STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

SENATE BILL NO. 666 BY: SMITH

AS INTRODUCED

AN ACT RELATING TO WARRANTS; CREATING THE ELECTRONICALLY ISSUED WARRANTS ACT; PROVIDING FOR WARRANTS TO BE ISSUED ELECTRONICALLY; STATING REQUIREMENTS TO ISSUE WARRANTS; PROVIDING EXCEPTIONS; MAKING ARREST WARRANTS MEET CERTAIN REQUIREMENTS; REQUIRING PROOF OF SIGNATURE BEFORE EXECUTION OF WARRANT; AUTHORIZING COURT ADMINISTRATOR TO ESTABLISH CERTAIN STANDARDS; AUTHORIZING ELECTRONICALLY ISSUED SEARCH WARRANTS; STATING CRITERIA FOR ELECTRONIC SEARCH WARRANTS; PROVIDING FOR CERTAIN ORAL OATH AND AFFIRMATION BY ELECTRONIC MEANS; PROVIDING FOR CERTAIN AFFIDAVITS TO BE DUPLICATE ORIGINALS; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 58 of Title 22, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Electronically Issued Warrants Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 58.1 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. For the apprehension of persons charged with a felony, misdemeanor, or ordinance violation, a magistrate may issue processes to implement this act, except that a magistrate shall not issue a warrant for other than a minor offense unless an authorization is signed by the prosecuting attorney, or unless security for costs is filed with the magistrate.

B. A magistrate shall not issue a warrant for a minor offense unless an authorization in writing allowing the issuance of the warrant is filed with the magistrate and signed by the prosecuting attorney, or unless security for costs is filed with the magistrate, except if the warrant is requested by any of the following:

1. The Director of the Department of Wildlife Conservation or a special assistant or conservation officer appointed by the Director and declared by statute to be a peace officer, for a violation of a law which provides for the protection of wild game or fish; or

2. Agents of the Department of Transportation or a county road commission for violations related to motor carriers, the enforcement of which has been delegated to them.

C. An application for an arrest warrant may be made by any electronic or electromagnetic means of communication if all of the following occur:

1. The prosecuting attorney authorizes the issuance of the warrant. Authorization may consist of an electronically or electromagnetically transmitted facsimile of the signed authorization;

2. The judge orally administers the oath or affirmation to an applicant for an arrest warrant who submits a complaint under this subsection; and

3. The applicant signs the complaint. Proof that the applicant has signed the complaint may consist of an electronically or electromagnetically transmitted facsimile of the signed complaint.

D. The person or department receiving an electronically or electromagnetically issued arrest warrant shall receive proof that the issuing judge has signed the warrant before the warrant is executed. Proof that the issuing judge has signed the warrant may consist of an electronically or electromagnetically transmitted facsimile of the signed warrant.

E. The Administrative Director of the Courts shall establish paper quality and durability standards for warrants issued under this section.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 58.2 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. When an affidavit is made on oath to a magistrate authorized to issue warrants in criminal cases, and the affidavit establishes grounds for issuing a warrant pursuant to this act, the magistrate, if he is satisfied that there is probable cause for a search, shall issue a warrant to search the house, building, or other location or place where the property or thing to be searched for and seized is situated.

B. An affidavit for a search warrant may be made by any electronic or electromagnetic means of communication if both of the following occur:

1. The judge or district court magistrate orally administers the oath or affirmation to an applicant for a search warrant who submits an affidavit under this subsection; and

2. The affiant signs the affidavit. Proof that the affiant has signed the affidavit may consist of an electronically or electromagnetically transmitted facsimile of the signed affidavit.

C. A judge may issue a written search warrant in person or by any electronic or electromagnetic means of communication. If the court order required is pursuant to the motor vehicle code, and issued as a search warrant, the written search warrant may be issued in person or by any electronic or electromagnetic means of communication by a judge or by a district court magistrate.

D. The peace officer or department receiving an electronically or electromagnetically issued search warrant shall receive proof that the issuing magistrate has signed the warrant before the warrant is executed. Proof that the issuing magistrate has signed the warrant may consist of an electronically or electromagnetically transmitted facsimile of the signed warrant.

E. The Administrative Director of the Courts shall establish paper quality and durability standards for warrants issued under this section.

F. If an oath or affirmation is orally administered by electronic or electromagnetic means of communication, on a search warrant under this section, the oath or affirmation is considered to be administered before the magistrate.

G. If an affidavit for a search warrant is submitted by electronic or electromagnetic means of communication, or a search warrant is issued by electronic or electromagnetic means of communication, the transmitted copies of the affidavit or search warrant are duplicate originals of the affidavit or search warrant and are not required to contain the impression made by an impression seal.

SECTION 4. This act shall become effective September 1, 1992.

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