

By: Representatives Anderson (122nd),
McKnight, Wallace

To: Judiciary B

HOUSE BILL NO. 911

1 AN ACT TO AUTHORIZE THE ELECTRONIC ISSUANCE OF A SEARCH
2 WARRANT; TO AUTHORIZE THE RECEIPT OF ELECTRONIC TESTIMONY IN
3 SUPPORT OF AN APPLICATION FOR A SEARCH WARRANT; TO AUTHORIZE A
4 JUDGE TO ISSUE A SEARCH WARRANT BY AFFIXING AN ELECTRONIC
5 SIGNATURE TO THE WARRANT; TO REQUIRE AN APPLICANT FOR AN
6 ELECTRONIC SEARCH WARRANT TO CREATE A WRITTEN REPRODUCTION OF THE
7 APPLICATION AND WARRANT WHICH MUST BE SUBMITTED TO THE JUDGE
8 WITHIN 48 HOURS OF THE ISSUANCE OF THE WARRANT; TO PROVIDE THAT A
9 LAW OR COURT RULE THAT REQUIRES A SEARCH WARRANT APPLICATION,
10 AFFIDAVIT OR SIGNATURE TO BE IN WRITING IS SATISFIED BY A PROPERLY
11 ISSUED ELECTRONIC SEARCH WARRANT; AND FOR RELATED PURPOSES.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

13 **SECTION 1.** (1) A search warrant may be issued upon probable
14 cause established to the satisfaction of the judge by the
15 electronic testimony of a credible person reciting facts
16 establishing the cause for issuance of the warrant.

17 (2) For purposes of this section, the phrase "electronic
18 signature" includes any electronic means indicating that the
19 person originating an electronic document adopts the contents of
20 the document and that the person who claims to have written the
21 electronic document is in fact the person who wrote it.



22 "Electronic testimony" means any method of communication,
23 whether wired or wireless or any combination thereof, in which
24 text or images may be transferred electronically from one (1)
25 person to another and includes, but is not limited to, text
26 messages and electronic mail.

27 (3) The submission of electronic testimony to a judge must
28 contain the electronic signature of the applicant, the applicant's
29 full name and occupation, and a telephone number and electronic
30 address that may be used by the judge to contact the applicant.

31 (4) Electronic testimony presented to a judge is the
32 equivalent of an applicant having been administered an oath or
33 affirmation, swearing that the facts contained in the electronic
34 testimony are true and correct to the best of the applicant's
35 knowledge, subject to the penalties for perjury or false swearing.

36 (5) An electronic facsimile of the search warrant must
37 accompany the electronic testimony. If the judge finds probable
38 cause and approves the issuance of the warrant, the judge shall
39 affix his or her electronic signature to the warrant and return it
40 immediately to the applicant.

41 (6) The applicant shall create a written reproduction of the
42 applicant's electronic testimony, including its electronic
43 signature, and a written reproduction of the warrant, including
44 the judge's electronic signature. The applicant shall preserve
45 the written reproductions in the same manner as an original



46 warrant signed by both the applicant and the judge no later than
47 forty-eight (48) hours after the warrant was issued.

48 **SECTION 2.** (1) An application for a search warrant or
49 signature on the application may not be denied legal effect or
50 enforceability solely because it is in electronic form. Any such
51 application, signature or record in electronic form has the full
52 effect of law.

53 (2) If a law or rule of court requires an affidavit or the
54 application for a warrant to be in writing, an electronic record
55 satisfies the law or rule.

56 (3) If a law or rule of court requires a signature on an
57 affidavit, application or warrant, an electronic signature
58 satisfies the law or rule.

59 (4) An application used to attach a digital signature to an
60 affidavit or warrant must have security procedures in place which
61 ensure the authenticity of the digital signature. The application
62 also must be able to keep an electronic record of the affidavit or
63 warrant, including the time and date of when the signature was
64 attached. The application must include encryption measures to
65 ensure secure access of the application.

66 (5) Unless otherwise agreed to by a sender of a warrant
67 application and the judiciary, an electronic record is received
68 when:

69 (a) The record enters an information-processing system
70 that the local court rules have designated and approved for the



71 purpose of receiving electronic applications for warrants and from
72 which the recipient is able to retrieve the electronic record; and

73 (b) The record is in a form capable of being processed
74 by the system.

75 (6) In any instance where an affidavit is submitted to a
76 judge electronically, the electronic signature of the affiant
77 satisfies the requirement that the testimony of the affiant be
78 made under oath if the signature is made under penalty of perjury
79 and in compliance with subsection (4) of this section. If the
80 requirements of subsection (4) are met, it is not necessary for
81 the oath to be made orally for the affidavit to have legal effect.

82 **SECTION 3.** This act shall take effect and be in force from
83 and after July 1, 2023.

