

By: Moody

H.B. No. 3237

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the return of executed search warrants and the public  
3 availability of search warrant affidavits.

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

5 SECTION 1. Article 18.01(b), Code of Criminal Procedure, is  
6 amended to read as follows:

7 (b) No search warrant shall issue for any purpose in this  
8 state unless sufficient facts are first presented to satisfy the  
9 issuing magistrate that probable cause does in fact exist for its  
10 issuance. A sworn affidavit setting forth substantial facts  
11 establishing probable cause shall be filed in every instance in  
12 which a search warrant is requested. Except as provided by Article  
13 18.011, the affidavit becomes ~~[is]~~ public information when the  
14 search warrant for which the affidavit was presented is ~~[if]~~  
15 executed, and the magistrate's clerk shall make a copy of the  
16 affidavit available for public inspection in the clerk's office  
17 during normal business hours.

18 SECTION 2. Article 18.10, Code of Criminal Procedure, is  
19 amended to read as follows:

20 Art. 18.10. HOW RETURN MADE. Not later than three whole  
21 days after executing a search warrant, the officer shall return the  
22 search warrant. Upon returning the search warrant, the officer  
23 shall state on the back of the same, or on some paper attached to it,  
24 the manner in which the warrant ~~[it]~~ has been executed. The officer

1 [and] shall also [~~likewise~~] deliver to the magistrate a copy of the  
2 inventory of the property taken into his possession under the  
3 warrant. The failure of an officer to make a timely return of an  
4 executed search warrant or to submit an inventory of the property  
5 taken into the officer's possession under the warrant does not bar  
6 the admission of evidence under Article 38.23. The officer who  
7 seized the property shall retain custody of it until the magistrate  
8 issues an order directing the manner of safekeeping the property.  
9 The property may not be removed from the county in which it was  
10 seized without an order approving the removal, issued by a  
11 magistrate in the county in which the warrant was issued; provided,  
12 however, nothing herein shall prevent the officer, or his  
13 department, from forwarding any item or items seized to a  
14 laboratory for scientific analysis.

15 SECTION 3. This Act takes effect immediately if it receives  
16 a vote of two-thirds of all the members elected to each house, as  
17 provided by Section 39, Article III, Texas Constitution. If this  
18 Act does not receive the vote necessary for immediate effect, this  
19 Act takes effect September 1, 2017.