

By: Lucio III

H.B. No. 1439

A BILL TO BE ENTITLED

AN ACT

relating to the temporary sealing of certain complaints or affidavits on which arrest warrants are based.

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

SECTION 1. Chapter 15, Code of Criminal Procedure, is amended by adding Article 15.052 to read as follows:

Art. 15.052. SEALING OF COMPLAINT. (a) An attorney representing the state in the prosecution of felonies may request a district judge or the judge of an appellate court to seal a complaint made in accordance with Article 15.05. The judge may order the complaint sealed if the attorney establishes a compelling state interest in that:

(1) public disclosure of the complaint would jeopardize the safety of a victim, witness, or confidential informant or cause the destruction of material that may constitute evidence in the case; or

(2) the complaint contains information obtained from a court-ordered wiretap that has not expired at the time the attorney representing the state requests the sealing of the complaint.

(b) An order sealing a complaint under this article expires on the 31st day after the date on which the arrest warrant for which the complaint was presented is executed.

(c) On request by an attorney representing the state in the prosecution of felonies, a judge may grant a single 30-day

1 extension of the original order on a new finding of compelling state
2 interest. A request for an extension must be made before the
3 original order expires.

4 (d) On the expiration of an order issued under Subsection
5 (b) and any extension, the complaint must be unsealed.

6 (e) An order issued under this article may not:

7 (1) prohibit the disclosure of information relating
8 to the contents of an arrest warrant; or

9 (2) affect the right of a defendant to discover the
10 contents of the complaint.

11 SECTION 2. Article 15.26, Code of Criminal Procedure, is
12 amended to read as follows:

13 Art. 15.26. AUTHORITY TO ARREST MUST BE MADE KNOWN. (a) In
14 executing a warrant of arrest, it shall always be made known to the
15 accused under what authority the arrest is made. The warrant shall
16 be executed by the arrest of the defendant. The officer need not
17 have the warrant in his possession at the time of the arrest,
18 provided the warrant was issued under the provisions of this Code,
19 but upon request he shall show the warrant to the defendant as soon
20 as possible. If the officer does not have the warrant in his
21 possession at the time of arrest he shall then inform the defendant
22 of the offense charged and of the fact that a warrant has been
23 issued.

24 (b) The arrest warrant, and any complaint or affidavit
25 presented to the magistrate in support of the issuance of the
26 warrant, are [~~is~~] public information, and beginning immediately
27 when the warrant is executed the magistrate's clerk shall make a

1 copy of the warrant and the complaint or affidavit available for
2 public inspection in the clerk's office during normal business
3 hours, subject to Subsection (c).

4 (c) If a complaint or affidavit has been sealed under
5 Article 15.052, the magistrate's clerk shall perform the duty under
6 Subsection (b) only after the complaint or affidavit is unsealed.

7 (d) A person may request the clerk to provide copies of the
8 warrant and the complaint or affidavit on payment of the cost of
9 providing the copies.

10 SECTION 3. This Act applies only to a complaint or affidavit
11 that is presented on or after the effective date of this Act. A
12 complaint or affidavit that is presented before the effective date
13 of this Act is governed by the law in effect at the time the
14 complaint or affidavit was presented, and the former law is
15 continued in effect for that purpose.

16 SECTION 4. This Act takes effect September 1, 2013.