYSTEM. (a) When a jurisdiction transmits

34-37 fingerprints and arrest information by a remote terminal accessing

34-38 the statewide automated fingerprint identification system, the

34-39 Department of Public Safety shall use that transmission to create:

34-40 (1) a permanent record in the criminal justice

34-41 information system; or

34-42 (2) a temporary arrest record in the criminal justice

34-43 information system to be maintained by the department until the

34-44 department receives and processes the physical copy of the arrest

34-45 information.

34-46 (b) The Department of Public Safety shall make available to

34-47 a criminal justice agency making a background criminal inquiry any

34-48 information contained in a temporary arrest record maintained by

34-49 the department, including a statement that a physical copy of the

34-50 arrest information was not available at the time the information

34-51 was entered in the criminal justice information system. (Code

34-52 Crim. Proc., Art. 60.12.)

34-53 SUBCHAPTER C. COMPUTERIZED CRIMINAL HISTORY SYSTEM

34-54 Art. 66.101. COMPUTERIZED CRIMINAL HISTORY SYSTEM

34-55 DATABASE. (a) The Department of Public Safety shall record data

34-56 and maintain the computerized criminal history system that serves

34-57 as the record creation point for criminal history information

34-58 maintained by the state.

34-59 (b) The computerized criminal history system must contain

34-60 the information required by this chapter.

34-61 (c) The Department of Public Safety shall operate the

34-62 computerized criminal history system and develop the necessary

34-63 interfaces in the system to accommodate inquiries from the

34-64 statewide automated fingerprint identification system implemented

34-65 by the department. (Code Crim. Proc., Arts. 60.02(b), (d), (g).)

34-66 Art. 66.102. INFORMATION CONTAINED IN COMPUTERIZED

34-67 CRIMINAL HISTORY SYSTEM. (a) In this article:

34-68 (1) "Appeal" means the review of a decision of a lower

34-69 court by a superior court other than by collateral attack.

35-1 (2) "Rejected case" means:  
35-2 (A) a charge that, after the arrest of the  
35-3 offender, the prosecutor declines to include in an information or  
35-4 present to a grand jury; or  
35-5 (B) an information or indictment that, after the  
35-6 arrest of the offender, the prosecutor refuses to prosecute.  
35-7 (b) Information in the computerized criminal history system  
35-8 relating to an offender must include the offender's:  
35-9 (1) name, including other names by which the offender  
35-10 is known;  
35-11 (2) date of birth;  
35-12 (3) physical description, including sex, weight,  
35-13 height, race, ethnicity, eye color, hair color, scars, marks, and  
35-14 tattoos; and  
35-15 (4) state identification number.  
35-16 (c) Information in the computerized criminal history system  
35-17 relating to an arrest must include:  
35-18 (1) the offender's name;  
35-19 (2) the offender's state identification number;  
35-20 (3) the arresting law enforcement agency;  
35-21 (4) the arrest charge, by offense code and incident  
35-22 number;  
35-23 (5) whether the arrest charge is a misdemeanor or  
35-24 felony;  
35-25 (6) the date of the arrest;  
35-26 (7) the exact disposition of the case by a law  
35-27 enforcement agency following the arrest; and  
35-28 (8) the date of disposition of the case by the law  
35-29 enforcement agency.  
35-30 (d) Information in the computerized criminal history system  
35-31 relating to a prosecution must include:  
35-32 (1) each charged offense, by offense code and incident  
35-33 number;  
35-34 (2) the level of the offense charged or the degree of  
35-35 the offense charged for each offense in Subdivision (1); and  
35-36 (3) for a rejected case:  
35-37 (A) the date of rejection;  
35-38 (B) the offense code;  
35-39 (C) the incident number; and  
35-40 (D) whether the rejection is a result of a  
35-41 successful pretrial diversion program.  
35-42 (e) Information in the computerized criminal history system  
35-43 relating to the disposition of a case other than a rejected case  
35-44 must include:  
35-45 (1) the final pleading to each charged offense and the  
35-46 level of the offense;  
35-47 (2) a listing of each charged offense disposed of by  
35-48 the court and:  
35-49 (A) the date of disposition;  
35-50 (B) the offense code for the disposed charge and  
35-51 incident number; and  
35-52 (C) the type of disposition; and  
35-53 (3) for a conviction that is appealed, the final court  
35-54 decision and the final disposition of the offender's case on  
35-55 appeal.  
35-56 (f) Information in the computerized criminal history system  
35-57 relating to sentencing must include for each sentence:  
35-58 (1) the sentencing date;  
35-59 (2) the sentence for each offense, by offense code and  
35-60 incident number;  
35-61 (3) if the offender was sentenced to confinement:  
35-62 (A) the agency that receives custody of the  
35-63 offender;  
35-64 (B) the length of the sentence for each offense;  
35-65 and  
35-66 (C) if multiple sentences were ordered, whether  
35-67 the sentences were ordered to be served consecutively or  
35-68 concurrently;  
35-69 (4) if the offender was sentenced to pay a fine, the

36-1 amount of the fine;

36-2 (5) if a sentence to pay a fine or to confinement was  
36-3 ordered but was deferred, probated, suspended, or otherwise not  
36-4 imposed:

36-5 (A) the length of the sentence or the amount of  
36-6 the fine that was deferred, probated, suspended, or otherwise not  
36-7 imposed; and

36-8 (B) the offender's name, offense code, and  
36-9 incident number; and

36-10 (6) if a sentence other than a fine or confinement was  
36-11 ordered, a description of the sentence ordered.

36-12 (g) The Department of Public Safety shall maintain in the  
36-13 computerized criminal history system any information the  
36-14 department maintains in the central database under Article 62.005.

36-15 (h) In addition to the information described by this  
36-16 article, information in the computerized criminal history system  
36-17 must include the age of the victim of the offense if the offender  
36-18 was arrested for or charged with an offense under the following  
36-19 provisions of the Penal Code:

36-20 (1) Section 20.04(a)(4) (Aggravated Kidnapping), if  
36-21 the offender committed the offense with the intent to violate or  
36-22 abuse the victim sexually;

36-23 (2) Section 20A.02 (Trafficking of Persons), if the  
36-24 offender:

36-25 (A) trafficked a person with the intent or  
36-26 knowledge that the person would engage in sexual conduct, as  
36-27 defined by Section 43.25, Penal Code; or

36-28 (B) benefited from participating in a venture  
36-29 that involved a trafficked person engaging in sexual conduct, as  
36-30 defined by Section 43.25, Penal Code;

36-31 (3) Section 21.02 (Continuous Sexual Abuse of Young  
36-32 Child or Children);

36-33 (4) Section 21.11 (Indecency with a Child);

36-34 (5) Section 22.011 (Sexual Assault) or 22.021  
36-35 (Aggravated Sexual Assault);

36-36 (6) Section 30.02 (Burglary), if the offense is  
36-37 punishable under Subsection (d) of that section and the offender  
36-38 committed the offense with the intent to commit an offense  
36-39 described by Subdivision (1), (4), or (5);

36-40 (7) Section 43.05(a)(2) (Compelling Prostitution); or

36-41 (8) Section 43.25 (Sexual Performance by a Child).  
36-42 (Code Crim. Proc., Arts. 60.01(2), (12), 60.051.)

36-43 Art. 66.103. DUTIES OF TEXAS DEPARTMENT OF CRIMINAL JUSTICE  
36-44 REGARDING CRIMINAL JUSTICE INFORMATION SYSTEM. Data received by  
36-45 the Texas Department of Criminal Justice that is required by the  
36-46 Department of Public Safety for the preparation of a criminal  
36-47 history record shall be made available to the computerized criminal  
36-48 history system not later than the seventh day after the date on  
36-49 which the Texas Department of Criminal Justice receives the request  
36-50 for the data from the Department of Public Safety. (Code Crim.  
36-51 Proc., Art. 60.02(f) (part).)

36-52 Art. 66.104. DUTIES OF LICENSING AGENCIES TO PROVIDE  
36-53 INFORMATION REGARDING LICENSE HOLDERS. (a) The Texas Medical  
36-54 Board, the Texas State Board of Podiatric Medical Examiners, the  
36-55 State Board of Dental Examiners, the Texas State Board of Pharmacy,  
36-56 the Texas State Board of Examiners of Psychologists, and the State  
36-57 Board of Veterinary Medical Examiners shall provide to the  
36-58 Department of Public Safety through electronic means, magnetic  
36-59 tape, or disk, as specified by the department, a list of each person  
36-60 licensed by the respective agency, including the person's name and  
36-61 date of birth and any other personal descriptive information  
36-62 required by the department. Each agency shall update the  
36-63 information and submit the updated information quarterly to the  
36-64 department.

36-65 (b) The Department of Public Safety shall:

36-66 (1) perform at least quarterly a computer match of the  
36-67 licensing list against the convictions maintained in the  
36-68 computerized criminal history system; and

36-69 (2) report to the appropriate licensing agency for



37-1 verification and administrative action, as considered appropriate  
 37-2 by the licensing agency, the name of any person found to have a  
 37-3 record of conviction, other than a defendant whose prosecution is  
 37-4 deferred during a period of community supervision without an  
 37-5 adjudication of guilt or a plea of guilty.

37-6 (c) The Department of Public Safety may charge a licensing  
 37-7 agency a fee not to exceed the actual direct cost incurred by the  
 37-8 department in performing a computer match and reporting to the  
 37-9 agency under Subsection (b).

37-10 (d) The transmission of information by electronic means  
 37-11 under Subsection (a) does not affect whether the information is  
 37-12 subject to disclosure under Chapter 552, Government Code. (Code  
 37-13 Crim. Proc., Art. 60.061.)

37-14 Art. 66.105. INFORMATION RELATED TO MISUSED IDENTITY. (a)  
 37-15 On receipt of information from a local law enforcement agency under  
 37-16 Article 2.28, the Department of Public Safety shall:

37-17 (1) provide the notice described by Article 2.28(1) to  
 37-18 the person whose identity was misused, if the local law enforcement  
 37-19 agency was unable to notify the person under that subdivision;

37-20 (2) take action to ensure that the information  
 37-21 maintained in the computerized criminal history system reflects the  
 37-22 use of the person's identity as a stolen alias; and

37-23 (3) notify the Texas Department of Criminal Justice  
 37-24 that the person's identifying information may have been falsely  
 37-25 used by an inmate in the custody of the Texas Department of Criminal  
 37-26 Justice.

37-27 (b) On receipt of a declaration under Section 411.0421,  
 37-28 Government Code, or on receipt of information similar to that  
 37-29 contained in a declaration filed under that section, the Department  
 37-30 of Public Safety shall separate information maintained in the  
 37-31 computerized criminal history system regarding an individual whose  
 37-32 identity has been misused from information maintained in that  
 37-33 system regarding the person who misused the identity. (Code Crim.  
 37-34 Proc., Art. 60.19.)

37-35 Art. 66.106. INFORMATION RELATED TO NON-FINGERPRINT  
 37-36 SUPPORTED ACTIONS. (a) On receipt of a report of prosecution or  
 37-37 court disposition information from a jurisdiction for which  
 37-38 corresponding arrest data does not exist in the computerized  
 37-39 criminal history system, the Department of Public Safety shall  
 37-40 enter the report into a non-fingerprint supported file that is  
 37-41 separate from the computerized criminal history system.

37-42 (b) The Department of Public Safety shall grant access to  
 37-43 records in a non-fingerprint supported file created under  
 37-44 Subsection (a) that include the subject's name or other identifier  
 37-45 in the same manner as the department is required to grant access to  
 37-46 criminal history record information under Subchapter F, Chapter  
 37-47 411, Government Code.

37-48 (c) On receipt of a report of arrest information that  
 37-49 corresponds to a record in a non-fingerprint supported file created  
 37-50 under Subsection (a), the Department of Public Safety shall  
 37-51 transfer the record from the non-fingerprint supported file to the  
 37-52 computerized criminal history system. (Code Crim. Proc., Art.  
 37-53 60.20.)

#### 37-54 SUBCHAPTER D. CORRECTIONS TRACKING SYSTEM

37-55 Art. 66.151. CORRECTIONS TRACKING SYSTEM DATABASE. (a)  
 37-56 The Texas Department of Criminal Justice shall record data and  
 37-57 establish and maintain the corrections tracking system.

37-58 (b) The corrections tracking system must contain the  
 37-59 information required by this chapter. (Code Crim. Proc., Arts.  
 37-60 60.02(a), (d).)

