

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 1712
By: Canales (Alvarado)
State Affairs
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

A court order is an official proclamation by a judge that defines the legal relationship between the parties to a hearing, a trial, an appeal, or other court proceeding. Such an order requires or authorizes the carrying out of certain steps by one or more parties to a case and must be signed by the court judge.

The 84th Texas Legislature, Regular Session, enacted H.B. 644, which required a magistrate's name to be written legibly on a search warrant, yet parties still report difficulties in finding the originating courts for some court orders. H.B. 1712 seeks to address this issue by requiring every court order to include the applicable magistrate's full name in legible handwriting, legible typewritten form, or legible stamp print.

In consultation with the Office of the Governor, we intend to offer a committee substitute that will:

1. Clarify that the official proclamation is not invalidated if the magistrate fails to comply with legibility.
2. Creates a process whereby a defendant can make a motion in a court to reveal the identity of the signing magistrate.
3. Allows the Supreme Court of Texas to adopt rules on this process.

(Original Author's/Sponsor's Statement of Intent)

C.S.H.B. 1712 amends current law relating to the inclusion of a magistrate's name on certain signed orders.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Supreme Court of Texas in SECTION 1 (Article 2.101, Code of Criminal Procedure) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 2, Code of Criminal Procedure, by adding Article 2.101, as follows:

Art. 2.101. MAGISTRATE'S NAME ON SIGNED ORDER. (a) Requires that any signed order that is issued by a magistrate under this code or any signed order pertaining to a criminal matter that is issued by a magistrate under the Family Code, the Government Code, or other law of this state include, with the magistrate's signature, the magistrate's name in legible handwriting, legible typewritten form, or legible stamp print.

(b) Provides that the failure of a magistrate to include the magistrate's name on an order as provided by Subsection (a) does not affect the validity of the order.

(c) Authorizes a defendant in a criminal action to make a motion to add to an order that does not comply with Subsection (a) the name of the magistrate who signed the order if:

(1) the order is relevant to the action; and

(2) the defendant is unable to identify the magistrate who signed the order.

(d) Authorizes the Supreme Court of Texas to adopt rules to implement this article.

SECTION 2. Makes application of Article 2.101, Code of Criminal Procedure, as added by this Act, prospective.

SECTION 3. Effective date: September 1, 2023.