

Chapter 174

H.B. No. 3237

1 AN ACT
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:

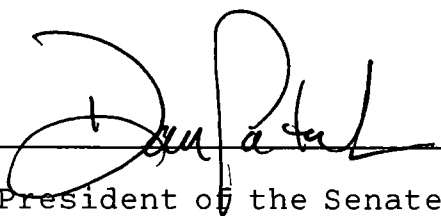
7 (b) No search warrant shall issue for any purpose in this
8 state unless sufficient facts are first presented to satisfy the
9 issuing magistrate that probable cause does in fact exist for its
10 issuance. A sworn affidavit setting forth substantial facts
11 establishing probable cause shall be filed 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:

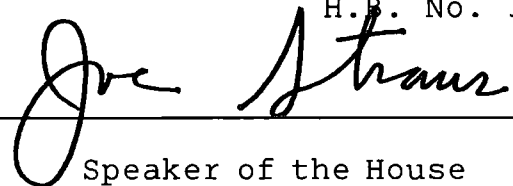
20 Art. 18.10. HOW RETURN MADE. Not later than three whole
21 days after executing a search warrant, the officer shall return the
22 search warrant. Upon returning the search warrant, the officer
23 shall state on the back of the same, or on some paper attached to it,
24 the manner in which the warrant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



President of the Senate

H.B. No. 3237


Speaker of the House

I certify that H.B. No. 3237 was passed by the House on May 4, 2017, by the following vote: Yeas 144, Nays 0, 2 present, not voting.



Chief Clerk of the House

I certify that H.B. No. 3237 was passed by the Senate on May 19, 2017, by the following vote: Yeas 31, Nays 0.



Secretary of the Senate

APPROVED: 5-26-2017
Date



Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
TRM O'CLOCK
MAY 26 2017


Secretary of State

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 9, 2017

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3237 by Moody (Relating to the return of executed search warrants and the public availability of search warrant affidavits.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure as it relates to the filing of an affidavit setting forth probable cause when a search warrant is requested. The bill would state that such an affidavit becomes public information when the search warrant at issue is executed, unless disclosure is otherwise restricted by law. The bill would require the officer to return the search warrant within a certain time frame, but would not allow failure to timely return the warrant to be used to bar the admission of evidence obtained pursuant to the warrant. Based on the analysis of the Office of Court Administration and the Department of Public Safety, duties and responsibilities associated with implementing the provisions of the bill could be accomplished using existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 405
Department of Public Safety

LBB Staff: UP, KJo, PBO, JGA

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 6, 2017

TO: Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3237 by Moody (Relating to when search warrant affidavits become public information.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to clarify that a sworn affidavit setting forth probable cause when a search warrant is requested becomes public information when the search warrant at issue is executed, unless disclosure is otherwise restricted by law. Based on the analysis of the Office of Court Administration, duties and responsibilities associated with implementing the provisions of the bill could be accomplished using existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, KJo, PBO, JGA