37-61 Art. 66.152. INFORMATION CONTAINED IN CORRECTIONS TRACKING  
 37-62 SYSTEM. (a) Information in the corrections tracking system  
 37-63 relating to a sentence to be served under the jurisdiction of the  
 37-64 Texas Department of Criminal Justice must include:

37-65 (1) the offender's name;

37-66 (2) the offender's state identification number;

37-67 (3) the sentencing date;

37-68 (4) the sentence for each offense, by offense code and  
 37-69 incident number;

38-1 (5) if the offender was sentenced to imprisonment:  
 38-2 (A) the unit of imprisonment;  
 38-3 (B) the length of the sentence for each offense;  
 38-4 and  
 38-5 (C) if multiple sentences were ordered, whether  
 38-6 the sentences were ordered to be served consecutively or  
 38-7 concurrently; and  
 38-8 (6) if a sentence other than a fine or imprisonment was  
 38-9 ordered, a description of the sentence ordered.  
 38-10 (b) Sentencing information in the corrections tracking  
 38-11 system must also include the following information about each  
 38-12 community supervision, including deferred adjudication community  
 38-13 supervision, or other alternative to imprisonment ordered:  
 38-14 (1) each conviction for which a sentence was ordered  
 38-15 but was deferred, probated, suspended, or otherwise not imposed, by  
 38-16 offense code and incident number; and  
 38-17 (2) if a sentence or portion of a sentence of  
 38-18 imprisonment was deferred, probated, suspended, or otherwise not  
 38-19 imposed:  
 38-20 (A) the offense, the sentence, and the amount of  
 38-21 the sentence deferred, probated, suspended, or otherwise not  
 38-22 imposed;  
 38-23 (B) a statement of whether any return to  
 38-24 imprisonment or confinement was a condition of community  
 38-25 supervision or an alternative sentence;  
 38-26 (C) the community supervision and corrections  
 38-27 department exercising jurisdiction over the offender;  
 38-28 (D) the date the offender was received by a  
 38-29 community supervision and corrections department;  
 38-30 (E) any program in which the offender is placed  
 38-31 or has previously been placed and the level of supervision on which  
 38-32 the offender is placed while under the jurisdiction of a community  
 38-33 supervision and corrections department;  
 38-34 (F) the date a program described by Paragraph (E)  
 38-35 begins, the date the program ends, and whether the program was  
 38-36 completed successfully;  
 38-37 (G) the date a level of supervision described by  
 38-38 Paragraph (E) begins and the date the level of supervision ends;  
 38-39 (H) if the offender's community supervision is  
 38-40 revoked:  
 38-41 (i) the reason for the revocation and the  
 38-42 date of revocation, by offense code and incident number; and  
 38-43 (ii) other current sentences of community  
 38-44 supervision or other alternatives to confinement that have not been  
 38-45 revoked, by offense code and incident number; and  
 38-46 (I) the date of the offender's release from the  
 38-47 community supervision and corrections department.  
 38-48 (c) Information in the corrections tracking system relating  
 38-49 to the handling of offenders must include the following information  
 38-50 about each imprisonment, confinement, or execution of an offender:  
 38-51 (1) the date of the imprisonment or confinement;  
 38-52 (2) if the offender was sentenced to death:  
 38-53 (A) the date of execution; and  
 38-54 (B) if the death sentence was commuted, the  
 38-55 sentence to which the sentence of death was commuted and the date of  
 38-56 commutation;  
 38-57 (3) the date the offender was released from  
 38-58 imprisonment or confinement and whether the release was a discharge  
 38-59 or a release on parole or to mandatory supervision;  
 38-60 (4) if the offender is released on parole or to  
 38-61 mandatory supervision:  
 38-62 (A) the offense for which the offender was  
 38-63 convicted, by offense code and incident number;  
 38-64 (B) the date the offender was received by an  
 38-65 office of the parole division of the Texas Department of Criminal  
 38-66 Justice;  
 38-67 (C) the county in which the offender resides  
 38-68 while under supervision;  
 38-69 (D) any program in which the offender is placed

39-1 or has previously been placed and the level of supervision on which  
 39-2 the offender is placed while under the jurisdiction of the parole  
 39-3 division;

39-4 (E) the date a program described by Paragraph (D)  
 39-5 begins, the date the program ends, and whether the program was  
 39-6 completed successfully;

39-7 (F) the date a level of supervision described by  
 39-8 Paragraph (D) begins and the date the level of supervision ends;

39-9 (G) if the offender's release status is revoked,  
 39-10 the reason for the revocation and the date of revocation;

39-11 (H) the expiration date of the sentence; and

39-12 (I) the date on which the offender is:

39-13 (i) released from the parole division; or

39-14 (ii) granted clemency; and

39-15 (5) if the offender is released under Article  
 39-16 42A.202(b), the date of the offender's release. (Code Crim. Proc.,  
 39-17 Art. 60.052.)

39-18 SUBCHAPTER E. ACCESS TO INFORMATION IN CRIMINAL JUSTICE  
 39-19 INFORMATION SYSTEM

39-20 Art. 66.201. ACCESS TO DATABASES BY CRIMINAL JUSTICE  
 39-21 AGENCIES AND OTHER ENTITIES. (a) Criminal justice agencies, the  
 39-22 Legislative Budget Board, and the council are entitled to access  
 39-23 the databases of the Department of Public Safety, the Texas  
 39-24 Juvenile Justice Department, and the Texas Department of Criminal  
 39-25 Justice in accordance with applicable state or federal law or  
 39-26 regulations.

39-27 (b) The access granted by this article does not entitle a  
 39-28 criminal justice agency, the Legislative Budget Board, or the  
 39-29 council to add, delete, or alter data maintained by another agency.  
 39-30 (Code Crim. Proc., Art. 60.03(a).)

39-31 Art. 66.202. REQUEST FOR DATA FILE FROM DATABASES.

39-32 (a) The council or the Legislative Budget Board may submit to the  
 39-33 Department of Public Safety, the Texas Juvenile Justice Department,  
 39-34 and the Texas Department of Criminal Justice an annual request for a  
 39-35 data file containing data elements from the departments' systems.

39-36 (b) The Department of Public Safety, the Texas Juvenile  
 39-37 Justice Department, and the Texas Department of Criminal Justice  
 39-38 shall provide the council and the Legislative Budget Board with the  
 39-39 data file for the period requested, in accordance with state and  
 39-40 federal law and regulations.

39-41 (c) If the council submits a data file request other than  
 39-42 the annual data file request, the director of the agency  
 39-43 maintaining the requested records must approve the request.

39-44 (d) The Legislative Budget Board may submit a data file  
 39-45 request other than the annual data file request without the  
 39-46 approval of the director of the agency maintaining the requested  
 39-47 records. (Code Crim. Proc., Art. 60.03(b).)

39-48 Art. 66.203. PUBLIC DISCLOSURE OF DATA PROHIBITED. A  
 39-49 criminal justice agency, the council, and the Legislative Budget  
 39-50 Board may not disclose to the public information in an individual's  
 39-51 criminal history record if the record is protected by state or  
 39-52 federal law or regulation. (Code Crim. Proc., Art. 60.03(c).)

39-53 SUBCHAPTER F. DATA COLLECTION AND SUBMISSION

39-54 Art. 66.251. UNIFORM INCIDENT FINGERPRINT CARD. (a) The  
 39-55 Department of Public Safety, in consultation with the council,  
 39-56 shall design, print, and distribute a uniform incident fingerprint  
 39-57 card to each law enforcement agency in this state.

39-58 (b) The uniform incident fingerprint card must be:

39-59 (1) serially numbered with an incident number in such  
 39-60 a manner that the individual incident of arrest may be readily  
 39-61 ascertained; and

39-62 (2) a multiple-part form that:

39-63 (A) has space for information relating to each  
 39-64 charge for which a person is arrested, the person's fingerprints,  
 39-65 and other information relevant to the arrest;

39-66 (B) can be transmitted with the offender through  
 39-67 the criminal justice process; and

39-68 (C) allows each law enforcement agency to report  
 39-69 required data to the Department of Public Safety or the Texas

40-1 Department of Criminal Justice.

40-2 (c) Subject to available telecommunications capacity, the  
40-3 Department of Public Safety shall develop the capability to receive  
40-4 the information on the uniform incident fingerprint card by  
40-5 electronic means from a law enforcement agency. The information  
40-6 must be in a form that is compatible with the form required for data  
40-7 supplied to the criminal justice information system. (Code Crim.  
40-8 Proc., Arts. 60.01(15), 60.07.)

40-9 Art. 66.252. REPORTING OF INFORMATION BY LOCAL ENTITIES.

40-10 (a) The Department of Public Safety and the Texas Department of  
40-11 Criminal Justice by rule shall develop reporting procedures that:

40-12 (1) ensure that the offender processing data is  
40-13 reported from the time an offender is arrested until the time an  
40-14 offender is released; and

40-15 (2) provide measures and policies designed to identify  
40-16 and eliminate redundant reporting of information to the criminal  
40-17 justice information system.

40-18 (b) The arresting law enforcement agency shall prepare a  
40-19 uniform incident fingerprint card described by Article 66.251 and  
40-20 initiate the reporting process for each offender charged with a  
40-21 felony or a misdemeanor other than a misdemeanor punishable by fine  
40-22 only.

40-23 (c) The clerk of the court exercising jurisdiction over a  
40-24 case shall report the disposition of the case to the Department of  
40-25 Public Safety.

40-26 (d) Except as provided by Subsection (e) or as otherwise  
40-27 required by applicable state law or rule, information or data  
40-28 required by this chapter to be reported to the Department of Public  
40-29 Safety or the Texas Department of Criminal Justice shall be  
40-30 reported promptly but not later than the 30th day after the date on  
40-31 which the information or data is received by the agency responsible  
40-32 for reporting it.

40-33 (e) An offender's arrest shall be reported to the Department  
40-34 of Public Safety not later than the seventh day after the date of  
40-35 the arrest.

40-36 (f) A court that orders the release of an offender under  
40-37 Article 42A.202(b) when the offender is under a bench warrant and  
40-38 not physically imprisoned in the Texas Department of Criminal  
40-39 Justice shall report the release to the department not later than  
40-40 the seventh day after the date of the release. (Code Crim. Proc.,  
40-41 Art. 60.08.)

40-42 Art. 66.253. COMPATIBILITY OF DATA. (a) Data supplied to  
40-43 the criminal justice information system must:

40-44 (1) be compatible with the system; and

40-45 (2) contain both incident numbers and state  
40-46 identification numbers.

40-47 (b) A discrete submission of information under this chapter  
40-48 must contain, in conjunction with the required information, the  
40-49 person's name and state identification number. (Code Crim. Proc.,  
40-50 Art. 60.04.)

40-51 Art. 66.254. ELECTRONIC REPORTING OF INFORMATION. Whenever  
40-52 possible, information relating to dispositions and subsequent  
40-53 offender processing data shall be reported electronically. (Code  
40-54 Crim. Proc., Art. 60.02(h).)

40-55 Art. 66.255. INFORMATION ON SUBSEQUENT ARRESTS. The  
40-56 Department of Public Safety and the Texas Department of Criminal  
40-57 Justice shall develop the capability to send by electronic means  
40-58 information about the subsequent arrest of a person under  
40-59 supervision to:

40-60 (1) the community supervision and corrections  
40-61 department serving the court of original jurisdiction; or

40-62 (2) the district parole office supervising the person.

40-63 (Code Crim. Proc., Art. 60.18.)

40-64 SUBCHAPTER G. DUTIES OF CRIMINAL JUSTICE AGENCIES AND CERTAIN  
40-65 COURT CLERKS

40-66 Art. 66.301. DUTIES OF CRIMINAL JUSTICE AGENCIES. (a) Each  
40-67 criminal justice agency shall:

40-68 (1) compile and maintain records needed for reporting  
40-69 data required by the Department of Public Safety and the Texas



41-1 Department of Criminal Justice;

41-2 (2) transmit to the Department of Public Safety and  
41-3 the Texas Department of Criminal Justice, when and in the manner  
41-4 each department directs, all data required by the appropriate  
41-5 department;

41-6 (3) give the Department of Public Safety and the Texas  
41-7 Department of Criminal Justice, or the departments' accredited  
41-8 agents, access to the agency for the purpose of inspection to  
41-9 determine the completeness and accuracy of data reported;

41-10 (4) cooperate with the Department of Public Safety and  
41-11 the Texas Department of Criminal Justice so that each department  
41-12 may properly and efficiently perform the department's duties under  
41-13 this chapter; and

41-14 (5) cooperate with the Department of Public Safety  
41-15 and the Texas Department of Criminal Justice to identify and  
41-16 eliminate redundant reporting of information to the criminal  
41-17 justice information system.

41-18 (b) An optical disk or other technology may be used instead  
41-19 of microfilm as a medium to store information if allowed by the  
41-20 applicable state laws or rules relating to the archiving of state  
41-21 agency information. (Code Crim. Proc., Arts. 60.06(a), (d).)

41-22 Art. 66.302. PUBLIC DISCLOSURE NOT AUTHORIZED. (a) An  
41-23 individual's identifiable description or a notation of an  
41-24 individual's arrest, detention, indictment, information, or other  
41-25 formal criminal charge and of any disposition of the charge,  
41-26 including sentencing, correctional supervision, and release, that  
41-27 is collected and compiled by the Department of Public Safety or the  
41-28 Texas Department of Criminal Justice from criminal justice agencies  
41-29 and maintained in a central location is not subject to public  
41-30 disclosure except as authorized by federal or state law or  
41-31 regulation.

41-32 (b) Subsection (a) does not apply to a document maintained  
41-33 by a criminal justice agency that is the source of information  
41-34 collected by the Department of Public Safety or the Texas  
41-35 Department of Criminal Justice. Each criminal justice agency shall  
41-36 retain the documents described by this subsection. (Code Crim.  
41-37 Proc., Arts. 60.06(b), (c).)

