

BILL ANALYSIS

Senate Research Center

H.B. 3237
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Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law could allow the owner of property subject to an issued search warrant to become aware of the impending search due to the public availability of the sworn affidavit, establishing probable cause for the warrant that is filed before the warrant is authorized and executed.

H.B. 3237 seeks to address this issue by changing the time at which such a sworn affidavit becomes public information. The bill amends the Code of Criminal Procedure to change the time at which a sworn affidavit setting forth substantial facts establishing probable cause for a search warrant becomes public information from the time at which the affidavit is executed to the time at which the search warrant for which the affidavit was presented is executed.

H.B. 3237 amends current law relating to the return of executed search warrants and the public availability of search warrant affidavits.

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, to provide that, except as provided by Article 18.011 (Sealing of Affidavit), the affidavit becomes public information when the search warrant for which the affidavit was presented is executed, rather than the affidavit is public information if executed, and requires the magistrate's clerk to make a copy of the affidavit available for public inspection in the clerk's office during normal business hours.

SECTION 2. Amends Article 18.10, Code of Criminal Procedure, as follows:

Art. 18.10. HOW RETURN MADE. Requires the officer, not later than three whole days after executing a search warrant, to return the search warrant. Provides that the failure of an officer to make a timely return of an executed search warrant or to submit an inventory of the property taken into the officer's possession under the warrant does not bar the admission of evidence under Article 38.23 (Evidence Not To Be Used). Makes nonsubstantive changes.

SECTION 3. Effective date: upon passage or September 1, 2017.