

CODE OF CRIMINAL PROCEDURE

TITLE 1. CODE OF CRIMINAL PROCEDURE

CHAPTER 18A. DETECTION, INTERCEPTION, AND USE OF WIRE, ORAL, AND
ELECTRONIC COMMUNICATIONS

SUBCHAPTER A. GENERAL PROVISIONS

Art. 18A.001. DEFINITIONS. In this chapter:

(1) "Access," "computer," "computer network," "computer system," and "effective consent" have the meanings assigned by Section 33.01, Penal Code.

(2) "Aggrieved person" means a person who was a party to an intercepted wire, oral, or electronic communication or a person against whom the interception was directed.

(3) "Aural transfer" means a transfer containing the human voice at any point between and including the point of origin and the point of reception.

(4) "Communication common carrier" means a person engaged as a common carrier for hire in the transmission of wire or electronic communications.

(5) "Computer trespasser" means a person who accesses a protected computer without effective consent of the owner and has no reasonable expectation of privacy in a communication transmitted to, through, or from the protected computer. The term does not include a person who accesses the protected computer under an existing contractual relationship with the owner or operator of the computer.

(6) "Contents," with respect to a wire, oral, or electronic communication, includes any information concerning the substance, purport, or meaning of that communication.

(7) "Covert entry" means an entry that is made into or onto premises and that, if not authorized by a court order under this chapter, would violate the Penal Code.

(8) "Department" means the Department of Public Safety of the State of Texas.

(9) "Director" means:

(A) the public safety director of the department;

or

(B) if the public safety director is absent or unable to serve, the assistant director of the department.

(10) "Electronic communication" means a transfer of any signs, signals, writing, images, sounds, data, or intelligence transmitted wholly or partly by a wire, radio, electromagnetic, photoelectronic, or photo-optical system. The term does not include:

(A) a wire or oral communication;

(B) a communication made through a tone-only paging device; or

(C) a communication from a tracking device.

(11) "Electronic communications service" means a service that provides to users of the service the ability to send or receive wire or electronic communications.

(12) "ESN reader," "pen register," and "trap and trace device" have the meanings assigned by Article [18B.001](#).

(13) "Intercept" means the aural or other acquisition of the contents of a wire, oral, or electronic communication through the use of an interception device.

(14) "Interception device" means an electronic, mechanical, or other device that may be used for the nonconsensual interception of wire, oral, or electronic communications. The term does not include a telephone or telegraph instrument, the equipment or a facility used for the transmission of electronic communications, or a component of the equipment or a facility used for the transmission of electronic communications if the instrument, equipment, facility, or component is:

(A) provided to a subscriber or user by a provider of a wire or electronic communications service in the ordinary course of the service provider's business and used by the subscriber or user in the ordinary course of the subscriber's or user's business;

(B) provided by a subscriber or user for connection to the facilities of a wire or electronic communications service for use in the ordinary course of the subscriber's or user's business;

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

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

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

(16) "Investigative or law enforcement officer" means:

(A) an officer of this state or a political subdivision of this state who is authorized by law to investigate or make arrests for offenses described by Article [18A.101](#); or

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

(17) "Judge of competent jurisdiction" means a judge described by Article [18A.051](#).

(18) "Mobile tracking device" has the meaning assigned by Article [18B.201](#).

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

(20) "Prosecutor" means a district attorney, criminal district attorney, or county attorney performing the duties of a district attorney, with jurisdiction in the county within an administrative judicial region described by Article [18A.053](#).

(21) "Protected computer" means a computer, computer network, or computer system that is:

(A) owned by a financial institution or governmental entity; or

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

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

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

(24) "Wire communication" means an aural transfer made wholly or partly through the use of facilities for the transmission of communications by the aid of wire, cable, or other similar connection between the point of origin and the point of reception, including the use of the connection in a switching station, if those facilities are provided or operated by a person authorized to provide or operate the facilities for the transmission of communications as a communication common carrier.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

Art. 18A.002. NONAPPLICABILITY. This chapter does not apply to conduct described as an affirmative defense under Section 16.02(c), Penal Code, except as otherwise specifically provided by that section.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

SUBCHAPTER B. APPLICATION FOR INTERCEPTION ORDER

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

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

(c) The presiding judge shall fill vacancies as those vacancies occur in the same manner.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

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

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

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

(d) A prosecutor may file the application requested under Subsection (b) only after a written positive finding by the director on all of the requirements provided by Subsection (c).

