

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 19.2-54 of the Code of Virginia, relating to electronic filing of search*
3 *warrant affidavits.*

4
5 Approved

[H 17]

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 (i) facsimile process or (ii)
16 *electronic record as defined in § 59.1-480*. Such affidavit shall be certified by the officer who issues
17 such warrant and delivered in person; mailed by certified mail, return receipt requested; or delivered by
18 electronically transmitted facsimile process or by use of filing and security procedures as defined in the
19 *Uniform Electronic Transactions Act (§ 59.1-479 et seq.) for transmitting signed documents*, by such
20 officer or his designee or agent, to the clerk of the circuit court of the county or city wherein the search
21 is made, with a copy of the affidavit also being delivered to the clerk of the circuit court of the county
22 or city where the warrant is issued, if in a different county or city, within seven days after the issuance
23 of such warrant and shall by such clerks be preserved as a record and shall at all times be subject to
24 inspection by the public after the warrant that is the subject of the affidavit has been executed or 15
25 days after issuance of the warrant, whichever is earlier; however, such affidavit, any warrant issued
26 pursuant thereto, any return made thereon, and any order sealing the affidavit, warrant, or return may be
27 temporarily sealed for a specific period of time by the appropriate court upon application of the attorney
28 for the Commonwealth for good cause shown in an ex parte hearing. Any individual arrested and
29 claiming to be aggrieved by such search and seizure or any person who claims to be entitled to lawful
30 possession of such property seized may move the appropriate court for the unsealing of such affidavit,
31 warrant, and return. The burden of proof with respect to continued sealing shall be upon the
32 Commonwealth. Each such clerk shall maintain an index of all such affidavits filed in his office in order
33 to facilitate inspection. No such warrant shall be issued on an affidavit omitting such essentials, and no
34 general warrant for the search of a house, place, compartment, vehicle or baggage shall be issued. The
35 term "affidavit" as used in this section, means statements made under oath or affirmation and preserved
36 verbatim.

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

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