

BILL ANALYSIS

C.S.H.B. 644
By: Canales
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law requires a search warrant to include a magistrate's signature but does not require the magistrate's name to be printed on the warrant. There have been reports of local law enforcement agencies illegally seizing money, drugs, jewelry, and other valuable items by signing illegible signatures on search warrants. C.S.H.B. 644 seeks to prevent such abuses.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

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. 644 amends the Code of Criminal Procedure to require a search warrant to contain the name of the magistrate who issues the warrant in clearly legible handwriting or in typewritten form with the magistrate's signature.

C.S.H.B. 644 amends the Penal Code to enhance the penalty for tampering with a governmental record from a Class A misdemeanor to a third degree felony if it is shown on the trial of the offense that the governmental record was a search warrant issued by a magistrate.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 644 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Article 18.04, Code of Criminal Procedure, is amended to read as follows:

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Article 18.04, Code of Criminal Procedure, is amended to read as follows:

84R 20570

15.92.367

Substitute Document Number: 84R 17049

Art. 18.04. CONTENTS OF WARRANT.
A search warrant issued under this chapter shall be sufficient if it contains the following requisites:

- (1) that it run in the name of "The State of Texas";
- (2) that it identify, as near as may be, that which is to be seized and name or describe, as near as may be, the person, place, or thing to be searched;
- (3) that it command any peace officer of the proper county to search forthwith the person, place, or thing named; [~~and~~]
- (4) that it be dated and signed by the magistrate; and
- (5) that the magistrate's name appear in typewritten form with the magistrate's signature.

SECTION 2. Article 18.021(c), Code of Criminal Procedure, is amended.

SECTION 3. Section 37.10(c)(2), Penal Code, is amended.

SECTION 4. (a) The changes in law made by this Act in amending Articles 18.04 and 18.021(c), Code of Criminal Procedure, apply to a search warrant issued on or after the effective date of this Act. A search warrant 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.

(b) The change in law made by this Act in adding Section 37.10(c)(2)(D), Penal Code, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 5. This Act takes effect September 1, 2015.

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- (3) that it command any peace officer of the proper county to search forthwith the person, place, or thing named; [~~and~~]
- (4) that it be dated and signed by the magistrate; and
- (5) that the magistrate's name appear in clearly legible handwriting or in typewritten form with the magistrate's signature.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.