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

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

- (1) the site of:
 - (A) the proposed interception; or
 - (B) the interception device to be installed or monitored;
- (2) the communication device to be intercepted;
- (3) the billing, residential, or business address of the subscriber to the electronic communications service to be

intercepted;

(4) the headquarters of the law enforcement agency that makes the request for or will execute the interception order; or

(5) the headquarters of the service provider.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

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

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

(2) exigent circumstances exist.

(b) Exigent circumstances under Subsection (a)(2) do not include a denial of a previous application on the same facts and circumstances.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

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

(b) An application must:

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

(2) identify the officer requesting the application;

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

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

(B) except as otherwise provided by this chapter, a particular description of the nature and location of the

facilities from which or the place where the communication is to be intercepted;

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

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

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

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

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

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

(8) if the application is for the extension of an order, include a statement providing the results already obtained from the interception or a reasonable explanation of the failure to

obtain results; and

(9) if the application is made under Article [18A.054](#), fully explain the circumstances justifying application under that article.

(c) In an ex parte hearing in chambers, the judge may require additional testimony or documentary evidence to support the application. The testimony or documentary evidence must be preserved as part of the application.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. [2931](#)), Sec. 1.01, eff. January 1, 2019.

SUBCHAPTER C. ISSUANCE OF INTERCEPTION ORDER AND RELATED ORDERS

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

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

(A) Chapter [481](#), other than felony possession of marihuana;

(B) Chapter [483](#); or

(C) Section [485.032](#);

(2) an offense under any of the following provisions of the Penal Code:

(A) Section [19.02](#);

(B) Section [19.03](#);

(C) Section [20.03](#);

(D) Section [20.04](#);

(E) Chapter [20A](#);

(F) Chapter [34](#), if the criminal activity giving rise to the proceeds involves the commission of an offense under Title 5, Penal Code, or an offense under federal law or the laws of another state containing elements that are substantially similar to the elements of an offense under Title 5;

(G) Section [38.11](#);

- (H) Section [43.04](#);
- (I) Section [43.041](#);
- (J) Section [43.05](#); or
- (K) Section [43.26](#); or

(3) an attempt, conspiracy, or solicitation to commit an offense listed in Subdivision (1) or (2).

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. [2931](#)), Sec. 1.01, eff. January 1, 2019.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 413 (S.B. [20](#)), Sec. 3.05, eff. September 1, 2019.

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

(1) there is probable cause to believe that a person is committing, has committed, or is about to commit a particular offense described by Article [18A.101](#);

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

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

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

(5) a covert entry is or is not necessary to properly and safely install the wiretapping, electronic surveillance, or eavesdropping equipment.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. [2931](#)), Sec. 1.01, eff. January 1, 2019.

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

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

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

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

(4) the identity of the officer making the request and the identity of the prosecutor;

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

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

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

(c) For purposes of Subsection (b), if the intercepted communication is in code or a foreign language and an expert in that code or language is not reasonably available during the period of interception, minimization may be accomplished as soon as practicable after the interception.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. [2931](#)), Sec. 1.01, eff. January 1, 2019.

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

(1) the judge, in addition to making the determinations required under Article [18A.102](#), determines:

(A) that:

(i) the premises into or onto which the covert entry is authorized or the person whose communications are to be obtained has been the subject of a pen register previously authorized in connection with the same investigation;

(ii) the premises into or onto which the covert entry is authorized or the person whose communications are to be obtained has been the subject of an interception of wire or electronic communications previously authorized in connection with the same investigation; and

(iii) the procedures under Subparagraphs (i) and (ii) have failed; or

(B) that the procedures under Paragraph (A) reasonably appear to be unlikely to succeed or to be too dangerous if attempted or are not feasible under the circumstances or exigencies of time; and

(2) the interception order, in addition to the matters required to be specified under Article [18A.103\(a\)](#), specifies that:

(A) the covert entry is for the purpose of intercepting oral communications of two or more persons; and

(B) there is probable cause to believe that the persons described by Paragraph (A) are committing, have committed, or are about to commit a particular offense described by Article [18A.101](#).

