

Regular Session, 2012

HOUSE BILL NO. 90

BY REPRESENTATIVE MACK

1 AN ACT

2 To enact Code of Criminal Procedure Article 162.2, relative to search warrants; to provide  
3 for the issuance of search warrants upon electronic testimony; to provide procedures  
4 for the issuance of warrants upon electronic testimony; to provide for definitions;  
5 and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Criminal Procedure Article 162.2 is hereby enacted to read as  
8 follows:

9 Art. 162.2. Warrant issued upon electronic testimony

10 A. In addition to the provisions of Articles 162 and 162.1, a search warrant  
11 may issue upon probable cause established to the satisfaction of the judge by the  
12 electronic testimony of a credible person reciting facts establishing the cause for  
13 issuance of the warrant.

14 B. For purposes of this Section, the following words shall have the following  
15 meanings:

16 (1) "Electronic signature" shall include any electronic means indicating that  
17 the person originating an electronic document adopts the contents of the document,  
18 and that the person who claims to have written the electronic document is in fact the  
19 person who wrote it.

20 (2) "Electronic testimony" shall mean any method of communication,  
21 whether wired or wireless or any combination thereof, in which text or images may  
22 be transferred electronically from one person to another and includes but shall not  
23 be limited to text messages and electronic mail.

1           C. The submission of electronic testimony to a judge pursuant to the  
2           provisions of this Article shall contain the electronic signature of the applicant, the  
3           applicant's full name and occupation, and a telephone number and electronic address  
4           which may be used by the judge to contact the applicant.

5           D. Any electronic testimony presented to a judge shall serve as the  
6           equivalent of the applicant having been administered an oath or affirmation,  
7           swearing that the facts contained in the electronic testimony are true and correct to  
8           the best of his knowledge, subject to the penalties for perjury or false swearing.

9           E. Accompanying the electronic testimony shall be an electronic facsimile  
10          of the search warrant. If the judge finds probable cause and approves the issuance  
11          of the warrant, he shall affix his electronic signature to the warrant and return it  
12          immediately to the applicant.

13          F. It shall be the responsibility of the applicant to create a written  
14          reproduction of his electronic testimony, including its electronic signature, and a  
15          written reproduction of the warrant, including the judge's electronic signature, and  
16          preserve the written reproductions in the same manner as an original warrant signed  
17          by both the applicant and the judge within forty-eight hours from the time the  
18          warrant was issued.

19          G. Telephonic communication between the judge and the affiant relatively  
20          contemporaneously with the application for the warrant shall satisfy the requirements  
21          of R.S. 9:2603.1(D).

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_