

SUBJECT: Requiring legible magistrate name in search warrants; warrant tampering

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Herrero, Moody, Canales, Hunter, Shaheen, Simpson
0 nays
1 absent — Leach

WITNESSES: For — Joel Rivera, Hidalgo County Sheriff's Office; (*Registered, but did not testify*: Steve Dye, Grand Prairie Police Department; Thomas Ratliff, Harris County Criminal Lawyers Association; David Gonzalez, Texas Criminal Defense Lawyers Association; Deanna L. Kuykendall, Texas Municipal Courts Association; Lon Craft, Texas Municipal Police Association; Heath Wester, Texas Municipal Police Association)

Against — None

BACKGROUND: Code of Criminal Procedure, art. 18.04 outlines the contents required to make a search warrant sufficient, including that it be signed and dated by the magistrate issuing the warrant. A magistrate's signature on such warrants may not always be clearly legible, which can increase the risk of forgery or inadequately informing individuals of who has authorized the search warrant.

Penal Code, sec. 37.10 establishes that it is a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000) to tamper with certain governmental records, such as a written report of a medical examination or a public school record.

DIGEST: CSHB 644 would add to existing search warrant requirements that the name of the magistrate issuing the warrant appear in clearly legible handwriting or in typewritten form on the warrant. This change also would apply to search warrants to photograph an injured child under Code of Criminal Procedure, art. 18.021(c).

The bill would make it a third-degree felony to tamper with a search warrant issued by a magistrate.

The requirement that search warrants contain the name of the magistrate in clearly legible writing or type would apply to search warrants issued on or after the effective date of the bill. The change in law regarding tampering with a search warrant issued by a magistrate would apply only to offenses committed on or after the effective date of the bill.

The bill would take effect September 1, 2015.