41-38 Art. 66.303. PROHIBITED ACTS. An agency official may not  
41-39 intentionally conceal or destroy any record with the intent to  
41-40 violate this subchapter. (Code Crim. Proc., Art. 60.06(e).)

41-41 Art. 66.304. APPLICABILITY TO DISTRICT COURT AND COUNTY  
41-42 COURT CLERKS. The duties imposed on a criminal justice agency under  
41-43 this subchapter are also imposed on district court and county court  
41-44 clerks. (Code Crim. Proc., Art. 60.06(f).)

41-45 SUBCHAPTER H. OVERSIGHT AND REPORTING

41-46 Art. 66.351. BIENNIAL PLANS. The Department of Public  
41-47 Safety and the Texas Department of Criminal Justice, with advice  
41-48 from the council and the Department of Information Resources, shall  
41-49 develop biennial plans to:

41-50 (1) improve the reporting and accuracy of the criminal  
41-51 justice information system; and

41-52 (2) develop and maintain monitoring systems capable of  
41-53 identifying missing information. (Code Crim. Proc., Art.  
41-54 60.02(i).)

41-55 Art. 66.352. EXAMINATION OF RECORDS AND OPERATIONS. (a) At  
41-56 least once during each five-year period, the council shall  
41-57 coordinate an examination of the records and operations of the  
41-58 criminal justice information system to ensure:

41-59 (1) the accuracy and completeness of information in  
41-60 the system; and

41-61 (2) the promptness of information reporting.

41-62 (b) The state auditor or other appropriate entity selected  
41-63 by the council shall conduct the examination under Subsection (a)  
41-64 with the cooperation of the council, the Department of Public  
41-65 Safety, and the Texas Department of Criminal Justice.

41-66 (c) The council, the Department of Public Safety, and the  
41-67 Texas Department of Criminal Justice may examine the records of the  
41-68 agencies required to report information to the Department of Public  
41-69 Safety or the Texas Department of Criminal Justice.

42-1 (d) The examining entity under Subsection (b) shall submit  
 42-2 to the legislature and the council a report that summarizes the  
 42-3 findings of each examination and contains recommendations for  
 42-4 improving the criminal justice information system.

42-5 (e) Not later than the first anniversary of the date the  
 42-6 examining entity under Subsection (b) submits a report under  
 42-7 Subsection (d), the Department of Public Safety shall report to the  
 42-8 Legislative Budget Board, the governor, and the council the  
 42-9 department's progress in implementing the examining entity's  
 42-10 recommendations, including the reason for not implementing any  
 42-11 recommendation.

42-12 (f) Each year following the submission of the report  
 42-13 described by Subsection (e), the Department of Public Safety shall  
 42-14 submit a similar report until each of the examining entity's  
 42-15 recommendations is implemented.

42-16 (g) Notwithstanding any other provision of this article,  
 42-17 work performed under this article by the state auditor is subject to  
 42-18 approval by the legislative audit committee for inclusion in the  
 42-19 audit plan under Section 321.013(c), Government Code. (Code Crim.  
 42-20 Proc., Arts. 60.02(j), (m).)

42-21 Art. 66.353. MONITORING AND REPORTING DUTIES OF DEPARTMENT  
 42-22 OF PUBLIC SAFETY. (a) The Department of Public Safety shall:

42-23 (1) monitor the submission of arrest and disposition  
 42-24 information by local jurisdictions;

42-25 (2) annually submit to the Legislative Budget Board,  
 42-26 the governor, the lieutenant governor, the state auditor, and the  
 42-27 standing committees in the senate and house of representatives with  
 42-28 primary jurisdiction over criminal justice and the department a  
 42-29 report regarding the level of reporting by local jurisdictions;

42-30 (3) identify local jurisdictions that do not report  
 42-31 arrest or disposition information or that partially report  
 42-32 information; and

42-33 (4) for use in determining the status of outstanding  
 42-34 dispositions, publish monthly on the department's Internet website  
 42-35 or in another electronic publication a report listing by local  
 42-36 jurisdiction each arrest for which there is no corresponding final  
 42-37 court disposition.

42-38 (b) The report described by Subsection (a)(2) must contain a  
 42-39 disposition completeness percentage for each county in this state.  
 42-40 For purposes of this subsection, "disposition completeness  
 42-41 percentage" means the percentage of arrest charges a county reports  
 42-42 to the Department of Public Safety, to be entered in the  
 42-43 computerized criminal history system under this chapter, that were  
 42-44 brought against a person in the county and for which a disposition  
 42-45 has been subsequently reported and entered in the computerized  
 42-46 criminal history system. (Code Crim. Proc., Arts. 60.21(b), (c).)

42-47 Art. 66.354. LOCAL DATA ADVISORY BOARDS. (a) The  
 42-48 commissioners court of each county may create a local data advisory  
 42-49 board to:

42-50 (1) analyze the structure of local automated and  
 42-51 manual data systems to identify redundant data entry and data  
 42-52 storage;

42-53 (2) develop recommendations for the commissioners to  
 42-54 improve the local data systems;

42-55 (3) develop recommendations, when appropriate, for  
 42-56 the effective electronic transfer of required data from local  
 42-57 agencies to state agencies; and

42-58 (4) perform any related duties to be determined by the  
 42-59 commissioners court.

42-60 (b) Local officials responsible for collecting, storing,  
 42-61 reporting, and using data may be appointed to a local data advisory  
 42-62 board.

42-63 (c) The council and the Department of Public Safety shall,  
 42-64 to the extent that resources allow, provide technical assistance  
 42-65 and advice on the request of a local data advisory board. (Code  
 42-66 Crim. Proc., Art. 60.09.)

#### 42-67 SUBCHAPTER I. GRANTS

42-68 Art. 66.401. GRANTS FOR CRIMINAL JUSTICE PROGRAMS. The  
 42-69 council, the Department of Public Safety, the criminal justice

43-1 division of the governor's office, and the Department of  
43-2 Information Resources cooperatively shall develop and adopt a grant  
43-3 program, to be implemented by the criminal justice division at a  
43-4 time and in a manner determined by the division, to aid local law  
43-5 enforcement agencies, prosecutors, and court personnel in  
43-6 obtaining equipment and training necessary to operate a  
43-7 telecommunications network capable of:

43-8 (1) making inquiries to and receiving responses from  
43-9 the statewide automated fingerprint identification system and from  
43-10 the computerized criminal history system; and

43-11 (2) transmitting information to those systems. (Code  
43-12 Crim. Proc., Art. 60.02(k).)

43-13 Art. 66.402. CERTIFICATION REQUIRED. Before allocating  
43-14 money to a county from any federal or state grant program for the  
43-15 enhancement of criminal justice programs, an agency of the state  
43-16 must certify that, using all or part of the allocated money, the  
43-17 county has taken or will take all action necessary to provide the  
43-18 Department of Public Safety and the Texas Department of Criminal  
43-19 Justice any criminal history records maintained by the county in  
43-20 the manner specified for purposes of those departments. (Code  
43-21 Crim. Proc., Art. 60.14.)

43-22 SECTION 1.04. Title 1, Code of Criminal Procedure, is  
43-23 amended by adding Chapter 67 to read as follows:

43-24 CHAPTER 67. COMPILATION OF INFORMATION PERTAINING TO COMBINATIONS  
43-25 AND CRIMINAL STREET GANGS

43-26 SUBCHAPTER A. GENERAL PROVISIONS

43-27 Art. 67.001. DEFINITIONS

43-28 SUBCHAPTER B. INTELLIGENCE DATABASES

43-29 Art. 67.051. INTELLIGENCE DATABASES REQUIRED

43-30 Art. 67.052. DEPARTMENT INTELLIGENCE DATABASE

43-31 Art. 67.053. INTELLIGENCE DATABASE USER TRAINING;  
43-32 RULES

43-33 Art. 67.054. SUBMISSION CRITERIA

43-34 SUBCHAPTER C. RELEASE AND USE OF INFORMATION

43-35 Art. 67.101. RELEASE AND USE OF INFORMATION

43-36 Art. 67.102. CRIMINAL INFORMATION RELATING TO CHILD

43-37 Art. 67.103. UNAUTHORIZED RELEASE OR USE OF CRIMINAL  
43-38 INFORMATION; PENALTY

43-39 SUBCHAPTER D. REMOVAL OF INFORMATION

43-40 Art. 67.151. REMOVAL OF INFORMATION RELATING TO

43-41 INDIVIDUAL OTHER THAN CHILD

43-42 Art. 67.152. REMOVAL OF INFORMATION RELATING TO CHILD

43-43 SUBCHAPTER E. RIGHTS OF SUBJECT OF CRIMINAL INFORMATION

43-44 Art. 67.201. RIGHT TO REQUEST EXISTENCE OF CRIMINAL  
43-45 INFORMATION

43-46 Art. 67.202. RIGHT TO REQUEST REVIEW OF CRIMINAL  
43-47 INFORMATION

43-48 Art. 67.203. JUDICIAL REVIEW

43-49 SUBCHAPTER F. GANG RESOURCE SYSTEM

43-50 Art. 67.251. ESTABLISHMENT OF GANG RESOURCE SYSTEM

43-51 Art. 67.252. INFORMATION INCLUDED IN GANG RESOURCE  
43-52 SYSTEM

43-53 Art. 67.253. INCLUSION OF CERTAIN INFORMATION PROHIBITED

43-54 Art. 67.254. COLLECTION OF INFORMATION

43-55 Art. 67.255. USE OF INFORMATION

43-56 Art. 67.256. ACCESS TO INFORMATION

43-57 SUBCHAPTER G. TEXAS VIOLENT GANG TASK FORCE

43-58 Art. 67.301. DEFINITION

43-59 Art. 67.302. PURPOSE

43-60 Art. 67.303. TASK FORCE MEMBERS

43-61 Art. 67.304. DUTIES OF TASK FORCE

43-62 Art. 67.305. DUTIES OF DEPARTMENT REGARDING TASK FORCE

43-63 CHAPTER 67. COMPILATION OF INFORMATION PERTAINING TO COMBINATIONS  
43-64 AND CRIMINAL STREET GANGS

43-65 SUBCHAPTER A. GENERAL PROVISIONS

43-66 Art. 67.001. DEFINITIONS. In this chapter:

43-67 (1) "Administration of criminal justice" has the  
43-68 meaning assigned by Article 66.001.

43-69 (2) "Child" has the meaning assigned by Section 51.02,



44-1 Family Code.  
 44-2 (3) "Combination" has the meaning assigned by Section  
 44-3 71.01, Penal Code.  
 44-4 (4) "Criminal activity" means conduct that is subject  
 44-5 to prosecution.  
 44-6 (5) "Criminal information" means facts, material,  
 44-7 photographs, or data reasonably related to the investigation or  
 44-8 prosecution of criminal activity.  
 44-9 (6) "Criminal justice agency" means:  
 44-10 (A) an entity defined as a criminal justice  
 44-11 agency under Article 66.001; or  
 44-12 (B) a municipal or county agency, or school  
 44-13 district law enforcement agency, that is engaged in the  
 44-14 administration of criminal justice under a statute or executive  
 44-15 order.  
 44-16 (7) "Criminal street gang" has the meaning assigned by  
 44-17 Section 71.01, Penal Code.  
 44-18 (8) "Department" means the Department of Public Safety  
 44-19 of the State of Texas.  
 44-20 (9) "Intelligence database" means a collection or  
 44-21 compilation of data organized for search and retrieval to evaluate,  
 44-22 analyze, disseminate, or use intelligence information relating to a  
 44-23 combination or criminal street gang for the purpose of  
 44-24 investigating or prosecuting a criminal offense.  
 44-25 (10) "Juvenile justice agency" has the meaning  
 44-26 assigned by Section 58.101, Family Code.  
 44-27 (11) "Law enforcement agency" does not include the  
 44-28 Texas Department of Criminal Justice, the Texas Juvenile Justice  
 44-29 Department, or a local juvenile probation department. (Code Crim.  
 44-30 Proc., Art. 61.01.)  
 44-31 SUBCHAPTER B. INTELLIGENCE DATABASES  
 44-32 Art. 67.051. INTELLIGENCE DATABASES REQUIRED. (a) Subject  
 44-33 to Subsection (b), a criminal justice agency or juvenile justice  
 44-34 agency shall compile criminal information into an intelligence  
 44-35 database for the purpose of investigating or prosecuting the  
 44-36 criminal activities of combinations or criminal street gangs.  
 44-37 (b) A law enforcement agency in a municipality with a  
 44-38 population of 50,000 or more or in a county with a population of  
 44-39 100,000 or more shall compile and maintain in a local or regional  
 44-40 intelligence database criminal information relating to a criminal  
 44-41 street gang as provided by Subsection (a). The agency must compile  
 44-42 and maintain the information in accordance with the criminal  
 44-43 intelligence systems operating policies established under 28  
 44-44 C.F.R. Section 23.1 et seq. and the submission criteria established  
 44-45 under Article 67.054(b).  
 44-46 (c) Information described by this article may be compiled on  
 44-47 paper, by computer, or in any other useful manner by a criminal  
 44-48 justice agency, juvenile justice agency, or law enforcement agency.  
 44-49 (d) A local law enforcement agency described by Subsection  
 44-50 (b) shall send to the department information the agency compiles  
 44-51 and maintains under this chapter. (Code Crim. Proc., Arts.  
 44-52 61.02(a), (b), (b-1), 61.03(c).)  
 44-53 Art. 67.052. DEPARTMENT INTELLIGENCE DATABASE. (a) The  
 44-54 department shall establish an intelligence database and shall  
 44-55 maintain information received from an agency under Article  
 44-56 67.051(d) in the database in accordance with the criminal  
 44-57 intelligence systems operating policies established under 28  
 44-58 C.F.R. Section 23.1 et seq. and the submission criteria under  
 44-59 Article 67.054(b).  
 44-60 (b) The department shall designate a code to distinguish  
 44-61 criminal information relating to a child and contained in the  
 44-62 department's intelligence database from criminal information  
 44-63 relating to an adult offender and contained in the database. (Code  
 44-64 Crim. Proc., Arts. 61.02(b) (part), 61.03(d), (e).)  
 44-65 Art. 67.053. INTELLIGENCE DATABASE USER TRAINING; RULES.  
 44-66 (a) The department shall enter into a memorandum of understanding  
 44-67 with the United States Department of Justice or other appropriate  
 44-68 federal department or agency to provide any person in this state who  
 44-69 enters information into or retrieves information from an



45-1 intelligence database described by this chapter with training  
45-2 regarding the operating principles described by 28 C.F.R. Part 23,  
45-3 as those principles relate to an intelligence database established  
45-4 or maintained under this chapter.

