

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0456.01 Michael Dohr x4347

HOUSE BILL 12-1095

HOUSE SPONSORSHIP

Waller,

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING ELECTRONIC COURT DOCUMENTS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill conforms statutory language related to electronic warrants to the language in court rules.

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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

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

3 **16-1-106. Electronic transmission of documents required for**
4 **arrest and search warrants under code authorized - definitions.**

5 (3) (b) ~~A judge or magistrate shall mark as "original" an affidavit~~
6 ~~received by electronic transfer that includes an electronic signature. Any~~
7 ~~warrant issued by a judge or magistrate by electronic transfer that~~
8 ~~includes an electronic signature shall be considered the original document~~
9 ~~and marked as "original". The judge or magistrate shall:~~ A WARRANT,

10 SIGNED AFFIDAVIT, AND ACCOMPANYING DOCUMENTS MAY BE
11 TRANSMITTED BY ELECTRONIC FACSIMILE TRANSMISSION OR BY
12 ELECTRONIC TRANSFER WITH ELECTRONIC SIGNATURES TO THE JUDGE,
13 WHO MAY ACT UPON THE TRANSMITTED DOCUMENTS AS IF THEY WERE
14 ORIGINALS. A WARRANT AFFIDAVIT MAY BE SWORN TO OR AFFIRMED BY
15 ADMINISTRATION OF THE OATH OVER THE TELEPHONE BY THE JUDGE. THE
16 AFFIDAVIT WITH ELECTRONIC SIGNATURE RECEIVED BY THE JUDGE OR
17 MAGISTRATE AND THE WARRANT APPROVED BY THE JUDGE OR
18 MAGISTRATE, SIGNED WITH ELECTRONIC SIGNATURE, SHALL BE DEEMED
19 ORIGINALS. THE JUDGE OR MAGISTRATE SHALL FACILITATE THE FILING OF
20 THE ORIGINAL AFFIDAVIT AND ORIGINAL WARRANT WITH THE CLERK OF
21 THE COURT AND SHALL TAKE REASONABLE STEPS TO PREVENT TAMPERING
22 WITH THE AFFIDAVIT AND WARRANT. THE ISSUING JUDGE OR MAGISTRATE
23 SHALL ALSO FORWARD A COPY OF THE WARRANT AND AFFIDAVIT, WITH
24 ELECTRONIC SIGNATURES, TO THE AFFIANT. THIS SUBSECTION (3) DOES
25 NOT AUTHORIZE THE COURT TO ISSUE WARRANTS WITHOUT HAVING IN ITS
26 POSSESSION EITHER A FAXED COPY OF THE SIGNED AFFIDAVIT AND
27 WARRANT OR AN ELECTRONIC COPY OF THE AFFIDAVIT AND WARRANT

1 WITH ELECTRONIC SIGNATURES.

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

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

6 **SECTION 2. Act subject to petition - effective date.** This act
7 takes effect at 12:01 a.m. on the day following the expiration of the
8 ninety-day period after final adjournment of the general assembly (August
9 7, 2012, if adjournment sine die is on May 9, 2012); except that, if a
10 referendum petition is filed pursuant to section 1 (3) of article V of the
11 state constitution against this act or an item, section, or part of this act
12 within such period, then the act, item, section, or part will not take effect
13 unless approved by the people at the general election to be held in
14 November 2012 and, in such case, will take effect on the date of the
15 official declaration of the vote thereon by the governor.