

Amendment No. 2 to SB1685

Kelsey
Signature of Sponsor

AMEND Senate Bill No. 1685

House Bill No. 1488*

by deleting the amendatory language of SECTION 1 in its entirety and by substituting instead the following:

40-6-109.

(a) Notwithstanding any provision of this part to the contrary, a magistrate may issue a warrant based on information communicated by telephone or other reliable electronic means. The proposed warrant, the signed affidavit, and accompanying documents may be transmitted by electronic facsimile transmission (fax) or by electronic transfer with electronic signatures to the magistrate, who may act upon the transmitted documents as if they were originals. If the warrant is being sought by electronic means rather than face-to-face, the warrant affidavit shall be sworn to or affirmed by administration of the oath by audio-visual means by the magistrate, and the examination of the affiant by the magistrate shall also be by audio-visual means; provided, the warrant affidavit shall be in writing and received by the magistrate prior to the administration of the oath and examination of the affiant. The affidavit with electronic signature received by the magistrate and the warrant approved by the magistrate, signed with electronic signature, shall be deemed originals. The magistrate shall facilitate the filing of the original warrant with the clerk of the court and shall take reasonable steps to prevent tampering with the warrant. The issuing magistrate shall retain a copy of the warrant as part of his or her official records. The issuing magistrate shall issue a copy of the warrant, with electronic

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signatures, to the affiant. This section does not alter the requirement that the affidavit be submitted to the magistrate in writing regardless of the means of transmission.

(b) Except for the specific procedural requirements established by this section for the application for and issuance of a search warrant by electronic means, the procedure for obtaining a search warrant shall be as provided by law and established in rules promulgated by the supreme court and approved by the general assembly.

AND FURTHER AMEND by deleting SECTION 2 in its entirety and by substituting instead the following:

SECTION 2. This act shall take effect July 1, 2014, the public welfare requiring it and shall cease to be effective on July 1, 2015.