

## CHAPTER 6

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**CRIMINAL LAW AND PROCEDURE**


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**HOUSE BILL 07-1010**

BY REPRESENTATIVE(S) Marostica, Gardner B., Hicks, Kerr J., King, Lambert, Liston, Roberts, Rose, Stephens, White, Carroll T., Marshall, and Stafford;  
also SENATOR(S) Morse.

**AN ACT****CONCERNING THE USE OF ELECTRONIC TRANSFERS IN THE WARRANT PROCESS.**

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

**SECTION 1.** 16-1-106 (1) and (3), Colorado Revised Statutes, are amended, and the said 16-1-106 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**16-1-106. Electronic transmission of documents required for arrest and search warrants under code authorized - definition.** (1) Whenever a written application FOR A WARRANT is required, IT SHALL INCLUDE both a written application and a sworn or affirmed affidavit. ~~are required, or a court is authorized or required to issue an arrest warrant or search warrant in accordance with the provisions of this code, such~~ A PEACE OFFICER MAY SUBMIT AN application and affidavit ~~may be submitted~~ FOR A WARRANT and ~~such~~ THE COURT MAY ISSUE THE warrant ~~may be issued~~ by an electronically or electromagnetically transmitted facsimile ~~of such document~~ OR BY AN ELECTRONIC TRANSFER THAT MAY INCLUDE AN ELECTRONIC SIGNATURE. Whenever a sworn or affirmed affidavit is required, the court may orally administer the oath or affirmation to the affiant and the affiant may then electronically transmit back to the court a written affidavit of the oath or affirmation.

(3) (a) Any electronically or electromagnetically transmitted facsimile of a document authorized to be made by this section shall be treated as an original document.

(b) A WARRANT ISSUED BY A JUDGE OR MAGISTRATE BY AN ELECTRONIC TRANSFER OR A WARRANT SIGNED ELECTRONICALLY SHALL BE CONSIDERED THE

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

ORIGINAL DOCUMENT. THE ISSUING JUDGE OR MAGISTRATE SHALL MARK THE WARRANT AS "ORIGINAL" AND FACILITATE THE FILING OF THE WARRANT WITH THE COURT CLERK. ANY DOCUMENTS AUTHORIZED BY THIS SECTION FROM THE AFFIANT THAT ARE ELECTRONICALLY FILED OR SIGNED ELECTRONICALLY SHALL BE CONSIDERED A COPY.

(4) FOR PURPOSES OF THIS SECTION:

(a) "DIGITAL SIGNATURE" MEANS A DOCUMENT HASH-ENCRYPTED WITH A PRIVATE CRYPTOGRAPHIC KEY THAT CAN BE USED TO AUTHENTICATE THE IDENTITY OF THE SENDER OF A MESSAGE OR THE SIGNER OF A DOCUMENT AND CAN ENSURE THAT THE ORIGINAL CONTENT OF THE MESSAGE OR DOCUMENT THAT HAS BEEN SENT IS UNCHANGED.

(b) "DIGITIZED SIGNATURE" MEANS AN ELECTRONIC REPRESENTATION OF AN ACTUAL HANDWRITTEN SIGNATURE IN WHICH THE IMAGE OF A HANDWRITTEN SIGNATURE IS CREATED AND SAVED USING VARIOUS METHODS, SUCH AS USING A SIGNATURE PAD, SCANNING A HANDWRITTEN SIGNATURE, OR DIGITAL PHOTOGRAPHY. A DIGITIZED SIGNATURE MAY BE CAPTURED AT THE TIME THE USER APPLIES THE SIGNATURE, OR A PREVIOUSLY SAVED IMAGE MAY BE APPLIED.

(c) "ELECTRONIC SIGNATURE" MEANS AN ELECTRONIC SOUND, SYMBOL, OR PROCESS ATTACHED TO OR LOGICALLY ASSOCIATED WITH A DOCUMENT AND EXECUTED OR ADOPTED BY A PERSON WITH THE INTENT TO SIGN THE DOCUMENT. AN ELECTRONIC SIGNATURE MAY INCLUDE, BUT IS NOT LIMITED TO, A DIGITIZED SIGNATURE OR A DIGITAL SIGNATURE.

**SECTION 2. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 1, 2007