

House Bill 355

By: Representatives Lunsford of the 110th, Rice of the 51st, Lewis of the 15th, Knox of the 24th, Channell of the 116th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 Chapter 5 of Title 17 of the Official Code of Georgia Annotated, relating
2 to searches with warrants, so as to change provisions relating to issuance of search warrants
3 by video conference; to provide for issuance of search warrants by facsimile or other
4 electronic means; to provide for a definition; to provide for related matters; to repeal
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 2 Chapter 5 of Title 17 of the Official Code of Georgia Annotated, relating to
9 searches with warrants, is amended by revising Code Section 17-5-21.1, relating to issuance
10 of search warrants by video conference, as follows:

11 "17-5-21.1.

12 (a) A judge of any court in this state authorized to issue search warrants pursuant to Code
13 Section 17-5-21 may, as an alternative to other laws relating to the issuance of search
14 warrants, conduct such applications for the issuance of search warrants by video conference
15 or by any device that electronically transmits a facsimile or image of the written search
16 warrant affidavit, including, but not limited to, e-mail, e-mail attachments, or other
17 electronic means.

18 (b) Search warrant applications heard by video conference or other electronic means shall
19 identify the person testifying and shall be conducted in a manner to ensure that the judge
20 conducting the hearing has ~~visual~~ and audible contact with all affiants and witnesses giving
21 testimony. Search warrant applications that are transmitted electronically shall contain the
22 affiant's signature via facsimile or the affiant's electronic signature. The judge conducting
23 the hearing shall confirm with the affiant the receipt of the search warrant application and
24 any supporting documents and shall verify that the affiant's signature is genuine.

25 (c) The affiant participating in a search warrant application by video conference or other
26 electronic means shall sign the affidavit for a search warrant and any related documents by

1 any reasonable means which identifies the affiant, including, but not limited to, his or her
 2 typewritten name, signature affixed by electronic stylus, signature affixed by facsimile,
 3 electronic signature, or any other reasonable means which identifies the person signing the
 4 affidavit and any related documents. The judge participating in a search warrant
 5 application by video conference or other electronic means shall sign the affidavit for a
 6 search warrant, the search warrant, and any related documents by any reasonable means
 7 which identifies the judge, including, but not limited to, his or her typewritten name,
 8 signature affixed by electronic stylus, signature affixed by facsimile, electronic signature,
 9 or any other reasonable means which identifies the judicial officer signing the affidavit and
 10 warrant and any related documents. Such applications shall be deemed to be written within
 11 the meaning of Code Section 17-5-21. Such authorization shall be deemed to comply with
 12 the issuance requirements provided for in Code Section 17-5-22.

13 (d) A judge hearing oral testimony in matters pursuant to this Code section shall
 14 administer an oral oath to ~~any~~ the person testifying ~~by means of a video conference.~~ If
 15 testimonial materials are transmitted electronically, a judge may administer an oral oath
 16 prior to transmission, or the person testifying may transmit the oath electronically in an
 17 affidavit containing the affiant's signature via facsimile or electronic signature.

18 (e) A copy of any document transmitted electronically pursuant to this Code section shall
 19 be maintained as part of the record. A video recording of the application hearing and any
 20 documents submitted in conjunction with ~~the~~ a video conference application shall be
 21 maintained as part of the record.

22 (f) As used in this Code section, the term 'electronic signature' shall have the same
 23 meaning as set forth in Code Section 10-12-3."

24 SECTION 2.

25 This Act shall become effective upon its approval by the Governor or upon its becoming law
 26 without such approval.

27 SECTION 3.

28 All laws and parts of laws in conflict with this Act are repealed.