

## **BILL ANALYSIS**

Senate Research Center

H.B. 1659  
By: King, Phil (Patrick, Dan)  
Criminal Justice  
5/22/2009  
Committee Report (Amended)

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

H.B. 1001, enacted by the 76th Legislature, Regular Session, 1999, created an affirmative defense to prosecution for the offense of unlawful installation of a tracking device for law enforcement officials that install tracking devices on vehicles in the course of criminal investigations or pursuant to a court order for the purpose of gathering information for a law enforcement agency. However, under this statute, it is possible that a law enforcement official acting appropriately in the line of duty can be prosecuted for such an act.

H.B. 1659 removes the affirmative defense to prosecution for the offense of unlawful installation of a tracking device that the person committing the offense was a peace officer who installed the device in the course of a criminal investigation or pursuant to a court order to gather information for a law enforcement agency and provides that it is an exception to the application of the offense that the actor was such a peace officer.

H.B. 1659 relates to creating an exception to the offense of unlawful installation of a tracking device.

### **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 Section 16.06, Penal Code, by amending Subsection (d) and adding Subsection (e), as follows:

(d) Deletes existing text providing that it is an affirmative defense to prosecution under this section that the person was a peace officer who installed the device in the course of a criminal investigation or pursuant to an order of a court to gather information for a law enforcement agency. Makes nonsubstantive changes.

(e) Provides that this section does not apply to a peace officer who installed the device in the course of a criminal investigation or pursuant to an order of a court to gather information for a law enforcement agency.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2009.

### **SUMMARY OF COMMITTEE CHANGES**

Committee Amendment No. 1

Amends H.B. 1659 by inserting on page 2, line 7, before "installed" and following "who", "legally".