45-5 (b) A person in this state who enters information into or  
45-6 retrieves information from an intelligence database described by  
45-7 this chapter shall complete continuing education training on the  
45-8 material described by Subsection (a) at least once for each  
45-9 continuous two-year period the person has primary responsibility  
45-10 for performing a function described by this subsection.

45-11 (c) The department shall adopt rules necessary to implement  
45-12 this article. (Code Crim. Proc., Art. 61.12.)

45-13 Art. 67.054. SUBMISSION CRITERIA. (a) In this article:

45-14 (1) "Family member" means a person related to another  
45-15 person within the third degree by consanguinity or affinity, as  
45-16 described by Subchapter B, Chapter 573, Government Code, except  
45-17 that the term does not include a person who is considered to be  
45-18 related to another person by affinity only as described by Section  
45-19 573.024(b), Government Code.

45-20 (2) "Penal institution" means:

45-21 (A) a confinement facility operated by or under  
45-22 contract with any division of the Texas Department of Criminal  
45-23 Justice;

45-24 (B) a confinement facility operated by or under  
45-25 contract with the Texas Juvenile Justice Department;

45-26 (C) a juvenile secure pre-adjudication or  
45-27 post-adjudication facility operated by or under a local juvenile  
45-28 probation department; or

45-29 (D) a county jail.

45-30 (b) Criminal information collected under this chapter  
45-31 relating to a criminal street gang must:

45-32 (1) be relevant to the identification of an  
45-33 organization that is reasonably suspected of involvement in  
45-34 criminal activity; and

45-35 (2) consist of:

45-36 (A) a judgment under any law that includes, as a  
45-37 finding or as an element of a criminal offense, participation in a  
45-38 criminal street gang;

45-39 (B) a self-admission by an individual of criminal  
45-40 street gang membership that is made during a judicial proceeding;  
45-41 or

45-42 (C) except as provided by Subsection (c), any two  
45-43 of the following:

45-44 (i) a self-admission by the individual of  
45-45 criminal street gang membership that is not made during a judicial  
45-46 proceeding, including the use of the Internet or other electronic  
45-47 format or medium to post photographs or other documentation  
45-48 identifying the individual as a member of a criminal street gang;

45-49 (ii) an identification of the individual as  
45-50 a criminal street gang member by a reliable informant or other  
45-51 individual;

45-52 (iii) a corroborated identification of the  
45-53 individual as a criminal street gang member by an informant or other  
45-54 individual of unknown reliability;

45-55 (iv) evidence that the individual frequents  
45-56 a documented area of a criminal street gang and associates with  
45-57 known criminal street gang members;

45-58 (v) evidence that the individual uses, in  
45-59 more than an incidental manner, criminal street gang dress, hand  
45-60 signals, tattoos, or symbols, including expressions of letters,  
45-61 numbers, words, or marks, regardless of how or the means by which  
45-62 the symbols are displayed, that are associated with a criminal  
45-63 street gang that operates in an area frequented by the individual  
45-64 and described by Subparagraph (iv);

45-65 (vi) evidence that the individual has been  
45-66 arrested or taken into custody with known criminal street gang  
45-67 members for an offense or conduct consistent with criminal street  
45-68 gang activity;

45-69 (vii) evidence that the individual has

46-1 visited a known criminal street gang member, other than a family  
46-2 member of the individual, while the gang member is confined in or  
46-3 committed to a penal institution; or

46-4 (viii) evidence of the individual's use of  
46-5 technology, including the Internet, to recruit new criminal street  
46-6 gang members.

46-7 (c) Evidence described by Subsections (b)(2)(C)(iv) and  
46-8 (vii) is not sufficient to create the eligibility of a person's  
46-9 information to be included in an intelligence database described by  
46-10 this chapter unless the evidence is combined with information  
46-11 described by another subparagraph of Subsection (b)(2)(C). (Code  
46-12 Crim. Proc., Arts. 61.02(c), (d), (e).)

#### 46-13 SUBCHAPTER C. RELEASE AND USE OF INFORMATION

46-14 Art. 67.101. RELEASE AND USE OF INFORMATION. (a) On  
46-15 request, a criminal justice agency may release information  
46-16 maintained under this chapter to:

46-17 (1) another criminal justice agency;

46-18 (2) a court; or

46-19 (3) a defendant in a criminal proceeding who is  
46-20 entitled to the discovery of the information under Chapter 39.

46-21 (b) A criminal justice agency or court may use information  
46-22 received under this article or Article 67.051(d) or 67.052 only for  
46-23 the administration of criminal justice.

46-24 (c) A defendant may use information received under this  
46-25 article or Article 67.051(d) or 67.052 only for a defense in a  
46-26 criminal proceeding. (Code Crim. Proc., Arts. 61.03(a), (b).)

46-27 Art. 67.102. CRIMINAL INFORMATION RELATING TO CHILD. (a)  
46-28 Notwithstanding Chapter 58, Family Code, criminal information  
46-29 relating to a child associated with a combination or criminal  
46-30 street gang may be compiled and released under this chapter  
46-31 regardless of the age of the child.

46-32 (b) A criminal justice agency or juvenile justice agency may  
46-33 release information maintained under this chapter to an attorney  
46-34 representing a child who is a party to a proceeding under Title 3,  
46-35 Family Code, if the juvenile court determines the information:

46-36 (1) is material to the proceeding; and

46-37 (2) is not privileged under law.

46-38 (c) An attorney may use information received under this  
46-39 article only for a child's defense in a proceeding under Title 3,  
46-40 Family Code.

46-41 (d) The governing body of a county or municipality served by  
46-42 a law enforcement agency described by Article 67.051(b) may adopt a  
46-43 policy to notify the parent or guardian of a child of the agency's  
46-44 observations relating to the child's association with a criminal  
46-45 street gang. (Code Crim. Proc., Art. 61.04.)

46-46 Art. 67.103. UNAUTHORIZED RELEASE OR USE OF CRIMINAL  
46-47 INFORMATION; PENALTY. (a) A person commits an offense if the  
46-48 person knowingly:

46-49 (1) uses criminal information obtained under this  
46-50 chapter for an unauthorized purpose; or

46-51 (2) releases the information to a person who is not  
46-52 entitled to the information.

46-53 (b) An offense under this article is a Class A misdemeanor.  
46-54 (Code Crim. Proc., Art. 61.05.)

#### 46-55 SUBCHAPTER D. REMOVAL OF INFORMATION

46-56 Art. 67.151. REMOVAL OF INFORMATION RELATING TO INDIVIDUAL  
46-57 OTHER THAN CHILD. (a) This article does not apply to information  
46-58 collected under this chapter by the Texas Department of Criminal  
46-59 Justice or the Texas Juvenile Justice Department.

46-60 (b) Subject to Subsection (c), information collected under  
46-61 this chapter relating to a criminal street gang must be removed  
46-62 after five years from an intelligence database established under  
46-63 Article 67.051 and the intelligence database maintained by the  
46-64 department under Article 67.052 if:

46-65 (1) the information relates to the investigation or  
46-66 prosecution of criminal activity engaged in by an individual other  
46-67 than a child; and

46-68 (2) the individual who is the subject of the  
46-69 information has not been arrested for criminal activity reported to

47-1 the department under Chapter 66.

47-2 (c) The five-year period described by Subsection (b) does  
47-3 not include any period during which the individual who is the  
47-4 subject of the information is:

47-5 (1) confined in a correctional facility operated by or  
47-6 under contract with the Texas Department of Criminal Justice;

47-7 (2) committed to a secure correctional facility, as  
47-8 defined by Section 51.02, Family Code, operated by or under  
47-9 contract with the Texas Juvenile Justice Department; or

47-10 (3) confined in a county jail or confined in or  
47-11 committed to a facility operated by a juvenile board in lieu of  
47-12 being confined in a correctional facility described by Subdivision  
47-13 (1) or committed to a secure correctional facility described by  
47-14 Subdivision (2). (Code Crim. Proc., Art. 61.06.)

47-15 Art. 67.152. REMOVAL OF INFORMATION RELATING TO CHILD. (a)  
47-16 This article does not apply to information collected under this  
47-17 chapter by the Texas Department of Criminal Justice or the Texas  
47-18 Juvenile Justice Department.

47-19 (b) Subject to Subsection (c), information collected under  
47-20 this chapter relating to a criminal street gang must be removed  
47-21 after two years from an intelligence database established under  
47-22 Article 67.051 and the intelligence database maintained by the  
47-23 department under Article 67.052 if:

47-24 (1) the information relates to the investigation or  
47-25 prosecution of criminal activity engaged in by a child; and

47-26 (2) the child who is the subject of the information has  
47-27 not been:

47-28 (A) arrested for criminal activity reported to  
47-29 the department under Chapter 66; or

47-30 (B) taken into custody for delinquent conduct  
47-31 reported to the department under Chapter 58, Family Code.

47-32 (c) The two-year period described by Subsection (b) does not  
47-33 include any period during which the child who is the subject of the  
47-34 information is:

47-35 (1) committed to the Texas Juvenile Justice Department  
47-36 for conduct that violates a penal law of the grade of felony; or

47-37 (2) confined in the Texas Department of Criminal  
47-38 Justice. (Code Crim. Proc., Art. 61.07.)

47-39 SUBCHAPTER E. RIGHTS OF SUBJECT OF CRIMINAL INFORMATION

47-40 Art. 67.201. RIGHT TO REQUEST EXISTENCE OF CRIMINAL  
47-41 INFORMATION. (a) A person or the parent or guardian of a child may  
47-42 request that a law enforcement agency determine whether the agency  
47-43 has collected or is maintaining, under submission criteria  
47-44 established under Article 67.054(b), criminal information relating  
47-45 solely to the person or child. The law enforcement agency shall  
47-46 respond to the request not later than the 10th business day after  
47-47 the date the agency receives the request.

47-48 (b) Before responding to a request under Subsection (a), a  
47-49 law enforcement agency may require reasonable written verification  
47-50 of the identity of the person making the request and the  
47-51 relationship between the parent or guardian and the child, if  
47-52 applicable, including written verification of an address, date of  
47-53 birth, driver's license number, state identification card number,  
47-54 or social security number. (Code Crim. Proc., Art. 61.075.)

47-55 Art. 67.202. RIGHT TO REQUEST REVIEW OF CRIMINAL  
47-56 INFORMATION. (a) On receipt of a written request of a person or the  
47-57 parent or guardian of a child that includes a showing by the person  
47-58 or the parent or guardian that a law enforcement agency may have  
47-59 collected criminal information under this chapter relating to the  
47-60 person or child that is inaccurate or does not comply with the  
47-61 submission criteria under Article 67.054(b), the head of the agency  
47-62 or the designee of the agency head shall review criminal  
47-63 information collected by the agency under this chapter relating to  
47-64 the person or child to determine if:

47-65 (1) reasonable suspicion exists to believe that the  
47-66 information is accurate; and

47-67 (2) the information complies with the submission  
47-68 criteria established under Article 67.054(b).

47-69 (b) If, after conducting a review of criminal information



48-1 under Subsection (a), the agency head or designee determines that  
 48-2 reasonable suspicion does not exist to believe that the information  
 48-3 is accurate, or determines that the information does not comply  
 48-4 with the submission criteria, the agency shall:

48-5 (1) destroy all records containing the information;  
 48-6 and

48-7 (2) notify the department and the person who requested  
 48-8 the review of the agency's determination and the destruction of the  
 48-9 records.

