

BILL ANALYSIS

Senate Research Center
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S.B. 743
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Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, a law enforcement officer has three days to execute a search warrant, excluding the day of issuance and the day of execution. Quite often, when a law enforcement officer is issued a warrant for a biological sample, the suspect is able to evade the officer until the warrant expires. Consequently, the officer must go back to court to obtain another warrant. The requirement that search warrants be executed within three days is meant to ensure that law enforcement does not hold the warrant until there is probable cause. However, when a law enforcement official is issued a warrant for a biological sample, probable cause is already established.

As proposed, S.B. 743 extends the period of time allowed to execute a warrant from three to twenty days, if the warrant is issued solely to obtain DNA evidence.

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 Article 18.07, Code of Criminal Procedure, as follows:

Art. 18.07. DAYS ALLOWED FOR WARRANT TO RUN. (a) Creates this subsection from existing text. Provides that the time allowed for the execution of a search warrant, exclusive of the day of its issuance and of the day of its execution, is 20 whole days if the warrant is issued solely to search for and seize evidentiary items or specimens for DNA analysis and comparison, including blood and saliva samples; or three whole days if the warrant is issued for a purpose other than that described by this subsection. Deletes existing text requiring that the time allowed for the execution of a search warrant be three whole days.

(b) Creates this subsection from existing text. Requires the magistrate issuing a search warrant under this chapter to endorse on the search warrant the date and hour of its issuance. Makes conforming changes.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2009.