

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 19.2-54 of the Code of Virginia, relating to judicial sealing of search*  
3 *warrants.*

4 [H 1909]

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; however, such affidavit, *any warrant issued pursuant thereto, any return made*  
23 *thereon, and any order sealing the affidavit, warrant or return* may be temporarily sealed *for a specific*  
24 *period of time* by the appropriate court upon application of the attorney for the Commonwealth for good  
25 cause shown in an ex parte hearing. Any individual arrested and claiming to be aggrieved by such  
26 search and seizure or any person who claims to be entitled to lawful possession of such property seized  
27 may move the appropriate court for the unsealing of such affidavit, *warrant, and return and the. The*  
28 burden of proof with respect to continued sealing shall be upon the Commonwealth. Each such clerk  
29 shall maintain an index of all such affidavits filed in his office in order to facilitate inspection. No such  
30 warrant shall be issued on an affidavit omitting such essentials, and no general warrant for the search of  
31 a house, place, compartment, vehicle or baggage shall be issued. The term "affidavit" as used in this  
32 section, means statements made 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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