48-10 (c) If, after conducting a review of criminal information  
 48-11 under Subsection (a), the agency head or designee determines that  
 48-12 reasonable suspicion exists to believe that the information is  
 48-13 accurate, and determines that the information complies with the  
 48-14 submission criteria, the agency shall notify the person who  
 48-15 requested the review:

48-16 (1) of the agency's determination; and

48-17 (2) that the person is entitled to seek judicial  
 48-18 review of the agency's determination under Article 67.203.

48-19 (d) On receipt of notice under Subsection (b)(2), the  
 48-20 department immediately shall destroy all records containing the  
 48-21 information that is the subject of the notice in the intelligence  
 48-22 database maintained by the department under Article 67.052.

48-23 (e) A person who is committed to the Texas Juvenile Justice  
 48-24 Department or confined in the Texas Department of Criminal Justice  
 48-25 does not, while committed or confined, have the right to request  
 48-26 review of criminal information under this article. (Code Crim.  
 48-27 Proc., Art. 61.08.)

48-28 Art. 67.203. JUDICIAL REVIEW. (a) A person who is entitled  
 48-29 to seek judicial review of a determination made under Article  
 48-30 67.202(c) may file a petition for review in district court in the  
 48-31 county in which the person resides.

48-32 (b) On the filing of a petition for review under Subsection  
 48-33 (a), the district court shall conduct an in camera review of the  
 48-34 criminal information that is the subject of the determination to  
 48-35 determine if:

48-36 (1) reasonable suspicion exists to believe that the  
 48-37 information is accurate; and

48-38 (2) the information complies with the submission  
 48-39 criteria under Article 67.054(b).

48-40 (c) If, after conducting an in camera review of criminal  
 48-41 information under Subsection (b), the court finds that reasonable  
 48-42 suspicion does not exist to believe that the information is  
 48-43 accurate, or finds that the information does not comply with the  
 48-44 submission criteria, the court shall:

48-45 (1) order the law enforcement agency that collected  
 48-46 the information to destroy all records containing the information;  
 48-47 and

48-48 (2) notify the department of the court's determination  
 48-49 and the destruction of the records.

48-50 (d) A petitioner may appeal a final judgment of a district  
 48-51 court conducting an in camera review under this article.

48-52 (e) Information that is the subject of an in camera review  
 48-53 under this article is confidential and may not be disclosed. (Code  
 48-54 Crim. Proc., Art. 61.09.)

48-55 SUBCHAPTER F. GANG RESOURCE SYSTEM

48-56 Art. 67.251. ESTABLISHMENT OF GANG RESOURCE SYSTEM. The  
 48-57 office of the attorney general shall establish an electronic gang  
 48-58 resource system to provide criminal justice agencies and juvenile  
 48-59 justice agencies with information about criminal street gangs in  
 48-60 this state. (Code Crim. Proc., Art. 61.11(a) (part).)

48-61 Art. 67.252. INFORMATION INCLUDED IN GANG RESOURCE SYSTEM.  
 48-62 (a) The gang resource system established under Article 67.251 may  
 48-63 include the following information with regard to any gang:

48-64 (1) gang name;

48-65 (2) gang identifiers, such as colors used, tattoos,  
 48-66 and clothing preferences;

48-67 (3) criminal activities;

48-68 (4) migration trends;

48-69 (5) recruitment activities; and



49-1 (6) a local law enforcement contact.

49-2 (b) Information in the gang resource system shall be  
49-3 accessible according to:

49-4 (1) municipality or county; and

49-5 (2) gang name.

49-6 (c) The office of the attorney general may coordinate with  
49-7 the Texas Department of Criminal Justice to include information in  
49-8 the gang resource system regarding groups that have been identified  
49-9 by the Security Threat Group Management Office of the Texas  
49-10 Department of Criminal Justice. (Code Crim. Proc., Arts. 61.11(a)  
49-11 (part), (g), (h).)

49-12 Art. 67.253. INCLUSION OF CERTAIN INFORMATION PROHIBITED.  
49-13 Information relating to the identity of a specific offender or  
49-14 alleged offender may not be maintained in the gang resource system.  
49-15 (Code Crim. Proc., Art. 61.11(d).)

49-16 Art. 67.254. COLLECTION OF INFORMATION. (a) On request by  
49-17 the office of the attorney general, a criminal justice agency or  
49-18 juvenile justice agency shall make a reasonable attempt to provide  
49-19 gang information to the office of the attorney general for the  
49-20 purpose of maintaining an updated, comprehensive gang resource  
49-21 system.

49-22 (b) The office of the attorney general shall cooperate with  
49-23 criminal justice agencies and juvenile justice agencies in  
49-24 collecting and maintaining the accuracy of the information included  
49-25 in the gang resource system. (Code Crim. Proc., Arts. 61.11(b),  
49-26 (c).)

49-27 Art. 67.255. USE OF INFORMATION. Information in the gang  
49-28 resource system may be used in investigating gang-related crimes.  
49-29 Information from the system may be included in an affidavit or  
49-30 subpoena or used in connection with any other legal or judicial  
49-31 proceeding only if the information is corroborated by information  
49-32 not provided by or maintained in the system. (Code Crim. Proc.,  
49-33 Art. 61.11(e).)

49-34 Art. 67.256. ACCESS TO INFORMATION. Access to the gang  
49-35 resource system shall be limited to criminal justice agency  
49-36 personnel and juvenile justice agency personnel. (Code Crim.  
49-37 Proc., Art. 61.11(f).)

49-38 SUBCHAPTER G. TEXAS VIOLENT GANG TASK FORCE

49-39 Art. 67.301. DEFINITION. In this subchapter, "task force"  
49-40 means the Texas Violent Gang Task Force. (Code Crim. Proc., Art.  
49-41 61.10(a).)

49-42 Art. 67.302. PURPOSE. The purpose of the task force is to  
49-43 form a strategic partnership among local, state, and federal  
49-44 criminal justice, juvenile justice, and correctional agencies to  
49-45 better enable those agencies to take a proactive stance toward  
49-46 tracking gang activity and the growth and spread of gangs  
49-47 statewide. (Code Crim. Proc., Art. 61.10(b).)

49-48 Art. 67.303. TASK FORCE MEMBERS. The task force shall  
49-49 consist of:

49-50 (1) a representative of the department designated by  
49-51 the director of the department;

49-52 (2) two representatives of the Texas Department of  
49-53 Criminal Justice, including a representative of the parole  
49-54 division, designated by the executive director of that agency;

49-55 (3) a representative of the office of the inspector  
49-56 general of the Texas Department of Criminal Justice designated by  
49-57 the inspector general;

49-58 (4) two representatives of the Texas Juvenile Justice  
49-59 Department designated by the executive director of that agency;

49-60 (5) a representative of the office of the attorney  
49-61 general designated by the attorney general;

49-62 (6) six representatives who are local law enforcement  
49-63 officers or local community supervision personnel, including  
49-64 juvenile probation personnel, designated by the governor;

49-65 (7) two representatives who are local prosecutors  
49-66 designated by the governor; and

49-67 (8) a representative of the Texas Alcoholic Beverage  
49-68 Commission designated by the executive director of that agency.  
49-69 (Code Crim. Proc., Art. 61.10(f).)

50-1 Art. 67.304. DUTIES OF TASK FORCE. (a) The task force  
50-2 shall focus its efforts on:

50-3 (1) developing, through regional task force meetings,  
50-4 a statewide networking system that will provide timely access to  
50-5 gang information;

50-6 (2) establishing communication between different  
50-7 criminal justice, juvenile justice, and correctional agencies,  
50-8 combining independent agency resources, and joining agencies  
50-9 together in a cooperative effort to focus on gang membership, gang  
50-10 activity, and gang migration trends; and

50-11 (3) forming a working group of criminal justice,  
50-12 juvenile justice, and correctional representatives from throughout  
50-13 this state to discuss specific cases and investigations involving  
50-14 gangs and other related gang activities.

50-15 (b) The task force may take any other actions necessary to  
50-16 accomplish the purposes of this subchapter.

50-17 (c) If practicable, the task force shall consult with  
50-18 representatives from one or more United States attorneys' offices  
50-19 in this state and with representatives from the following federal  
50-20 agencies who are available and assigned to a duty station in this  
50-21 state:

50-22 (1) the Federal Bureau of Investigation;

50-23 (2) the Federal Bureau of Prisons;

50-24 (3) the United States Drug Enforcement  
50-25 Administration;

50-26 (4) United States Immigration and Customs  
50-27 Enforcement;

50-28 (5) United States Customs and Border Protection;

50-29 (6) the Bureau of Alcohol, Tobacco, Firearms and  
50-30 Explosives;

50-31 (7) the United States Marshals Service; and

50-32 (8) the United States Probation and Pretrial Services  
50-33 System. (Code Crim. Proc., Arts. 61.10(c), (d), (g).)

50-34 Art. 67.305. DUTIES OF DEPARTMENT REGARDING TASK FORCE.  
50-35 The department shall support the task force to assist in  
50-36 coordinating statewide antigang initiatives. (Code Crim. Proc.,  
50-37 Art. 61.10(e).)

50-38 ARTICLE 2. CONFORMING AMENDMENTS FOR ARTICLES 18.20 AND 18.21,

50-39 CODE OF CRIMINAL PROCEDURE: CHAPTER 16, PENAL CODE

50-40 SECTION 2.01. Sections 16.02(a), (b), (c), (d), (e), and  
50-41 (e-1), Penal Code, are amended to read as follows:

50-42 (a) In this section:

50-43 (1) "Communication [~~,"computer trespasser," "covert~~  
50-44 ~~entry," "communication]~~ common carrier," "computer trespasser,"  
50-45 "contents," "covert entry," "electronic communication,"  
50-46 ["electronic, mechanical, or other device," "immediate  
50-47 life-threatening situation," "intercept," "interception device,"  
50-48 "investigative or law enforcement officer," ["member of a law  
50-49 enforcement unit specially trained to respond to and deal with  
50-50 life-threatening situations," "oral communication," "protected  
50-51 computer," ["readily accessible to the general public,"] and "wire  
50-52 communication" have the meanings assigned by [given those terms in]  
50-53 Article 18A.001 [18.20], Code of Criminal Procedure.

50-54 (2) "Immediate life-threatening situation" and  
50-55 "member of a law enforcement unit specially trained to respond to  
50-56 and deal with life-threatening situations" have the meanings  
50-57 assigned by Article 18A.201, Code of Criminal Procedure.

50-58 (3) "Readily accessible to the general public" means,  
50-59 with respect to a radio communication, a communication that is not:

50-60 (A) scrambled or encrypted;

50-61 (B) transmitted using modulation techniques  
50-62 whose essential parameters have been withheld from the public with  
50-63 the intention of preserving the privacy of the communication;

50-64 (C) carried on a subcarrier or other signal  
50-65 subsidiary to a radio transmission;

50-66 (D) transmitted over a communication system  
50-67 provided by a common carrier, unless the communication is a  
50-68 tone-only paging system communication;

50-69 (E) transmitted on frequencies allocated under

51-1 Part 25, Subpart D, E, or F of Part 74, or Part 94 of the rules of the  
 51-2 Federal Communications Commission, unless, in the case of a  
 51-3 communication transmitted on a frequency allocated under Part 74  
 51-4 that is not exclusively allocated to broadcast auxiliary services,  
 51-5 the communication is a two-way voice communication by radio; or  
 51-6 (F) an electronic communication.

51-7 (b) A person commits an offense if the person:

51-8 (1) intentionally intercepts, endeavors to intercept,  
 51-9 or procures another person to intercept or endeavor to intercept a  
 51-10 wire, oral, or electronic communication;

51-11 (2) intentionally discloses or endeavors to disclose  
 51-12 to another person the contents of a wire, oral, or electronic  
 51-13 communication if the person knows or has reason to know the  
 51-14 information was obtained through the interception of a wire, oral,  
 51-15 or electronic communication in violation of this subsection;

51-16 (3) intentionally uses or endeavors to use the  
 51-17 contents of a wire, oral, or electronic communication if the person  
 51-18 knows or is reckless about whether the information was obtained  
 51-19 through the interception of a wire, oral, or electronic  
 51-20 communication in violation of this subsection;

51-21 (4) knowingly or intentionally effects a covert entry  
 51-22 for the purpose of intercepting wire, oral, or electronic  
 51-23 communications without court order or authorization; or

51-24 (5) intentionally uses, endeavors to use, or procures  
 51-25 any other person to use or endeavor to use any interception  
 51-26 [~~electronic, mechanical, or other~~] device to intercept any oral  
 51-27 communication when the device:

51-28 (A) is affixed to, or otherwise transmits a  
 51-29 signal through a wire, cable, or other connection used in wire  
 51-30 communications; or

51-31 (B) transmits communications by radio or  
 51-32 interferes with the transmission of communications by radio.

