

## **BILL ANALYSIS**

Senate Research Center  
84R7486 MAW-F

H.B. 1166  
By: Burkett et al. (Hall)  
Administration  
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Engrossed

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

Current Texas law requires a sworn affidavit for a search warrant to be signed within the physical presence of a magistrate. H.B. 1166 aims to modernize the search warrant process by enabling a magistrate to accept a sworn statement that is provided by law enforcement by appropriate means other than in person, such as by phone, e-mail, or facsimile. By allowing use of modern technology, warrants can be issued more readily to address time sensitive situations.

H.B. 1166 amends Article 18.01(b), Code of Criminal Procedure, to authorize a magistrate to accept a sworn statement and other documentation that is provided by telephone or other appropriate and reliable means of wire or electronic communication for purposes of a sworn affidavit setting forth substantial facts establishing probable cause for the issuance of a search warrant. The bill allows a magistrate or the magistrate's designee to fully document a sworn affidavit provided by telephone. Specifically, the bill authorizes the magistrate or the designee to electronically record and preserve any statement communicated orally under the bill's provisions, and requires the magistrate or the designee to promptly transcribe and preserve a written copy of that oral statement.

H.B. 1166 amends current law relating to sworn statements and other documentation provided to support the issuance of a search warrant.

### **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 18.01(b), Code of Criminal Procedure, as follows:

(b)(1) Provides that 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. Requires that a sworn affidavit setting forth substantial facts establishing probable cause be provided, rather than be filed, in every instance in which a search warrant is requested.

(2) Authorizes a magistrate, for purposes of this article, to accept a sworn statement that is provided by telephone or other means of wire or electronic communication. Requires the magistrate to administer an oath to the person providing the statement. Requires the magistrate or the magistrate's designee to:

(A) electronically record any statement communicated orally under this subdivision; and

(B) promptly transcribe and preserve a written copy of that oral statement.

(3) 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.

(4) Creates this subdivision from existing text. Provides that the sworn affidavit is public information if executed, except as provided by Article 18.011 (Sealing of Affidavit), and requires the magistrate's clerk to make a copy of the affidavit available for public inspection in the clerk's office during normal business hours.

SECTION 2. Provides that 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. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2015.