

## BILL ANALYSIS

C.S.H.B. 2227  
By: Wu  
Criminal Jurisprudence  
Committee Report (Substituted)

### BACKGROUND AND PURPOSE

Current Texas law requires a sworn affidavit for a search warrant to be signed within the physical presence of a magistrate. Critics argue that obtaining a search warrant in person often creates issues for law enforcement because of the time-sensitive nature of the warrant. In an effort to modernize the warrant process, C.S.H.B. 2227 authorizes a magistrate to accept a sworn statement provided by other appropriate means, such as by phone or e-mail, enabling a warrant to be issued more readily when timeliness is necessary.

### 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. 2227 amends the Code of Criminal Procedure to authorize a magistrate to accept a sworn statement 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 requires a magistrate or the magistrate's designee to fully document a sworn affidavit provided by telephone and authorizes the magistrate or the designee to electronically record and preserve any statement communicated orally under the bill's provisions.

### EFFECTIVE DATE

September 1, 2013.

### COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2227 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

#### INTRODUCED

SECTION 1. Article 18.01(b), Code of Criminal Procedure, is amended to read as follows:

(b)(1) 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. A sworn affidavit

#### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Article 18.01(b), Code of Criminal Procedure, is amended to read as follows:

(b)(1) 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. A sworn affidavit

setting forth substantial facts establishing probable cause shall be provided [filed] in every instance in which a search warrant is requested.

(2) For purposes of this article, a sworn statement may be provided by telephone or other appropriate means. A magistrate shall fully document a sworn affidavit provided by telephone. A magistrate may electronically record any statement communicated orally under this subdivision.

(3) Except as provided by Article 18.011, the affidavit is public information if executed, and the magistrate's clerk shall make a copy of the affidavit available for public inspection in the clerk's office during normal business hours.

SECTION 2. 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. A search warrant that was issued before the effective date of this Act is governed by the law in effect on the date the warrant was issued, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2013.

setting forth substantial facts establishing probable cause shall be provided [filed] in every instance in which a search warrant is requested.

(2) For purposes of this article, a magistrate may accept a sworn statement that is provided by telephone or other appropriate and reliable means of wire or electronic communication. A magistrate or the magistrate's designee shall fully document a sworn affidavit provided by telephone. A magistrate or the magistrate's designee may electronically record and preserve any statement communicated orally under this subdivision.

(3) Except as provided by Article 18.011, the affidavit is public information if executed, and the magistrate's clerk shall make a copy of the affidavit available for public inspection in the clerk's office during normal business hours.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.