51-33 (c) It is an affirmative defense to prosecution under  
 51-34 Subsection (b) that:

51-35 (1) an operator of a switchboard or an officer,  
 51-36 employee, or agent of a communication common carrier whose  
 51-37 facilities are used in the transmission of a wire or electronic  
 51-38 communication intercepts a communication or discloses or uses an  
 51-39 intercepted communication in the normal course of employment while  
 51-40 engaged in an activity that is a necessary incident to the rendition  
 51-41 of service or to the protection of the rights or property of the  
 51-42 carrier of the communication, unless the interception results from  
 51-43 the communication common carrier's use of service observing or  
 51-44 random monitoring for purposes other than mechanical or service  
 51-45 quality control checks;

51-46 (2) an officer, employee, or agent of a communication  
 51-47 common carrier provides information, facilities, or technical  
 51-48 assistance to an investigative or law enforcement officer who is  
 51-49 authorized as provided by this section to intercept a wire, oral, or  
 51-50 electronic communication;

51-51 (3) a person acting under color of law intercepts:

51-52 (A) a wire, oral, or electronic communication, if  
 51-53 the person is a party to the communication or if one of the parties  
 51-54 to the communication has given prior consent to the interception;

51-55 (B) a wire, oral, or electronic communication, if  
 51-56 the person is acting under the authority of Chapter 18A [~~Article~~  
 51-57 18.20], Code of Criminal Procedure; or

51-58 (C) a wire or electronic communication made by a  
 51-59 computer trespasser and transmitted to, through, or from a  
 51-60 protected computer, if:

51-61 (i) the interception did not acquire a  
 51-62 communication other than one transmitted to or from the computer  
 51-63 trespasser;

51-64 (ii) the owner of the protected computer  
 51-65 consented to the interception of the computer trespasser's  
 51-66 communications on the protected computer; and

51-67 (iii) the actor was lawfully engaged in an  
 51-68 ongoing criminal investigation and the actor had reasonable  
 51-69 suspicion to believe that the contents of the computer trespasser's

52-1 communications likely to be obtained would be material to the  
52-2 investigation;

52-3 (4) a person not acting under color of law intercepts a  
52-4 wire, oral, or electronic communication, if:  
52-5 (A) the person is a party to the communication;  
52-6 or  
52-7 (B) one of the parties to the communication has  
52-8 given prior consent to the interception, unless the communication  
52-9 is intercepted for the purpose of committing an unlawful act;

52-10 (5) a person acting under color of law intercepts a  
52-11 wire, oral, or electronic communication if:  
52-12 (A) oral or written consent for the interception  
52-13 is given by a magistrate before the interception;  
52-14 (B) an immediate life-threatening situation  
52-15 exists;  
52-16 (C) the person is a member of a law enforcement  
52-17 unit specially trained to:  
52-18 (i) respond to and deal with  
52-19 life-threatening situations; or  
52-20 (ii) install interception [~~electronic,~~  
52-21 ~~mechanical, or other~~] devices; and  
52-22 (D) the interception ceases immediately on  
52-23 termination of the life-threatening situation;

52-24 (6) an officer, employee, or agent of the Federal  
52-25 Communications Commission intercepts a communication transmitted  
52-26 by radio or discloses or uses an intercepted communication in the  
52-27 normal course of employment and in the discharge of the monitoring  
52-28 responsibilities exercised by the Federal Communications  
52-29 Commission in the enforcement of Chapter 5, Title 47, United States  
52-30 Code;

52-31 (7) a person intercepts or obtains access to an  
52-32 electronic communication that was made through an electronic  
52-33 communication system that is configured to permit the communication  
52-34 to be readily accessible to the general public;

52-35 (8) a person intercepts radio communication, other  
52-36 than a cordless telephone communication that is transmitted between  
52-37 a cordless telephone handset and a base unit, that is transmitted:  
52-38 (A) by a station for the use of the general  
52-39 public;  
52-40 (B) to ships, aircraft, vehicles, or persons in  
52-41 distress;  
52-42 (C) by a governmental, law enforcement, civil  
52-43 defense, private land mobile, or public safety communications  
52-44 system that is readily accessible to the general public, unless the  
52-45 radio communication is transmitted by a law enforcement  
52-46 representative to or from a mobile data terminal;

52-47 (D) by a station operating on an authorized  
52-48 frequency within the bands allocated to the amateur, citizens band,  
52-49 or general mobile radio services; or  
52-50 (E) by a marine or aeronautical communications  
52-51 system;

52-52 (9) a person intercepts a wire or electronic  
52-53 communication the transmission of which causes harmful  
52-54 interference to a lawfully operating station or consumer electronic  
52-55 equipment, to the extent necessary to identify the source of the  
52-56 interference;

52-57 (10) a user of the same frequency intercepts a radio  
52-58 communication made through a system that uses frequencies monitored  
52-59 by individuals engaged in the provision or the use of the system, if  
52-60 the communication is not scrambled or encrypted; or

52-61 (11) a provider of an electronic communications  
52-62 service records the fact that a wire or electronic communication  
52-63 was initiated or completed in order to protect the provider,  
52-64 another provider furnishing service towards the completion of the  
52-65 communication, or a user of that service from fraudulent, unlawful,  
52-66 or abusive use of the service.

52-67 (d) A person commits an offense if the person:  
52-68 (1) intentionally manufactures, assembles, possesses,  
52-69 or sells an interception [~~electronic, mechanical, or other~~] device



53-1 knowing or having reason to know that the device is designed  
 53-2 primarily for nonconsensual interception of wire, electronic, or  
 53-3 oral communications and that the device or a component of the device  
 53-4 has been or will be used for an unlawful purpose; or

53-5 (2) places in a newspaper, magazine, handbill, or  
 53-6 other publication an advertisement of an interception [~~electronic,~~  
 53-7 ~~mechanical, or other~~] device:

53-8 (A) knowing or having reason to know that the  
 53-9 device is designed primarily for nonconsensual interception of  
 53-10 wire, electronic, or oral communications;

53-11 (B) promoting the use of the device for the  
 53-12 purpose of nonconsensual interception of wire, electronic, or oral  
 53-13 communications; or

53-14 (C) knowing or having reason to know that the  
 53-15 advertisement will promote the use of the device for the purpose of  
 53-16 nonconsensual interception of wire, electronic, or oral  
 53-17 communications.

53-18 (e) It is an affirmative defense to prosecution under  
 53-19 Subsection (d) that the manufacture, assembly, possession, or sale  
 53-20 of an interception [~~electronic, mechanical, or other~~] device that  
 53-21 is designed primarily for the purpose of nonconsensual interception  
 53-22 of wire, electronic, or oral communication is by:

53-23 (1) a communication common carrier or a provider of  
 53-24 wire or electronic communications service or an officer, agent, or  
 53-25 employee of or a person under contract with a communication common  
 53-26 carrier or service provider acting in the normal course of the  
 53-27 provider's or [~~communication~~] carrier's business;

53-28 (2) an officer, agent, or employee of a person under  
 53-29 contract with, bidding on contracts with, or doing business with  
 53-30 the United States or this state acting in the normal course of the  
 53-31 activities of the United States or this state;

53-32 (3) a member of the Department of Public Safety who is  
 53-33 specifically trained to install wire, oral, or electronic  
 53-34 communications intercept equipment; or

53-35 (4) a member of a local law enforcement agency that has  
 53-36 an established unit specifically designated to respond to and deal  
 53-37 with life-threatening situations.

53-38 (e-1) It is a defense to prosecution under Subsection (d)(1)  
 53-39 that the interception [~~electronic, mechanical, or other~~] device is  
 53-40 possessed by a person authorized to possess the device under  
 53-41 Section 500.008, Government Code, or Section 242.103, Human  
 53-42 Resources Code.

53-43 SECTION 2.02. Sections 16.03(b) and (c), Penal Code, are  
 53-44 amended to read as follows:

53-45 (b) In this section:

53-46 (1) "Authorized" [~~authorized~~] peace officer,"  
 53-47 [~~communications common carrier,~~] "pen register," and "trap and  
 53-48 trace device" have the meanings assigned by Article 18B.001  
 53-49 [~~18.21~~], Code of Criminal Procedure.

53-50 (2) "Communication common carrier" has the meaning  
 53-51 assigned by Article 18A.001, Code of Criminal Procedure.

53-52 (c) It is an affirmative defense to prosecution under  
 53-53 Subsection (a) that the actor is:

53-54 (1) an officer, employee, or agent of a communication  
 53-55 [~~communications~~] common carrier and the actor installs or uses a  
 53-56 device or equipment to record a number dialed from or to a telephone  
 53-57 instrument in the normal course of business of the carrier for  
 53-58 purposes of:

53-59 (A) protecting property or services provided by  
 53-60 the carrier; or

53-61 (B) assisting another who the actor reasonably  
 53-62 believes to be a peace officer authorized to install or use a pen  
 53-63 register or trap and trace device under Chapter 18B [~~Article~~  
 53-64 ~~18.21~~], Code of Criminal Procedure;

53-65 (2) an officer, employee, or agent of a lawful  
 53-66 enterprise and the actor installs or uses a device or equipment  
 53-67 while engaged in an activity that:

53-68 (A) is a necessary incident to the rendition of  
 53-69 service or to the protection of property of or services provided by

54-1 the enterprise; and  
 54-2 (B) is not made for the purpose of gathering  
 54-3 information for a law enforcement agency or private investigative  
 54-4 agency, other than information related to the theft of  
 54-5 communication or information services provided by the enterprise;  
 54-6 or

54-7 (3) a person authorized to install or use a pen  
 54-8 register or trap and trace device under Chapter 18B [~~Article~~  
 54-9 ~~18.21~~], Code of Criminal Procedure.

54-10 SECTION 2.03. Sections 16.04(a) and (e), Penal Code, are  
 54-11 amended to read as follows:

54-12 (a) In this section:  
 54-13 (1) "Electronic [~~,"electronic]~~ communication,"  
 54-14 [~~"electronic storage,"~~] "user," and "wire communication" have the  
 54-15 meanings assigned by [~~to those terms in~~] Article 18A.001 [~~18.21~~],  
 54-16 Code of Criminal Procedure.

54-17 (2) "Electronic storage" has the meaning assigned by  
 54-18 Article 18B.001, Code of Criminal Procedure.

54-19 (e) It is an affirmative defense to prosecution under  
 54-20 Subsection (b) that the conduct was authorized by:

54-21 (1) the provider of the wire or electronic  
 54-22 communications service;

54-23 (2) the user of the wire or electronic communications  
 54-24 service;

54-25 (3) the addressee or intended recipient of the wire or  
 54-26 electronic communication; or

54-27 (4) Chapter 18B [~~Article 18.21~~], Code of Criminal  
 54-28 Procedure.

54-29 SECTION 2.04. Section 16.05(a), Penal Code, is amended to  
 54-30 read as follows:

54-31 (a) In this section, "electronic [~~communication,"~~  
 54-32 ~~"electronic]~~ communications service" has [~~service," and~~  
 54-33 ~~"electronic communications system" have]~~ the meaning assigned by  
 54-34 [~~meanings given those terms in~~] Article 18A.001 [~~18.20~~], Code of  
 54-35 Criminal Procedure.

54-36 ARTICLE 3. OTHER CONFORMING AMENDMENTS FOR ARTICLES 18.20 AND  
 54-37 18.21, CODE OF CRIMINAL PROCEDURE

54-38 SECTION 3.01. Section 71.0083(b), Agriculture Code, is  
 54-39 amended to read as follows:

54-40 (b) An agriculture warrant may be issued only by a  
 54-41 magistrate authorized to issue a search warrant under Chapter 18,  
 54-42 18A, or 18B, Code of Criminal Procedure, only after the department  
 54-43 has exercised reasonable efforts to obtain consent to conduct a  
 54-44 search, and on application by the department accompanied by a  
 54-45 supporting affidavit that establishes probable cause for the  
 54-46 issuance of the warrant. The warrant must describe:

54-47 (1) the street address and municipality or the parcel  
 54-48 number and county of each place or premises subject to the warrant;  
 54-49 and

54-50 (2) each type of plant pest or disease that is the  
 54-51 subject of the warrant.

54-52 SECTION 3.02. Section 123.001(2), Civil Practice and  
 54-53 Remedies Code, is amended to read as follows:

54-54 (2) "Interception" means the aural acquisition of the  
 54-55 contents of a communication through the use of an interception  
 54-56 [~~electronic, mechanical, or other]~~ device that is made without the  
 54-57 consent of a party to the communication, but does not include the  
 54-58 ordinary use of:

54-59 (A) a telephone or telegraph instrument or  
 54-60 facility or telephone and telegraph equipment;

54-61 (B) a hearing aid designed to correct subnormal  
 54-62 hearing to not better than normal;

54-63 (C) a radio, television, or other wireless  
 54-64 receiver; or

54-65 (D) a cable system that relays a public wireless  
 54-66 broadcast from a common antenna to a receiver.

54-67 SECTION 3.03. Article 18.02(b), Code of Criminal Procedure,  
 54-68 is amended to read as follows:

54-69 (b) For purposes of Subsection (a)(13):

55-1 (1) "Electronic communication" [~~,"electronic~~  
 55-2 ~~communication," "electronic storage,"~~] and "wire communication"  
 55-3 have the meanings assigned by Article 18A.001.

55-4 (2) "Electronic [~~18.20,~~ and "electronic] customer  
 55-5 data" and "electronic storage" have [~~has~~] the meanings [~~meaning~~]  
 55-6 assigned by Article 18B.001 [~~18.21~~].

