

## **BILL ANALYSIS**

Senate Research Center

S.B. 1843  
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Criminal Justice  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

According to the United States Department of Justice, crimes related to child pornography are the fastest-growing class of crimes in the United States. There are more than 350,000 identified computers in the United States trafficking in hard-core images of children, including infants and toddlers, being assaulted and raped and subjected to bondage and torture. Texas has more than 30,000 identified computers trafficking in these crime-scene images. A virtual marketplace for these images has increased the demand for new victims and caused the increased sexual abuse of Texas children.

Texas currently has three Internet Crimes Against Children (ICAC) task forces, working with the Office of the Attorney General (OAG) and having approximately 10 full-time staff among them. One of every three ICAC-related arrests results in the identification and rescue of a local child victim. Given the magnitude and cross-jurisdictional nature of the Internet, it is imperative that state and local agencies cooperate and collaborate on these investigations, rescues, and prosecutions.

As proposed, S.B. 1843 amends current law relating to providing resources designed to combat crimes against children, especially crimes regarding child exploitation and child pornography trafficking involving the Internet.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter A, Chapter 102, Code of Criminal Procedure, by adding Article 102.023, as follows:

Art. 102.023. COSTS RELATED TO CERTAIN INTERNET CRIMES AGAINST CHILDREN. (a) Requires a person to pay a cost of \$10 on conviction of an offense for which the defendant on conviction is required to register as a sex offender under Chapter 62 (Sex Offender Registration Program), in addition to other costs on conviction imposed by this chapter.

(b) Requires the clerk of the court to transmit the costs collected under this section to the comptroller of public accounts (comptroller) for deposit in the state treasury to the credit of a special fund known as the Internet Crimes Against Children Fund. Provides that the fund consists of all costs collected under this section, money appropriated directly to the fund, and any other grants or gifts made to the fund. Authorizes money in the fund to be appropriated only to support the administration of the activities of the three existing Internet Crimes Against Children (ICAC) task forces operating under the Attorney General (OAG) and other various law enforcement entities. Requires that the money from the fund be disbursed so that approximately one-third of the fund goes to each of the existing ICACs.

SECTION 2. Amends Chapter 402, Government Code, by adding Section 402.02811, as follows:

Sec. 402.02811. ADMINISTRATIVE SUBPOENA FOR INVESTIGATION OF CERTAIN OFFENSES INVOLVING EXPLOITATION OF MINOR. (a) Requires OAG to assist felony prosecutors in this state in obtaining administrative subpoenas for the purposes of investigating and prosecuting crimes involving the exploitation of a minor.

(b) Authorizes OAG or a district attorney, in any investigation relating to offenses involving the sexual exploitation of a minor and on reasonable cause to believe that an Internet service account has been used in the exploitation or attempted exploitation of a minor, to issue in writing and cause to be served a subpoena requiring the production and testimony described by Subsection (c).

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

- (1) name;
- (2) address;
- (3) local and long distance telephone connection records, or records of session times and durations;
- (4) length of service, including start date, and types of service utilized;
- (5) telephone or instrument number or other subscriber number of identity, including any temporarily assigned network address; and
- (6) means and source of payment for such service, including any credit card or bank account number.

(d) Prohibits the provider of electronic communication service or remote computing service from disclosing the following pursuant to a subpoena, but requires the provider to do so pursuant to a warrant issued by a court of competent jurisdiction:

- (1) in-transit electronic communications;
- (2) account memberships related to Internet groups, newsgroups, mailing lists or specific areas of interest;
- (3) account passwords; and
- (4) account content to include:
  - (A) electronic mail in any form;
  - (B) address books, contact lists, or buddy lists;
  - (C) financial records;
  - (D) Internet proxy content or Internet history; and
  - (E) files or other digital documents stored within the account or pursuant to use of the account.

(e) Authorizes the person summoned, at any time before the return date specified on the subpoena, to, in the appropriate court of the county in which the person resides or does business, petition for an order modifying or quashing the subpoena, or a prohibition of disclosure by a court.

(f) Requires that a subpoena under this section describe the objects required to be produced and prescribe a return date within a reasonable period within which the objects can be assembled and made available.

(g) Requires the prosecuting attorney to either destroy the records and documentation or return them to the person who produced them if no case or proceeding arises from the production of records or other documentation pursuant to this section within a reasonable time after those records or documentation are produced.

(h) Authorizes a subpoena issued under this section to be served by any person who is authorized to serve process under the Texas Rules of Civil Procedure and requires that the subpoena be served in accordance with those rules.

(i) Provides that any information, records, or data reported or obtained under a subpoena issued pursuant to this section is confidential and is prohibited from being further disclosed unless in connection with a criminal case related to the subpoenaed materials.

SECTION 3. Effective date: September 1, 2011.