

## **BILL ANALYSIS**

Senate Research Center

S.B. 919  
By: Wentworth  
Criminal Justice  
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As Filed

### **DIGEST**

Currently, every executed search warrant affidavit is immediately accessible to the public. An affidavit sets forth facts to establish probable cause and must be filed to request a search warrant. Laying out all evidence uncovered during the course of an investigation, the information is available to the public, possibly, before the offender is identified or apprehended. Texas is the only state that makes the affidavits public information.

Sealing affidavits protects the integrity of ongoing investigations. To continue to make government documents available, a search warrant affidavit remains accessible to the public, unless a party can show a compelling state interest to temporarily seal the affidavit. S.B. 919 would authorize a district or appellate court to seal an affidavit when there is a compelling state interest.

### **PURPOSE**

As proposed, S.B. 919 authorizes a court to temporarily seal a search warrant affidavit.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Article 18.01(b), Code of Criminal Procedure, to provide that an affidavit is public information if executed, except as provided by Article 18.011.

SECTION 2. Amends Chapter 18, Code of Criminal Procedure, by adding Article 18.011, as follows:

Art. 18.011. SEALING OF AFFIDAVIT. Authorizes an attorney representing the state in the prosecution of felonies to request a district judge or an appellate court judge to seal an affidavit presented under Article 18.01(b). Authorizes the judge to order the affidavit sealed if the attorney establishes certain compelling state interest. Establishes that the order expires within a certain period of time. Authorizes the attorney to request a judge to reseal the expiring original order and to grant certain findings. Requires the order to be unsealed upon the expiration of the order or extension. Prohibits an order under this section from prohibiting certain disclosure and from affecting the right of a defendant to discover the contents of an affidavit.

SECTION 3. Effective date: September 1, 1999.  
Makes application of this Act prospective.