(b) An interception order may not authorize a covert entry into a residence solely for the purpose of intercepting a wire or electronic communication.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. [2931](#)), Sec. 1.01, eff. January 1, 2019.

Art. 18A.105. AUTHORITY TO ISSUE CERTAIN ANCILLARY ORDERS. An interception order may include an order to:

(1) install or use a pen register, ESN reader, trap and trace device, or mobile tracking device or similar equipment that combines the function of a pen register and trap and trace device;

or

(2) disclose a stored communication, information subject to an administrative subpoena, or information subject to access under Chapter 18B.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

Art. 18A.106. ORDER TO THIRD PARTY TO ASSIST WITH EXECUTION OF INTERCEPTION ORDER. (a) On request of the prosecutor applying for an interception order, the judge may issue a separate order directing a provider of a wire or electronic communications service, communication common carrier, landlord, custodian, or other person to provide to the prosecutor all information, facilities, and technical assistance necessary to accomplish the interception unobtrusively and with a minimum of interference with the services that the service provider, carrier, landlord, custodian, or other person is providing the person whose communications are to be intercepted.

(b) A provider of a wire or electronic communications service, communication common carrier, landlord, custodian, or other person that provides facilities or technical assistance under an order described by Subsection (a) is entitled to compensation, at the prevailing rates, by the prosecutor for reasonable expenses incurred in providing the facilities or assistance.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

Art. 18A.107. DURATION OF INTERCEPTION ORDER. An interception order may not authorize the interception of a communication for a period that:

(1) is longer than is necessary to achieve the objective of the authorization; or

(2) exceeds 30 days.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

Art. 18A.108. EXTENSION OF INTERCEPTION ORDER. (a) A

judge who issues an interception order may grant extensions of the order.

(b) An extension of an interception order may be granted only if:

(1) an application for an extension is made in accordance with Article [18A.055](#); and

(2) the judge makes the findings required by Article [18A.102](#).

(c) The period of extension may not:

(1) be longer than the judge considers necessary to achieve the purposes for which the extension is granted; or

(2) exceed 30 days.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. [2931](#)), Sec. 1.01, eff. January 1, 2019.

Art. 18A.109. REPORT ON NEED FOR CONTINUED INTERCEPTION.

(a) An interception order may require reports to the judge who issued the order that show any progress toward achieving the authorized objective and the need for continued interception.

(b) Reports under this article must be made at any interval the judge requires.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. [2931](#)), Sec. 1.01, eff. January 1, 2019.

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

(1) evidence derived from the interception may be used; or

(2) the order may be an issue.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. [2931](#)), Sec. 1.01, eff. January 1, 2019.

SUBCHAPTER D. INTERCEPTION ORDER FOR COMMUNICATION BY SPECIFIED PERSON

Art. 18A.151. REQUIREMENTS REGARDING INTERCEPTION ORDER FOR

COMMUNICATION BY SPECIFIED PERSON. The requirements of Articles [18A.055\(b\)\(3\)\(B\)](#) and [18A.103\(a\)\(2\)](#) relating to the specification of the facilities from which or the place where a communication is to be intercepted do not apply if:

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

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

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

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

(A) the application identifies the person committing or believed to be committing the offense and whose communications are to be intercepted;

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

(C) the authority to intercept a wire or electronic communication under the interception order is limited to a period in which it is reasonable to presume that the person identified in the application will be reasonably proximate to the interception device.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. [2931](#)), Sec. 1.01, eff. January 1, 2019.

Art. 18A.152. IMPLEMENTATION OF INTERCEPTION ORDER. A person implementing an interception order that authorizes the interception of an oral communication and that, as permitted by this subchapter, does not specify the facility from which or the place where a communication is to be intercepted may begin interception only after the person ascertains the place where the

communication is to be intercepted.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

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

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

(b) On notice to the state, the court shall decide the motion expeditiously.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

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.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

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. Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

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

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

(1) 48 hours after the grant of consent; or

(2) the conclusion of the emergency justifying the interception.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

Art. 18A.204. WRITTEN ORDER AUTHORIZING INTERCEPTION.

