

1-1 By: Wu, et al. (Senate Sponsor - Hall) H.B. No. 326  
1-2 (In the Senate - Received from the House May 7, 2015;  
1-3 May 11, 2015, read first time and referred to Committee on Criminal  
1-4 Justice; May 21, 2015, reported favorably by the following vote:  
1-5 Yeas 7, Nays 0; May 21, 2015, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Whitmire	X		
1-9	Huffman	X		
1-10	Burton	X		
1-11	Creighton	X		
1-12	Hinojosa	X		
1-13	Menéndez	X		
1-14	Perry	X		

1-15 A BILL TO BE ENTITLED  
1-16 AN ACT

1-17 relating to information provided by electronic means in support of  
1-18 the issuance of a search warrant.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Article 18.01, Code of Criminal Procedure, is  
1-21 amended by adding Subsection (b-1) to read as follows:

1-22 (b-1)(1) For purposes of this article, a magistrate may  
1-23 consider information communicated by telephone or other reliable  
1-24 electronic means in determining whether to issue a search warrant.  
1-25 The magistrate may examine an applicant for a search warrant and any  
1-26 person on whose testimony the application is based. The applicant  
1-27 or other person must be placed under oath before the examination.

1-28 (2) If an applicant for a search warrant attests to the  
1-29 contents of an affidavit submitted by reliable electronic means,  
1-30 the magistrate must acknowledge the attestation in writing on the  
1-31 affidavit. If the magistrate considers additional testimony or  
1-32 exhibits, the magistrate must:

1-33 (A) ensure that the testimony is recorded  
1-34 verbatim by an electronic recording device, by a court reporter, or  
1-35 in writing;

1-36 (B) ensure that any recording or reporter's notes  
1-37 are transcribed and that the transcription is certified as accurate  
1-38 and is preserved;

1-39 (C) sign, certify the accuracy of, and preserve  
1-40 any other written record; and

1-41 (D) ensure that the exhibits are preserved.

1-42 (3) An applicant for a search warrant who submits  
1-43 information as authorized by this subsection must prepare a  
1-44 proposed duplicate original of the warrant and must read or  
1-45 otherwise transmit its contents verbatim to the magistrate. A  
1-46 magistrate must enter into an original search warrant the contents  
1-47 of a proposed duplicate original that are read to the magistrate. If  
1-48 the applicant transmits the contents by reliable electronic means,  
1-49 the transmission received by the magistrate may serve as the  
1-50 original search warrant.

1-51 (4) The magistrate may modify a search warrant that is  
1-52 submitted as described by Subdivision (3). If the magistrate  
1-53 modifies the warrant, the magistrate must:

1-54 (A) transmit the modified version to the  
1-55 applicant by reliable electronic means; or

1-56 (B) file the modified original and direct the  
1-57 applicant to modify the proposed duplicate original accordingly.

1-58 (5) A magistrate who issues a search warrant for which  
1-59 information is provided by telephone or reliable electronic means  
1-60 must:

1-61 (A) sign the original documents;

2-1 (B) enter the date and time of issuance on the  
2-2 warrant; and

2-3 (C) transmit the warrant by reliable electronic  
2-4 means to the applicant or direct the applicant to sign the judge's  
2-5 name and enter the date and time on the duplicate original.

2-6 (6) Evidence obtained pursuant to a search warrant for  
2-7 which information was provided in accordance with this subsection  
2-8 is not subject to suppression on the ground that issuing the warrant  
2-9 in compliance with this subsection was unreasonable under the  
2-10 circumstances, absent a finding of bad faith.

2-11 SECTION 2. The change in law made by this Act applies only  
2-12 to a search warrant that is issued on or after the effective date of  
2-13 this Act. A search warrant that was issued before the effective  
2-14 date of this Act is governed by the law in effect on the date the  
2-15 warrant was issued, and the former law is continued in effect for  
2-16 that purpose.

2-17 SECTION 3. This Act takes effect September 1, 2015.

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