

By: King

H.B. No. 2945

A BILL TO BE ENTITLED

AN ACT

relating to the oral or electronic creation and use of certain documents related to the prosecution of a criminal offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 21, Code of Criminal Procedure, is amended by adding Article 21.011 to read as follows:

Art. 21.011. FILING OF INDICTMENT OR INFORMATION IN ELECTRONIC FORM. (a) Notwithstanding Subchapter I, Chapter 51, Government Code, or any other law, a criminal prosecution may be commenced by filing the indictment or information in electronic form with the judge or clerk of the court authorized to receive the document.

(b) A judge or clerk of the court is authorized to receive an information or indictment in electronic form if:

(1) the indictment or information is issued in the name of the State of Texas;

(2) in the case of an indictment, electronic presentment is authorized by the grand jury foreman in the presence of at least nine grand jurors, in the same manner as is required for presentment under Article 20.21;

(3) the clerk of the court has the means to electronically store the information or indictment for the statutory period of record retention; and

(4) the judge or clerk of the court has the ability to

1 reproduce the indictment or information in physical form on demand
2 and payment of any costs involved.

3 (c) The information or indictment is considered to be filed
4 on receipt by the judge or clerk of the court.

5 (d) An indictment or information transmitted in electronic
6 form is exempt from a requirement under this code that the pleading
7 be endorsed by a natural person. The requirement of an oath under
8 this code is satisfied if:

9 (1) all or part of the pleading was sworn to; and

10 (2) the electronic form states which parts of the
11 pleading were sworn to and the name of the officer administering the
12 oath.

13 (e) An electronically filed indictment or information may
14 be amended or modified by creating in electronic or printed form a
15 new document to replace the original indictment or information.
16 The file name of the original indictment or information must be
17 modified to reflect that the original document has been superseded.

18 SECTION 2. Chapter 23, Code of Criminal Procedure, is
19 amended by adding Article 23.031 to read as follows:

20 Art. 23.031. ISSUANCE OF CAPIAS IN ELECTRONIC FORM. A
21 district clerk authorized under Article 23.03 or 23.05 to issue a
22 capias for the failure of a person to appear before a court, pay a
23 fine, or comply with a court order may issue the capias in
24 electronic form.

25 SECTION 3. Chapter 15, Code of Criminal Procedure, is
26 amended by adding Article 15.15 to read as follows:

27 Art. 15.15. ORALLY OR ELECTRONICALLY REQUESTED AND

1 ELECTRONICALLY ISSUED ARREST WARRANTS. (a) In lieu of the written
2 complaint for an arrest warrant, a magistrate may take an orally or
3 electronically transmitted statement under oath as described by
4 this article.

5 (b) An oral statement must be taken under penalty of perjury
6 and must be recorded and transcribed. The statement serves as a
7 complaint for purposes of this article. The recording of the sworn
8 oral statement and the transcribed statement must be certified by
9 the magistrate and be filed with the clerk of the court. If a
10 certified court reporter records the sworn oral statement, the
11 court reporter shall certify the transcription of the statement
12 before the transcription is certified by the magistrate.

13 (c) With respect to an electronically transmitted
14 statement, an oath may be made during a telephone conversation with
15 the magistrate. After the oath is made, the declarant must sign the
16 complaint in support of the warrant of probable cause for arrest.
17 The declarant's signature must be in the form of a digital
18 signature, as provided for by Article 2.26, if a form of electronic
19 transmission other than facsimile is used. After the complaint is
20 signed, the proposed warrant, complaint, and attachments must be
21 electronically transmitted to the magistrate.

22 (d) The magistrate shall confirm with the declarant the
23 receipt of the warrant, complaint, and attachments.

24 (e) To issue the warrant, the magistrate shall:

25 (1) cause the warrant, complaint, and attachments to
26 be printed if the documents are received electronically by a method
27 other than facsimile;

1 (2) sign the warrant;

2 (3) note on the warrant the exact time of the issuance
3 of the warrant; and

4 (4) indicate on the warrant that the oath of the
5 declarant was administered orally.

6 (f) The completed warrant as signed by the magistrate is
7 considered to be an original warrant.

8 (g) The magistrate shall transmit electronically the signed
9 warrant to the declarant who shall by telephone acknowledge its
10 receipt. The magistrate shall by telephone authorize the declarant
11 to write the words "duplicate original" on the copy of the completed
12 warrant transmitted to the declarant.

13 (h) An arrest warrant may be stored electronically by the
14 court. An arrest warrant stored in this manner has the same legal
15 significance and admissibility as if the warrant had been
16 maintained in hard copy form.

17 SECTION 4. Article 15.06, Code of Criminal Procedure, is
18 amended to read as follows:

19 Art. 15.06. WARRANT EXTENDS TO EVERY PART OF THE STATE. A
20 warrant of arrest, issued by any county or district clerk, or by any
21 magistrate (except mayors of an incorporated city or town), shall
22 extend to any part of the State; and any peace officer to whom said
23 warrant is directed, or into whose hands the same has been
24 transferred, shall be authorized to execute the same in any county
25 in this State. A peace officer receiving an arrest warrant shall
26 execute the warrant without delay, regardless of whether the
27 warrant is received in electronic or hard copy form.

1 SECTION 5. Article 15.07, Code of Criminal Procedure, is
2 amended to read as follows:

3 Art. 15.07. WARRANT ISSUED BY OTHER MAGISTRATE. (a) When a
4 warrant of arrest is issued by any mayor of an incorporated city or
5 town, it cannot be executed in another county than the one in which
6 it issues, except:

7 1. It be endorsed by a judge of a court of record, in
8 which case it may be executed anywhere in the State; or

9 2. If it be endorsed by any magistrate in the county in
10 which the accused is found, it may be executed in such county. The
11 endorsement may be: "Let this warrant be executed in the county of
12". Or, if the endorsement is made by a judge of a court of
13 record, then the endorsement may be: "Let this warrant be executed
14 in any county of the State of Texas". Any other words of the same
15 meaning will be sufficient. The endorsement shall be dated, and
16 signed officially by the magistrate making it.

17 (b) A warrant issued under this article may be
18 electronically transmitted to another county. A peace officer of
19 another county receiving the warrant shall take the warrant to the
20 nearest magistrate in the county. The magistrate shall endorse on
21 the warrant the substance of the following: "Let this warrant be
22 executed in the county of". The endorsement shall be
23 dated and signed officially by the magistrate making the
24 endorsement.

25 SECTION 6. Chapter 38, Code of Criminal Procedure, is
26 amended by adding Article 38.40 to read as follows:

27 Art. 38.40. ADMISSIBILITY OF ELECTRONICALLY PRESERVED

1 OFFENSE REPORTS. An electronically preserved offense report has
2 the same legal significance and admissibility as if the report had
3 been maintained in hard copy form. If a party opposes admission of
4 the report on the grounds that the report has been materially
5 altered, the proponent of the report must disprove the allegation
6 by a preponderance of the evidence.

7 SECTION 7. Articles 15.08, 15.09, 15.10, 15.11, 15.12, and
8 15.13, Code of Criminal Procedure, are repealed.

9 SECTION 8. This Act takes effect immediately if it receives
10 a vote of two-thirds of all the members elected to each house, as
11 provided by Section 39, Article III, Texas Constitution. If this
12 Act does not receive the vote necessary for immediate effect, this
13 Act takes effect September 1, 2003.