(a) A judge of competent jurisdiction under Article 18A.051 or under Article 18A.202(b) may issue a written interception order under this subchapter during the 48-hour period prescribed by Article 18A.202(c)(2).

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

(1) the 30th day after the date of execution of the order; or

(2) the conclusion of the emergency that initially justified the interception.

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

(1) the denial;

(2) the end of the emergency that initially justified the interception; or

(3) the expiration of 48 hours.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

Art. 18A.205. CERTAIN EVIDENCE NOT ADMISSIBLE. The state may not use as evidence in a criminal proceeding information gained through the use of an interception device installed under this subchapter if authorization for the device is not sought or is sought but not obtained.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

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

Art. 18A.251. DEFINITION. In this subchapter, "correctional facility" means:

(1) a place described by Section 1.07(a)(14), Penal Code; or

(2) a "secure correctional facility" or "secure detention facility" as defined by Section 51.02, Family Code.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

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

(1) without a warrant, use an interception device to

detect the presence or use of a cellular telephone or other wireless communications device in a correctional facility;

(2) without a warrant, intercept, monitor, detect, or, as authorized by applicable federal laws and regulations, prevent the transmission of a communication through a cellular telephone or other wireless communications device in a correctional facility; and

(3) use, to the extent authorized by law, any information obtained under Subdivision (2), including the contents of an intercepted communication, in a criminal or civil proceeding before a court or other governmental agency or entity.

(b) When using an interception device under Subsection (a), the office of inspector general shall minimize the impact of the device on a communication that is not reasonably related to the detection of the presence or use of a cellular telephone or other wireless communications device in a correctional facility.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

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

(1) a prosecutor with jurisdiction in the county in which the device was used; or

(2) the special prosecution unit established under Subchapter E, Chapter 41, Government Code, if that unit has jurisdiction in the county in which the device was used.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

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

(b) A person confined in a correctional facility, and any person with whom the confined person communicates through the use of a cellular telephone or other wireless communications device, does not have an expectation of privacy with respect to the contents of a communication transmitted by the telephone or device.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

SUBCHAPTER G. AGENCIES AND PERSONNEL AUTHORIZED TO POSSESS AND USE
INTERCEPTION DEVICES

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

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

(1) is designated by the director for that purpose; and

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

(c) The director shall designate in writing the commissioned officers of the department who are responsible for the possession, installation, operation, and monitoring of interception devices for the department.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

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

(b) The inspector general of the Texas Department of Criminal Justice, a commissioned officer of that office, or a

person acting in the presence and under the direction of the commissioned officer may possess, install, operate, or monitor the interception device as provided by Section 500.008, Government Code.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

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

(b) The inspector general of the Texas Juvenile Justice Department, a commissioned officer of that office, or a person acting in the presence and under the direction of the commissioned officer may possess, install, operate, or monitor the interception device as provided by Section 242.103, Human Resources Code.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

SUBCHAPTER H. DISCLOSURE AND USE OF INTERCEPTED COMMUNICATIONS

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

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

(2) disclose the contents or evidence to another investigative or law enforcement officer, including a law enforcement officer or agent of the United States or of another state, to the extent that the disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

Art. 18A.352. DISCLOSURE UNDER OATH. A person who receives, by means authorized by this chapter, information concerning a wire, oral, or electronic communication or evidence derived from a communication intercepted in accordance with this chapter may disclose the contents of that communication or evidence while giving testimony under oath in any proceeding held under the authority of the United States, this state, or a political subdivision of this state.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

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

(b) Evidence derived from a privileged communication described by Subsection (a) against a party to that communication is privileged.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

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

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

(2) relate to offenses other than those specified by the interception order.

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

(c) The contents of and evidence derived from a communication described by Subsection (a) may be used under Article

18A.352 when authorized by a judge of competent jurisdiction if the judge finds, on subsequent application, that the contents were otherwise intercepted in accordance with this chapter.

