

BILL ANALYSIS

Senate Research Center
84R5639 MAW-F

S.B. 715
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Criminal Justice
4/20/2015
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current Texas law requires a sworn affidavit for a search warrant to be signed within the physical presence of a magistrate. S.B. 715 aims to modernize the search warrant process by enabling a magistrate to accept a sworn statement that is provided by law enforcement by appropriate means other than in person, such as by phone, e-mail, or facsimile. By allowing use of modern technology, warrants can be issued more readily to address time-sensitive situations.

S.B. 715 amends Article 18.01(b), Code of Criminal Procedure, to authorize a magistrate to accept a sworn statement and other documentation 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 allows a magistrate or the magistrate's designee to fully document a sworn affidavit provided by telephone. Specifically, the bill authorizes the magistrate or the designee to electronically record and preserve any statement communicated orally under the bill's provisions, and requires the magistrate or the designee to promptly transcribe and preserve a written copy of that oral statement.

As proposed, S.B. 715 amends current law relating to sworn statements and other documentation provided to support the issuance of a search warrant.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 18.01(b), Code of Criminal Procedure, as follows:

(b)(1) Requires a sworn affidavit setting forth substantial facts establishing probable cause to be provided, rather than filed, in every instance in which a search warrant is requested.

(2) Authorizes a magistrate, for purposes of this article, to accept a sworn statement that is provided by telephone or other means of wire or electronic communication. Requires the magistrate to administer an oath to the person providing the statement. Requires the magistrate or the magistrate's designee to electronically record any statement communicated orally under this subdivision, and promptly transcribe and preserve a written copy of that oral statement.

(3) Authorizes a magistrate to accept, by facsimile or e-mail or other electronic transmission, other documentation in support of the issuance of a search warrant.

(4) Provides that, except as provided by Article 18.011 (Sealing of Affidavit), an affidavit is public information if executed, and the magistrate's clerk is required to make a copy of the affidavit available for public inspection in the clerk's office during normal business hours.

Makes a nonsubstantive change.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2015.