

## **BILL ANALYSIS**

C.S.H.B. 1166  
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Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Technological innovation, interested parties note, has allowed new avenues by which information can be shared and should be employed to make government operations more responsive. C.S.H.B. 1166 seeks to apply new technology to the way sworn affidavits for search warrants are processed to allow for more efficiency and speed.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 1166 amends the Code of Criminal Procedure to authorize a magistrate, for purposes of issuing a search warrant, to accept a sworn statement that is provided by telephone or other means of wire or electronic communication. The bill requires the magistrate to administer an oath to the person providing the statement and requires the magistrate or the magistrate's designee to electronically record any statement communicated orally and to promptly transcribe and preserve a written copy of the statement. The bill authorizes a magistrate to accept, by facsimile or e-mail or other electronic transmission, a copy of the sworn affidavit or other documentation in support of the issuance of a search warrant.

### **EFFECTIVE DATE**

September 1, 2015.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1166 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

#### **INTRODUCED**

SECTION 1. Article 18.01(b), Code of Criminal Procedure, is amended to read as follows:

#### **HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Article 18.01(b), Code of Criminal Procedure, is amended to read as follows:

84R 25378

15.113.217

Substitute Document Number: 84R 7486

(b)(1) No search warrant shall issue for any purpose in this state unless sufficient facts are first presented to satisfy the issuing magistrate that probable cause does in fact exist for its issuance. A sworn affidavit setting forth substantial facts establishing probable cause shall be provided [~~filed~~] in every instance in which a search warrant is requested.

(2) For purposes of this article, a magistrate may accept a sworn statement that is provided by telephone or other means of wire or electronic communication. The magistrate shall administer an oath to the person providing the statement. The magistrate or the magistrate's designee shall:  
(A) electronically record any statement communicated orally under this subdivision; and  
(B) promptly transcribe and preserve a written copy of that oral statement.

(3) A magistrate may accept, by facsimile or e-mail or other electronic transmission, other documentation in support of the issuance of a search warrant.

(4) Except as provided by Article 18.011, an [~~the~~] affidavit is public information if executed, and the magistrate's clerk shall make a copy of the affidavit available for public inspection in the clerk's office during normal business hours.

SECTION 2. The change in law made by this Act applies only to a search warrant that is issued on or after the effective date of this Act. A search warrant issued before the effective date of this Act is governed by the law in effect on the date the warrant was issued, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2015.

(b)(1) No search warrant shall issue for any purpose in this state unless sufficient facts are first presented to satisfy the issuing magistrate that probable cause does in fact exist for its issuance. A sworn affidavit setting forth substantial facts establishing probable cause shall be provided [~~filed~~] in every instance in which a search warrant is requested.

(2) For purposes of this article, a magistrate may accept a sworn statement that is provided by telephone or other means of wire or electronic communication. The magistrate shall administer an oath to the person providing the statement. The magistrate or the magistrate's designee shall:  
(A) electronically record any statement communicated orally under this subdivision; and  
(B) promptly transcribe and preserve a written copy of that oral statement.

(3) A magistrate may accept, by facsimile or e-mail or other electronic transmission, a copy of the sworn affidavit or other documentation in support of the issuance of a search warrant.

(4) Except as provided by Article 18.011, the sworn affidavit is public information if executed, and the magistrate's clerk shall make a copy of the affidavit available for public inspection in the clerk's office during normal business hours.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.