(d) An application under Subsection (c) must be made as soon as practicable.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

Art. 18A.355. NOTICE AND DISCLOSURE OF INTERCEPTION APPLICATION, INTERCEPTION ORDER, AND INTERCEPTED COMMUNICATIONS.

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

(1) the application or the issuance of the order;

(2) the date of denial of the application, or the date of the issuance of the order and the authorized interception period; and

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

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

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

(d) Evidence derived from an order under this chapter may not be disclosed in a trial until after the inventory has been served.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

Art. 18A.356. NOTICE OF INTERCEPTION REQUIRED. (a) The

contents of an intercepted wire, oral, or electronic communication or evidence derived from the communication may not be received in evidence or otherwise disclosed in a trial, hearing, or other proceeding in a federal or state court unless each party, not later than the 10th day before the date of the trial, hearing, or other proceeding, has been provided with a copy of the interception order and application under which the interception was authorized.

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

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

(2) the party will not be prejudiced by the delay in receiving the information.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

Art. 18A.357. COMMUNICATIONS RECEIVED IN EVIDENCE.

(a) The contents of an intercepted communication and evidence derived from the communication may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the United States, this state, or a political subdivision of this state unless:

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

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

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

(c) This article does not prohibit the use or admissibility of the contents of an intercepted communication or evidence derived from the communication if the communication was intercepted in a jurisdiction outside this state in compliance with the law of that

jurisdiction.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

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

- (1) the communication was unlawfully intercepted;
- (2) the interception order is insufficient on its face; or
- (3) the interception was not made in conformity with the interception order.

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

- (1) a ground provided under Subsection (a); or
- (2) the ground that the harm to the person resulting from the person's identification in court exceeds the value to the prosecution of the disclosure of the contents.

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

- (1) there was not an opportunity to make the motion; or
- (2) the aggrieved person was not aware of the grounds of the motion.

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

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

(f) The judge, on the filing of the motion to suppress by the

aggrieved person, shall make available to the aggrieved person or the person's counsel for inspection any portion of the intercepted communication or evidence derived from the communication that the judge determines to make available in the interest of justice.

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

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

(2) suppress references to that individual if identification is:

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

(B) insufficient to require the notice under Subdivision (1).

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

SUBCHAPTER I. USE AND DISPOSITION OF APPLICATIONS AND ORDERS

Art. 18A.401. SEALING OF APPLICATION OR ORDER. The judge shall seal each application made and order issued under this chapter.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

Art. 18A.402. CUSTODY OF APPLICATIONS AND ORDERS. Custody of applications and orders issued under this chapter shall be wherever the judge directs.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

Art. 18A.403. DISCLOSURE OF APPLICATION OR ORDER. An application made or order issued under this chapter may be disclosed only on a showing of good cause before a judge of competent jurisdiction.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

Art. 18A.404. DESTRUCTION OF APPLICATION OR ORDER. An application made or order issued under this chapter may be destroyed only on or after the 10th anniversary of the date the application or order was sealed and only if the judge of competent jurisdiction for the administrative judicial region in which the application was made or the order was issued orders the destruction.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

SUBCHAPTER J. CREATION, USE, AND DISPOSITION OF RECORDINGS

Art. 18A.451. CREATION OF RECORDINGS. The contents of a wire, oral, or electronic communication intercepted by means authorized by this chapter shall be recorded on tape, wire, or other comparable device in a way that protects the recording from editing or other alterations.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

Art. 18A.452. DUPLICATION OF RECORDINGS. Recordings under Article 18A.451 may be duplicated for use or disclosure under Article 18A.351 for investigations.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

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

- (1) made available to the judge issuing the order; and
- (2) sealed under the judge's directions.

