

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 19.2-54 of the Code of Virginia, relating to search warrant affidavits;*
3 *delivery by mail.*

4 [H 2759]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 19.2-54 of the Code of Virginia is amended and reenacted as follows:**8 § 19.2-54. Affidavit preliminary to issuance of search warrant; general search warrant prohibited;
9 effect of failure to file affidavit.

10 No search warrant shall be issued until there is filed with the officer authorized to issue the same an
11 affidavit of some person reasonably describing the place, thing, or person to be searched, the things or
12 persons to be searched for thereunder, alleging briefly material facts, constituting the probable cause for
13 the issuance of such warrant and alleging substantially the offense in relation to which such search is to
14 be made and that the object, thing, or person searched for constitutes evidence of the commission of
15 such offense. The affidavit may be filed by electronically transmitted facsimile process. Such affidavit
16 shall be certified by the officer who issues such warrant and delivered *in person or mailed by certified*
17 *mail, return receipt requested*, by such officer or other officer authorized to certify such warrants to the
18 clerk of the circuit court of the county or city wherein the search is made within seven days after the
19 issuance of such warrant and shall by such clerk be preserved as a record and shall at all times be
20 subject to inspection by the public; however such affidavit may be temporarily sealed by the appropriate
21 court upon application of the attorney for the Commonwealth for good cause shown in an ex parte
22 hearing. Any individual arrested and claiming to be aggrieved by such search and seizure or any person
23 who claims to be entitled to lawful possession of such property seized may move the appropriate court
24 for the unsealing of such affidavit, and the burden of proof with respect to continued sealing shall be
25 upon the Commonwealth. Each such clerk shall maintain an index of all such affidavits filed in his
26 office in order to facilitate inspection. No such warrant shall be issued on an affidavit omitting such
27 essentials, and no general warrant for the search of a house, place, compartment, vehicle or baggage
28 shall be issued. The term "affidavit" as used in this section, means statements made under oath or
29 affirmation and preserved verbatim.

30 Failure of the officer issuing such warrant to file the required affidavit shall not invalidate any search
31 made under the warrant unless such failure shall continue for a period of thirty days. If the affidavit is
32 filed prior to the expiration of the thirty-day period, nevertheless, evidence obtained in any such search
33 shall not be admissible until a reasonable time after the filing of the required affidavit.

ENROLLED

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