

BILL ANALYSIS

C.S.H.B. 976
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Recent legislation authorizes a warrant of arrest or a complaint to be forwarded by any method that ensures the transmission of a duplicate of the original warrant, including secure facsimile or other secure electronic device. C.S.H.B. 976 seeks to further promote the use of technology to more quickly obtain an arrest warrant or summons by enabling a person to appear before and communicate with a magistrate through an electronic broadcast system.

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. 976 amends the Code of Criminal Procedure to authorize a person, when making oath before a magistrate that another has committed some offense against the laws of the state, for purposes of the magistrate issuing an arrest warrant or summons, to appear before the magistrate in person or by means of the person's image being presented to the magistrate through an electronic broadcast system. The bill requires a recording of the communication between the person and the magistrate to be made if the person's image is presented through an electronic broadcast system. The bill requires the recording, if the defendant is charged with the offense, to be preserved until the defendant is acquitted of the offense or all appeals relating to the offense have been exhausted. The bill authorizes the counsel for the defendant to obtain a copy of the recording on payment of an amount reasonably necessary to cover the costs of reproducing the recording.

C.S.H.B. 976 defines "electronic broadcast system."

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 976 differs from the original, in the provision requiring the recording of the communication between a magistrate and a person appearing before the magistrate by way of an electronic broadcast system for purposes of making an oath that another has committed an offense to be preserved until a certain date, by making that requirement contingent on the defendant being charged with the applicable offense, whereas the original includes no such condition. The substitute differs from the original by requiring the recording to be preserved until the defendant is acquitted of the offense or all appeals have been exhausted, whereas the original requires the recording to be preserved until the earlier of the date on which any pretrial hearing relating to the offense ends, the 91st day after the date on which the recording was made if the defendant is charged with a misdemeanor, or the 120th day after the date the recording was

made if charged with a felony.