(b) Custody of the recordings shall be wherever the judge orders.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

Art. 18A.454. DESTRUCTION OF RECORDINGS. A recording under Article 18A.451 may be destroyed only on or after the 10th anniversary of the date of expiration of the interception order and the last extension, if any, and only if the judge of competent jurisdiction for the administrative judicial region in which the interception was authorized orders the destruction.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

Art. 18A.455. PREREQUISITE FOR USE OR DISCLOSURE OF RECORDING IN CERTAIN PROCEEDINGS. The presence of the seal required by Article 18A.453(a) or a satisfactory explanation of the seal's absence is a prerequisite for the use or disclosure of the contents of a wire, oral, or electronic communication or evidence derived from the communication under Article 18A.352.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

SUBCHAPTER K. VIOLATION; SANCTIONS

Art. 18A.501. CONTEMPT. A violation of Subchapter I or J may be punished as contempt of court.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

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

- (1) has a civil cause of action against any person who

intercepts, discloses, or uses or solicits another person to intercept, disclose, or use the communication; and

(2) is entitled to recover from the person:

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

(B) punitive damages; and

(C) reasonable attorney's fees and other litigation costs reasonably incurred.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

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

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

(2) involves a radio communication that is:

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

(B) not scrambled or encrypted.

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

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

(1) convicted of an offense under Section 16.05, Penal Code; or

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

(d) Each violation of an injunction ordered under Subsection (a) is punishable by a fine of \$500.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

Art. 18A.504. GOOD FAITH DEFENSE AVAILABLE. A good faith reliance on a court order or legislative authorization constitutes a complete defense to an action brought under Article 18A.502 or 18A.503.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

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

(1) legislative authority; or

(2) a court order, warrant, subpoena, or certification under this chapter.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

SUBCHAPTER L. REPORTS

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

(1) the fact that an order or extension was applied for;

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

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

applied for, was modified, or was denied;

(4) the period of interceptions authorized by the order and the number and duration of any extensions of the order;

(5) the offense specified in the order or application or extension;

(6) the identity of the requesting officer and the prosecutor; and

(7) the nature of the facilities from which or the place where communications were to be intercepted.

(b) A judge required to file a report under this article shall forward a copy of the report to the director.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

Art. 18A.552. REPORT OF INTERCEPTED COMMUNICATIONS BY PROSECUTOR. (a) In January of each year each prosecutor shall report to the Administrative Office of the United States Courts the following information for the preceding calendar year:

(1) the information required by Article 18A.551(a) with respect to each application for an interception order or extension made;

(2) a general description of the interceptions made under each order or extension, including:

(A) the approximate nature and frequency of incriminating communications intercepted;

(B) the approximate nature and frequency of other communications intercepted;

(C) the approximate number of persons whose communications were intercepted; and

(D) the approximate nature, amount, and cost of the personnel and other resources used in the interceptions;

(3) the number of arrests resulting from interceptions made under each order or extension and the offenses for which the arrests were made;

(4) the number of trials resulting from interceptions;

(5) the number of motions to suppress made with respect to interceptions and the number granted or denied;

(6) the number of convictions resulting from interceptions, the offenses for which the convictions were obtained, and a general assessment of the importance of the interceptions; and

(7) the information required by Subdivisions (2) through (6) with respect to orders or extensions obtained.

(b) A prosecutor required to file a report under this article shall forward a copy of the report to the director.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.01, eff. January 1, 2019.

Art. 18A.553. REPORT OF INTERCEPTED COMMUNICATIONS BY DEPARTMENT OF PUBLIC SAFETY. (a) On or before March 1 of each year, the director shall submit a report of all intercepts conducted under this chapter and terminated during the preceding calendar year to:

- (1) the governor;
- (2) the lieutenant governor;
- (3) the speaker of the house of representatives;
- (4) the chair of the senate jurisprudence committee;

and

(5) the chair of the house of representatives criminal jurisprudence committee.

(b) The report must include:

(1) the reports of judges and prosecuting attorneys forwarded to the director as required by Articles 18A.551(b) and 18A.552(b);

(2) the number of department personnel authorized to possess, install, or operate an interception device;

(3) the number of department and other law enforcement personnel who participated or engaged in the seizure of intercepts under this chapter during the preceding calendar year; and

(4) the total cost to the department of all activities and procedures relating to the seizure of intercepts during the preceding calendar year, including costs of equipment, personnel, and expenses incurred as compensation for use of facilities or technical assistance provided to the department.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. [2931](#)), Sec. 1.01, eff. January 1, 2019.