55-7 SECTION 3.04. Article 18.0215(d), Code of Criminal  
 55-8 Procedure, is amended to read as follows:

55-9 (d) Notwithstanding any other law, a peace officer may  
 55-10 search a cellular telephone or other wireless communications device  
 55-11 without a warrant if:

55-12 (1) the owner or possessor of the telephone or device  
 55-13 consents to the search;

55-14 (2) the telephone or device is reported stolen by the  
 55-15 owner or possessor; or

55-16 (3) the officer reasonably believes that:

55-17 (A) the telephone or device is in the possession  
 55-18 of a fugitive from justice for whom an arrest warrant has been  
 55-19 issued for committing a felony offense; or

55-20 (B) there exists an immediate life-threatening  
 55-21 situation, as defined by [~~Section 17,~~] Article 18A.201 [~~18.20~~].

55-22 SECTION 3.05. Article 18.04, Code of Criminal Procedure, is  
 55-23 amended to read as follows:

55-24 Art. 18.04. CONTENTS OF WARRANT. A search warrant issued  
 55-25 under this chapter, Chapter 18A, or Chapter 18B shall be sufficient  
 55-26 if it contains the following requisites:

55-27 (1) that it run in the name of "The State of Texas";

55-28 (2) that it identify, as near as may be, that which is  
 55-29 to be seized and name or describe, as near as may be, the person,  
 55-30 place, or thing to be searched;

55-31 (3) that it command any peace officer of the proper  
 55-32 county to search forthwith the person, place, or thing named;

55-33 (4) that it be dated and signed by the magistrate; and

55-34 (5) that the magistrate's name appear in clearly  
 55-35 legible handwriting or in typewritten form with the magistrate's  
 55-36 signature.

55-37 SECTION 3.06. Article 18.06(a), Code of Criminal Procedure,  
 55-38 is amended to read as follows:

55-39 (a) A peace officer to whom a search warrant is delivered  
 55-40 shall execute the warrant without delay and forthwith return the  
 55-41 warrant to the proper magistrate. A search warrant issued under  
 55-42 [~~Section 5A,~~] Article 18B.354 [~~18.21,~~] must be executed in the  
 55-43 manner provided by Article 18B.355 [~~that section~~] not later than  
 55-44 the 11th day after the date of issuance. In all other cases, a  
 55-45 search warrant must be executed within three days from the time of  
 55-46 its issuance. A warrant issued under this chapter, Chapter 18A, or  
 55-47 Chapter 18B shall be executed within a shorter period if so directed  
 55-48 in the warrant by the magistrate.

55-49 SECTION 3.07. Articles 18.07(a) and (b), Code of Criminal  
 55-50 Procedure, are amended to read as follows:

55-51 (a) The period allowed for the execution of a search  
 55-52 warrant, exclusive of the day of its issuance and of the day of its  
 55-53 execution, is:

55-54 (1) 15 whole days if the warrant is issued solely to  
 55-55 search for and seize specimens from a specific person for DNA  
 55-56 analysis and comparison, including blood and saliva samples;

55-57 (2) 10 whole days if the warrant is issued under  
 55-58 [~~Section 5A,~~] Article 18B.354 [~~18.21~~]; or

55-59 (3) three whole days if the warrant is issued for a  
 55-60 purpose other than that described by Subdivision (1) or (2).

55-61 (b) The magistrate issuing a search warrant under this  
 55-62 chapter, Chapter 18A, or Chapter 18B shall endorse on the search  
 55-63 warrant the date and hour of its issuance.

55-64 SECTION 3.08. Section 54.978(e), Government Code, is  
 55-65 amended to read as follows:

55-66 (e) In this subsection, [~~"pen register,"~~] "ESN reader,"  
 55-67 "pen register," and "trap and trace device" [~~device," and "mobile~~  
 55-68 ~~tracking device"~~] have the meanings assigned by Article 18B.001  
 55-69 [~~Section 18.21~~], Code of Criminal Procedure, and "mobile tracking

56-1 device" has the meaning assigned by Article 18B.201, Code of  
 56-2 Criminal Procedure. A magistrate may:  
 56-3 (1) notwithstanding [~~Section 2(a),~~] Article 18B.051  
 56-4 or 18B.052 [~~18.21~~], Code of Criminal Procedure, issue an order  
 56-5 under Subchapter C, Chapter 18B [~~Section 2, Article 18.21~~], Code of  
 56-6 Criminal Procedure, for the installation and use of:  
 56-7 (A) a pen register;  
 56-8 (B) an ESN reader;  
 56-9 (C) a trap and trace device; or  
 56-10 (D) equipment that combines the function of a pen  
 56-11 register and a trap and trace device;  
 56-12 (2) issue an order to obtain access to stored  
 56-13 communications under [~~Section 5,~~] Article 18B.352 [~~18.21~~], Code of  
 56-14 Criminal Procedure; and  
 56-15 (3) notwithstanding [~~Section 14(a),~~] Article  
 56-16 18B.203(a) [~~18.21~~], Code of Criminal Procedure, issue an order for  
 56-17 the installation and use of a mobile tracking device under  
 56-18 Subchapter E, Chapter 18B [~~Section 14, Article 18.21~~], Code of  
 56-19 Criminal Procedure.  
 56-20 SECTION 3.09. Section 421.004, Government Code, is amended  
 56-21 to read as follows:  
 56-22 Sec. 421.004. PROVISIONS GOVERNING MOBILE TRACKING  
 56-23 DEVICES. In the event of a conflict between Subchapter E, Chapter  
 56-24 18B [~~Section 14, Article 18.21~~], Code of Criminal Procedure, and  
 56-25 this chapter or a rule adopted under this chapter, Subchapter E,  
 56-26 Chapter 18B [~~Section 14, Article 18.21~~], Code of Criminal  
 56-27 Procedure, controls.  
 56-28 SECTION 3.10. Section 493.0191, Government Code, is amended  
 56-29 to read as follows:  
 56-30 Sec. 493.0191. ADMINISTRATIVE SUBPOENAS. (a) The  
 56-31 inspector general may issue an administrative subpoena to a  
 56-32 communication [~~communications~~] common carrier or an electronic  
 56-33 communications service provider to compel the production of the  
 56-34 carrier's or service provider's business records that:  
 56-35 (1) disclose information about:  
 56-36 (A) the carrier's or service provider's  
 56-37 customers; or  
 56-38 (B) users of the services offered by the carrier  
 56-39 or service provider; and  
 56-40 (2) are material to a criminal investigation of an  
 56-41 escape or a potential escape or a violation of Section 38.11, Penal  
 56-42 Code.  
 56-43 (b) In this section:  
 56-44 (1) "Communication [~~Communications~~] common carrier"  
 56-45 means a person that:  
 56-46 (A) for a fee, provides directly to the public or  
 56-47 to certain members of the public the ability to transmit between or  
 56-48 among points specified by the person who uses that ability,  
 56-49 regardless of the technology used, information of the person's  
 56-50 choosing without change in the form or content of the information  
 56-51 transmitted; or  
 56-52 (B) is a provider that bills customers for  
 56-53 services described by Paragraph (A).  
 56-54 (2) "Electronic communications service provider"  
 56-55 means a service provider that provides to users of the service the  
 56-56 ability to send or receive wire or electronic communications, as  
 56-57 those terms are defined by Article 18A.001 [~~18.20~~], Code of  
 56-58 Criminal Procedure.  
 56-59 SECTION 3.11. Sections 500.008(a) and (b), Government Code,  
 56-60 are amended to read as follows:  
 56-61 (a) The department may own and the office of inspector  
 56-62 general may possess, install, operate, or monitor an interception  
 56-63 [~~electronic, mechanical, or other~~] device, as defined by Article  
 56-64 18A.001 [~~18.20~~], Code of Criminal Procedure.  
 56-65 (b) The inspector general shall designate in writing the  
 56-66 commissioned officers of the office of inspector general who are  
 56-67 authorized to possess, install, operate, and monitor interception  
 56-68 [~~electronic, mechanical, or other~~] devices for the department.  
 56-69 SECTION 3.12. Section 242.841(2), Health and Safety Code,



57-1 is amended to read as follows:

57-2 (2) "Electronic monitoring device":

57-3 (A) includes:

57-4 (i) video surveillance cameras installed in  
57-5 the room of a resident; and

57-6 (ii) audio devices installed in the room of  
57-7 a resident designed to acquire communications or other sounds  
57-8 occurring in the room; and

57-9 (B) does not include an interception  
57-10 [~~electronic, mechanical, or other~~] device that is specifically used  
57-11 for the nonconsensual interception of wire or electronic  
57-12 communications.

57-13 SECTION 3.13. Section 242.842(c), Health and Safety Code,  
57-14 is amended to read as follows:

57-15 (c) A communication or other sound acquired by an audio  
57-16 electronic monitoring device installed under the provisions of this  
57-17 subchapter concerning authorized electronic monitoring is not  
57-18 considered to be:

57-19 (1) an oral communication as defined by [~~Section 1,~~  
57-20 Article 18A.001 [18.20], Code of Criminal Procedure; or

57-21 (2) a communication as defined by Section 123.001,  
57-22 Civil Practice and Remedies Code.

57-23 SECTION 3.14. Section 555.151(2), Health and Safety Code,  
57-24 is amended to read as follows:

57-25 (2) "Electronic monitoring device":

57-26 (A) includes:

57-27 (i) video surveillance cameras installed in  
57-28 a resident's room; and

57-29 (ii) audio devices installed in a  
57-30 resident's room designed to acquire communications or other sounds  
57-31 occurring in the room; and

57-32 (B) does not include an interception  
57-33 [~~electronic, mechanical, or other~~] device that is specifically used  
57-34 for the nonconsensual interception of wire or electronic  
57-35 communications.

57-36 SECTION 3.15. Section 555.152(c), Health and Safety Code,  
57-37 is amended to read as follows:

57-38 (c) A communication or other sound acquired by an audio  
57-39 electronic monitoring device installed under the provisions of this  
57-40 subchapter concerning authorized electronic monitoring is not  
57-41 considered to be:

57-42 (1) an oral communication as defined by [~~Section 1,~~  
57-43 Article 18A.001 [18.20], Code of Criminal Procedure; or

57-44 (2) a communication as defined by Section 123.001,  
57-45 Civil Practice and Remedies Code.

57-46 SECTION 3.16. Sections 242.103(a) and (b), Human Resources  
57-47 Code, are amended to read as follows:

57-48 (a) The department may own and the office of the inspector  
57-49 general may possess, install, operate, or monitor an interception  
57-50 [~~electronic, mechanical, or other~~] device, as defined by Article  
57-51 18A.001 [18.20], Code of Criminal Procedure.

57-52 (b) The inspector general shall designate in writing the  
57-53 commissioned officers of the office of inspector general who are  
57-54 authorized to possess, install, operate, and monitor interception  
57-55 [~~electronic, mechanical, or other~~] devices for the department.

57-56 SECTION 3.17. Section 33.01(3), Penal Code, is amended to  
57-57 read as follows:

57-58 (3) Communication [~~"Communications"~~] common carrier"  
57-59 means a person who owns or operates a telephone system in this state  
57-60 that includes equipment or facilities for the conveyance,  
57-61 transmission, or reception of communications and who receives  
57-62 compensation from persons who use that system.

57-63 SECTION 3.18. Section 33.03, Penal Code, is amended to read  
57-64 as follows:

57-65 Sec. 33.03. DEFENSES. It is an affirmative defense to  
57-66 prosecution under Section 33.02 that the actor was an officer,  
57-67 employee, or agent of a communication [~~communications~~] common  
57-68 carrier or electric utility and committed the proscribed act or  
57-69 acts in the course of employment while engaged in an activity that

is a necessary incident to the rendition of service or to the protection of the rights or property of the communication [communications] common carrier or electric utility.

SECTION 3.19. Section 38.11(k), Penal Code, is amended to read as follows:

(k) A person commits an offense if, with the intent to provide to or make a cellular telephone or other wireless communications device or a component of one of those devices available for use by a person in the custody of a correctional facility, the person:

(1) acquires a cellular telephone or other wireless communications device or a component of one of those devices to be delivered to the person in custody;

(2) provides a cellular telephone or other wireless communications device or a component of one of those devices to another person for delivery to the person in custody; or

(3) makes a payment to a communication common carrier, as defined by Article 18A.001 [18.20], Code of Criminal Procedure, or to any communication service that provides to its users the ability to send or receive wire or electronic communications.

ARTICLE 4. CONFORMING AMENDMENTS FOR CHAPTERS 60 AND 61, CODE OF CRIMINAL PROCEDURE

SECTION 4.01. Article 2.021, Code of Criminal Procedure, is amended to read as follows:

Art. 2.021. DUTIES OF ATTORNEY GENERAL. The attorney general may offer to a county or district attorney the assistance of the attorney general's office in the prosecution of an offense described by Article 66.102(h) [60.051(g)] the victim of which is younger than 17 years of age at the time the offense is committed. On request of a county or district attorney, the attorney general shall assist in the prosecution of an offense described by Article 66.102(h) [60.051(g)] the victim of which is younger than 17 years of age at the time the offense is committed. For purposes of this article, assistance includes investigative, technical, and litigation assistance of the attorney general's office.

