

By: Wu, Fletcher, Moody, Riddle, Price,
et al.

H.B. No. 326

Substitute the following for H.B. No. 326:

By: Herrero

C.S.H.B. No. 326

A BILL TO BE ENTITLED

AN ACT

relating to information provided by electronic means in support of
the issuance of a search warrant.

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

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

(b-1)(1) For purposes of this article, a magistrate may
consider information communicated by telephone or other reliable
electronic means in determining whether to issue a search warrant.
The magistrate may examine an applicant for a search warrant and any
person on whose testimony the application is based. The applicant
or other person must be placed under oath before the examination.

(2) If an applicant for a search warrant attests to the
contents of an affidavit submitted by reliable electronic means,
the magistrate must acknowledge the attestation in writing on the
affidavit. If the magistrate considers additional testimony or
exhibits, the magistrate must:

(A) ensure that the testimony is recorded
verbatim by an electronic recording device, by a court reporter, or
in writing;

(B) ensure that any recording or reporter's notes
are transcribed and that the transcription is certified as accurate
and is preserved;

(C) sign, certify the accuracy of, and preserve

1 any other written record; and

2 (D) ensure that the exhibits are preserved.

3 (3) An applicant for a search warrant who submits
4 information as authorized by this subsection must prepare a
5 proposed duplicate original of the warrant and must read or
6 otherwise transmit its contents verbatim to the magistrate. A
7 magistrate must enter into an original search warrant the contents
8 of a proposed duplicate original that are read to the magistrate. If
9 the applicant transmits the contents by reliable electronic means,
10 the transmission received by the magistrate may serve as the
11 original search warrant.

12 (4) The magistrate may modify a search warrant that is
13 submitted as described by Subdivision (3). If the magistrate
14 modifies the warrant, the magistrate must:

15 (A) transmit the modified version to the
16 applicant by reliable electronic means; or

17 (B) file the modified original and direct the
18 applicant to modify the proposed duplicate original accordingly.

19 (5) A magistrate who issues a search warrant for which
20 information is provided by telephone or reliable electronic means
21 must:

22 (A) sign the original documents;

23 (B) enter the date and time of issuance on the
24 warrant; and

25 (C) transmit the warrant by reliable electronic
26 means to the applicant or direct the applicant to sign the judge's
27 name and enter the date and time on the duplicate original.

1 (6) Evidence obtained pursuant to a search warrant for
2 which information was provided in accordance with this subsection
3 is not subject to suppression on the ground that issuing the warrant
4 in compliance with this subsection was unreasonable under the
5 circumstances, absent a finding of bad faith.

6 SECTION 2. The change in law made by this Act applies only
7 to a search warrant that is issued on or after the effective date of
8 this Act. A search warrant that was issued before the effective
9 date of this Act is governed by the law in effect on the date the
10 warrant was issued, and the former law is continued in effect for
11 that purpose.

12 SECTION 3. This Act takes effect September 1, 2015.