

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 19.2-54 of the Code of Virginia, relating to public availability of search*
3 *warrant affidavit.*

4 [H 1479]

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, mailed by certified
17 mail, return receipt requested, or delivered by electronically transmitted facsimile process by such officer
18 or his designee or agent to the clerk of the circuit court of the county or city wherein the search is
19 made, with a copy of the affidavit also being delivered to the clerk of the circuit court of the county or
20 city where the warrant is issued, if in a different county or city, within seven days after the issuance of
21 such warrant and shall by such clerks be preserved as a record and shall at all times be subject to
22 inspection by the public *after the warrant that is the subject of the affidavit has been executed or 15*
23 *days after issuance of the warrant, whichever is earlier*; however such affidavit may be temporarily
24 sealed by the appropriate court upon application of the attorney for the Commonwealth for good cause
25 shown in an ex parte hearing. Any individual arrested and claiming to be aggrieved by such search and
26 seizure or any person who claims to be entitled to lawful possession of such property seized may move
27 the appropriate court for the unsealing of such affidavit, and the burden of proof with respect to
28 continued sealing shall be upon the Commonwealth. Each such clerk shall maintain an index of all such
29 affidavits filed in his office in order to facilitate inspection. No such warrant shall be issued on an
30 affidavit omitting such essentials, and no general warrant for the search of a house, place, compartment,
31 vehicle or baggage shall be issued. The term "affidavit" as used in this section, means statements made
32 under oath or affirmation and preserved verbatim.

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

ENROLLED

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