SECTION 4.02. Section 1, Article 42.01, Code of Criminal Procedure, is amended to read as follows:

Sec. 1. A judgment is the written declaration of the court signed by the trial judge and entered of record showing the conviction or acquittal of the defendant. The sentence served shall be based on the information contained in the judgment. The judgment shall reflect:

1. The title and number of the case;
2. That the case was called and the parties appeared, naming the attorney for the state, the defendant, and the attorney for the defendant, or, where a defendant is not represented by counsel, that the defendant knowingly, intelligently, and voluntarily waived the right to representation by counsel;
3. The plea or pleas of the defendant to the offense charged;
4. Whether the case was tried before a jury or a jury was waived;
5. The submission of the evidence, if any;
6. In cases tried before a jury that the jury was charged by the court;
7. The verdict or verdicts of the jury or the finding or findings of the court;
8. In the event of a conviction that the defendant is adjudged guilty of the offense as found by the verdict of the jury or the finding of the court, and that the defendant be punished in accordance with the jury's verdict or the court's finding as to the proper punishment;
9. In the event of conviction where death or any punishment is assessed that the defendant be sentenced to death, a term of confinement or community supervision, or to pay a fine, as the case may be;
10. In the event of conviction where the imposition of sentence is suspended and the defendant is placed on community supervision, setting forth the punishment assessed, the length of

59-1 community supervision, and the conditions of community  
59-2 supervision;  
59-3 11. In the event of acquittal that the defendant be  
59-4 discharged;  
59-5 12. The county and court in which the case was tried  
59-6 and, if there was a change of venue in the case, the name of the  
59-7 county in which the prosecution was originated;  
59-8 13. The offense or offenses for which the defendant  
59-9 was convicted;  
59-10 14. The date of the offense or offenses and degree of  
59-11 offense for which the defendant was convicted;  
59-12 15. The term of sentence;  
59-13 16. The date judgment is entered;  
59-14 17. The date sentence is imposed;  
59-15 18. The date sentence is to commence and any credit for  
59-16 time served;  
59-17 19. The terms of any order entered pursuant to Article  
59-18 42.08 that the defendant's sentence is to run cumulatively or  
59-19 concurrently with another sentence or sentences;  
59-20 20. The terms of any plea bargain;  
59-21 21. Affirmative findings entered pursuant to Article  
59-22 42A.054(c) or (d);  
59-23 22. The terms of any fee payment ordered under Article  
59-24 42.151;  
59-25 23. The defendant's thumbprint taken in accordance  
59-26 with Article 38.33;  
59-27 24. In the event that the judge orders the defendant to  
59-28 repay a reward or part of a reward under Articles 37.073 and 42.152,  
59-29 a statement of the amount of the payment or payments required to be  
59-30 made;  
59-31 25. In the event that the court orders restitution to  
59-32 be paid to the victim, a statement of the amount of restitution  
59-33 ordered and:  
59-34 (A) the name and address of a person or agency  
59-35 that will accept and forward restitution payments to the victim; or  
59-36 (B) if the court specifically elects to have  
59-37 payments made directly to the crime victim, the name and permanent  
59-38 address of the victim at the time of judgment;  
59-39 26. In the event that a presentence investigation is  
59-40 required by Subchapter F, Chapter 42A, a statement that the  
59-41 presentence investigation was done according to the applicable  
59-42 provision;  
59-43 27. In the event of conviction of an offense for which  
59-44 registration as a sex offender is required under Chapter 62, a  
59-45 statement that the registration requirement of that chapter applies  
59-46 to the defendant and a statement of the age of the victim of the  
59-47 offense;  
59-48 28. The defendant's state identification number  
59-49 required by Article 66.152(a)(2) [~~Section 60.052(a)(2)~~], if that  
59-50 number has been assigned at the time of the judgment; and  
59-51 29. The incident number required by Article  
59-52 66.152(a)(4) [~~Section 60.052(a)(4)~~], if that number has been  
59-53 assigned at the time of the judgment.  
59-54 SECTION 4.03. Article 42A.507(a), Code of Criminal  
59-55 Procedure, is amended to read as follows:  
59-56 (a) This article applies only to a defendant who:  
59-57 (1) is identified as a member of a criminal street gang  
59-58 in an intelligence database established under Chapter 67 [~~61~~]; and  
59-59 (2) has two or more times been previously convicted  
59-60 of, or received a grant of deferred adjudication community  
59-61 supervision or another functionally equivalent form of community  
59-62 supervision or probation for, a felony offense under the laws of  
59-63 this state, another state, or the United States.  
59-64 SECTION 4.04. Section 3(b), Article 55.02, Code of Criminal  
59-65 Procedure, is amended to read as follows:  
59-66 (b) The order of expunction entered by the court shall have  
59-67 attached and incorporate by reference a copy of the judgment of  
59-68 acquittal and shall include:  
59-69 (1) the following information on the person who is the

60-1 subject of the expunction order:  
60-2 (A) full name;  
60-3 (B) sex;  
60-4 (C) race;  
60-5 (D) date of birth;  
60-6 (E) driver's license number; and  
60-7 (F) social security number;  
60-8 (2) the offense charged against the person who is the  
60-9 subject of the expunction order;  
60-10 (3) the date the person who is the subject of the  
60-11 expunction order was arrested;  
60-12 (4) the case number and court of offense; and  
60-13 (5) the tracking incident number (TRN) assigned to the  
60-14 individual incident of arrest under Article 66.251(b)(1)  
60-15 [~~60.07(b)(1)~~] by the Department of Public Safety.  
60-16 SECTION 4.05. Section 58.111, Family Code, is amended to  
60-17 read as follows:  
60-18 Sec. 58.111. LOCAL DATA ADVISORY BOARDS. The commissioners  
60-19 court of each county may create a local data advisory board to  
60-20 perform the same duties relating to the juvenile justice  
60-21 information system as the duties performed by a local data advisory  
60-22 board in relation to the criminal history record system under  
60-23 Article 66.354 [~~60.09~~], Code of Criminal Procedure.  
60-24 SECTION 4.06. Section 58.202, Family Code, is amended to  
60-25 read as follows:  
60-26 Sec. 58.202. EXEMPTED RECORDS. The following records are  
60-27 exempt from this subchapter:  
60-28 (1) sex offender registration records maintained by  
60-29 the department or a local law enforcement agency under Chapter 62,  
60-30 Code of Criminal Procedure; and  
60-31 (2) records relating to a criminal combination or  
60-32 criminal street gang maintained by the department or a local law  
60-33 enforcement agency under Chapter 67 [~~61~~], Code of Criminal  
60-34 Procedure.  
60-35 SECTION 4.07. Section 411.048(a)(1), Government Code, is  
60-36 amended to read as follows:  
60-37 (1) "Criminal justice agency" has the meaning assigned  
60-38 by Article 66.001 [~~60.01~~], Code of Criminal Procedure.  
60-39 SECTION 4.08. Section 411.048(g), Government Code, is  
60-40 amended to read as follows:  
60-41 (g) An individual who is the subject of information  
60-42 collected under this section may request that the director, the  
60-43 director's designee, or a court review the information to determine  
60-44 whether the information complies with rules adopted by the  
60-45 director. The review shall be conducted using the same procedure  
60-46 for reviewing criminal information collected under Chapter 67 [~~61~~],  
60-47 Code of Criminal Procedure.  
60-48 SECTION 4.09. Section 411.0601, Government Code, is amended  
60-49 to read as follows:  
60-50 Sec. 411.0601. DEFINITION. In this subchapter, "criminal  
60-51 justice agency" has the meaning assigned by Article 66.001 [~~60.01~~],  
60-52 Code of Criminal Procedure.  
60-53 SECTION 4.10. Section 411.082(1), Government Code, is  
60-54 amended to read as follows:  
60-55 (1) "Administration of criminal justice" has the  
60-56 meaning assigned by Article 66.001 [~~60.01~~], Code of Criminal  
60-57 Procedure.  
60-58 SECTION 4.11. Section 493.0155, Government Code, is amended  
60-59 to read as follows:  
60-60 Sec. 493.0155. PROPER IDENTIFICATION OF INMATES USING  
60-61 ALIAS. On receipt of information from the Department of Public  
60-62 Safety under Article 66.105 [~~60.19~~], Code of Criminal Procedure,  
60-63 that a person's identifying information may have been falsely used  
60-64 by an inmate as the inmate's identifying information, regardless of  
60-65 whether the inmate is in the custody of the department, is serving a  
60-66 period of supervised release, or has been discharged, the  
60-67 department shall:  
60-68 (1) make a reasonable effort to identify the inmate's  
60-69 actual identity; and



61-1 (2) take action to ensure that any information  
 61-2 maintained in the department's records and files regarding the  
 61-3 inmate reflects the inmate's use of the person's identity as a  
 61-4 stolen alias and refers to available information concerning the  
 61-5 inmate's actual identity.

61-6 SECTION 4.12. Section 508.227(a), Government Code, is  
 61-7 amended to read as follows:

61-8 (a) This section applies only to a releasee who:

61-9 (1) is identified as a member of a criminal street gang  
 61-10 in an intelligence database established under Chapter 67 [~~61~~], Code  
 61-11 of Criminal Procedure; and

61-12 (2) has three or more times been convicted of, or  
 61-13 received a grant of deferred adjudication community supervision or  
 61-14 another functionally equivalent form of community supervision or  
 61-15 probation for, a felony offense under the laws of this state,  
 61-16 another state, or the United States.

61-17 SECTION 4.13. Section 509.004(b), Government Code, is  
 61-18 amended to read as follows:

61-19 (b) The division shall develop an automated tracking system  
 61-20 that:

61-21 (1) is capable of receiving tracking data from  
 61-22 community supervision and corrections departments' caseload  
 61-23 management and accounting systems;

61-24 (2) is capable of tracking the defendant and the  
 61-25 sentencing event at which the defendant was placed on community  
 61-26 supervision by name, arrest charge code, and incident number;

61-27 (3) provides the division with the statistical data it  
 61-28 needs to support budget requests and satisfy requests for  
 61-29 information; and

61-30 (4) is compatible with the requirements of Chapter 66  
 61-31 [~~60~~], Code of Criminal Procedure, and the information systems used  
 61-32 by the institutional division and the pardons and paroles division  
 61-33 of the Texas Department of Criminal Justice.

61-34 SECTION 4.14. Section 244.003(b), Human Resources Code, is  
 61-35 amended to read as follows:

61-36 (b) Except as provided by Section 243.051(c), these records  
 61-37 and all other information concerning a child, including personally  
 61-38 identifiable information, are not public and are available only  
 61-39 according to the provisions of Section 58.005, Family Code, Section  
 61-40 244.051 of this code, and Chapter 67 [~~61~~], Code of Criminal  
 61-41 Procedure.

61-42 SECTION 4.15. Section 109.001(1), Occupations Code, is  
 61-43 amended to read as follows:

61-44 (1) "Administration of criminal justice" and  
 61-45 "criminal justice agency" have the meanings assigned by Article  
 61-46 66.001 [~~60.01~~], Code of Criminal Procedure.

61-47 SECTION 4.16. Section 160.101(b), Occupations Code, is  
 61-48 amended to read as follows:

61-49 (b) Not later than the 30th day after the date a person  
 61-50 described by Subsection (a) is convicted of an offense listed in  
 61-51 that subsection or is placed on deferred adjudication for an  
 61-52 offense listed in that subsection, the clerk of the court in which  
 61-53 the person is convicted or placed on deferred adjudication shall  
 61-54 prepare and forward to the Department of Public Safety the  
 61-55 information required by Chapter 66 [~~60~~], Code of Criminal  
 61-56 Procedure.

61-57 SECTION 4.17. Section 521.061(e), Transportation Code, is  
 61-58 amended to read as follows:

61-59 (e) In this section, "criminal justice agency" has the  
 61-60 meaning assigned by Article 66.001 [~~60.01~~], Code of Criminal  
 61-61 Procedure.

61-62 ARTICLE 5. REPEALER

61-63 SECTION 5.01. The following provisions of the Code of  
 61-64 Criminal Procedure are repealed:

61-65 (1) Article 18.20;

61-66 (2) Article 18.21;

61-67 (3) Chapter 60; and

61-68 (4) Chapter 61.

61-

ARTICLE 6. GENERAL MATTERS

62-1  
62-2 SECTION 6.01. This Act is enacted under Section 43, Article  
62-3 III, Texas Constitution. This Act is intended as a codification  
62-4 only, and no substantive change in the law is intended by this Act.

62-5 SECTION 6.02. (a) Chapter 311, Government Code (Code  
62-6 Construction Act), applies to the construction of each provision in  
62-7 the Code of Criminal Procedure that is enacted under Section 43,  
62-8 Article III, Texas Constitution (authorizing the continuing  
62-9 statutory revision program), in the same manner as to a code enacted  
62-10 under the continuing statutory revision program, except as  
62-11 otherwise expressly provided by the Code of Criminal Procedure.

62-12 (b) A reference in a law to a statute or a part of a statute  
62-13 in the Code of Criminal Procedure enacted under Section 43, Article  
62-14 III, Texas Constitution (authorizing the continuing statutory  
62-15 revision program), is considered to be a reference to the part of  
62-16 that code that revises that statute or part of that statute.

62-17 SECTION 6.03. This Act takes effect January 1, 2019.

62-18

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