

CHAPTER 49

COURTS

HOUSE BILL 12-1095

BY REPRESENTATIVE(S) Waller, Barker, Gardner B., Gerou, Kerr J.;
also SENATOR(S) Newell, King S.

AN ACT**CONCERNING ELECTRONIC COURT DOCUMENTS.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 16-1-106, **amend** (3) (b) as follows:

16-1-106. Electronic transmission of documents required for arrest and search warrants under code authorized - definitions. (3) (b) ~~A judge or magistrate shall mark as "original" an affidavit received by electronic transfer that includes an electronic signature. Any warrant issued by a judge or magistrate by electronic transfer that includes an electronic signature shall be considered the original document and marked as "original". The judge or magistrate shall:~~ A WARRANT, SIGNED AFFIDAVIT, AND ACCOMPANYING DOCUMENTS MAY BE TRANSMITTED BY ELECTRONIC FACSIMILE TRANSMISSION OR BY ELECTRONIC TRANSFER WITH ELECTRONIC SIGNATURES TO THE JUDGE, WHO MAY ACT UPON THE TRANSMITTED DOCUMENTS AS IF THEY WERE ORIGINALS. A WARRANT AFFIDAVIT MAY BE SWORN TO OR AFFIRMED BY ADMINISTRATION OF THE OATH OVER THE TELEPHONE BY THE JUDGE. THE AFFIDAVIT WITH ELECTRONIC SIGNATURE RECEIVED BY THE JUDGE OR MAGISTRATE AND THE WARRANT APPROVED BY THE JUDGE OR MAGISTRATE, SIGNED WITH ELECTRONIC SIGNATURE, SHALL BE DEEMED ORIGINALS. THE JUDGE OR MAGISTRATE SHALL FACILITATE THE FILING OF THE ORIGINAL AFFIDAVIT AND ORIGINAL WARRANT WITH THE CLERK OF THE COURT AND SHALL TAKE REASONABLE STEPS TO PREVENT TAMPERING WITH THE AFFIDAVIT AND WARRANT. THE ISSUING JUDGE OR MAGISTRATE SHALL ALSO FORWARD A COPY OF THE WARRANT AND AFFIDAVIT, WITH ELECTRONIC SIGNATURES, TO THE AFFIANT. THIS SUBSECTION (3) DOES NOT AUTHORIZE THE COURT TO ISSUE WARRANTS WITHOUT HAVING IN ITS POSSESSION EITHER A FAXED COPY OF THE SIGNED AFFIDAVIT AND WARRANT OR AN ELECTRONIC COPY OF THE AFFIDAVIT AND WARRANT WITH

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

ELECTRONIC SIGNATURES.

~~(F) Facilitate the filing of the original affidavit and warrant with the clerk of the court in a format that cannot be altered; and~~

~~(H) Forward a copy of the warrant and affidavit containing electronic signatures to the affiant.~~

SECTION 2. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2012, if adjournment sine die is on May 9, 2012); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2012 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: March 22, 2012