



JUDICIAL COUNCIL OF CALIFORNIA

GOVERNMENTAL AFFAIRS

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TANI G. CANTIL-SAKAUYE
Chief Justice of California
Chair of the Judicial Council

MARTIN HOSHINO
Administrative Director

CORY T. JASPERSON
Director, Governmental Affairs

March 20, 2018

Hon. Jay P. Obernolte
Member of Assembly
State Capitol, Room 4116
Sacramento, California 95814

Subject: Assembly Bill 2710 (Obernolte), as introduced – Support/Sponsor

Dear Assembly Member Obernolte:

The Judicial Council is pleased to support and sponsor AB 2710, which promotes procedural efficiencies by streamlining and modernizing the warrant process. More specifically, the bill amends Penal Code¹ sections 817 and 1526 by: (1) providing that the warrant signed by the magistrate and received by the officer be deemed the original warrant; (2) no longer requiring the magistrate to print the warrant; and (3) eliminating the oral oath requirement, with the magistrate exercising discretion to call the officer when appropriate.

Under current law, although the procedures set forth in sections 817 and 1526 are similar, there are several differences resulting from recent amendments to section 1526 (AB 39, ch. 193, Stats. 2015.) Whereas, section 817 currently requires multiple telephonic conversations between the magistrate and the officer, section 1526 requires only one. In addition, section 817 provides that the completed warrant, as signed by the magistrate, is deemed the original warrant and requires that the magistrate authorize the officer to write “duplicate original” on the copy of the completed warrant. (§ 817(c)(2)(C)–(D).) Section 1526 instead provides that “[t]he completed search warrant, as signed by the magistrate and received by the affiant, shall be deemed to be the

¹ All statutory references are to the Penal Code.

Hon. Jay P. Obernolte
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original warrant.” (§ 1526(b)(2)(D).) AB 2710 aligns section 817 with section 1526 by deeming the warrant signed by the magistrate and received by the officer as the original warrant and no longer requiring the magistrate to print the warrant.

In addition, AB 2710 amends sections 817 and 1526 to allow magistrates to issue arrest and search warrants electronically without a telephonic conversation between the officer and the magistrate by eliminating the requirement of an oral oath, while retaining the written oath requirement under existing law. AB 2710 provides the magistrate with discretion to question telephonically the officer about any concerns and to clarify any ambiguity in the affidavit or declaration. The council believes this will make the warrant procedure more efficient because the magistrate will no longer have to wait hours for the officer to return their phone call. Currently, it is not uncommon for magistrates to wait—often late in the night or early morning—for the officer to return their call because the officer has been called away on another assignment or is otherwise unavailable. Also, the affidavits and probable cause declarations for the offenses more commonly committed at this hour, such as driving under the influence, are frequently submitted on a standardized form containing check boxes, with the result that fewer ambiguities and questions arise. Finally, by eliminating the requirement of an oral oath, AB 2710 aligns electronic and paper processes. The statutes currently do not require an oral statement under oath if the officer submits written affidavits and probable cause declarations in paper form. (§§ 817(b), 1526(a).) They do allow, but not require, the magistrate to examine the person seeking the warrant under oath. (*Id.*, §§ 817(d), 1526(a).)

For these reasons, the Judicial Council is pleased to support and sponsor AB 2710.

Sincerely,

Mailed on March 20, 2018

Sharon Reilly
Attorney

SR/yc-s

cc: Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California



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April 3, 2018

Hon. Reginald B. Jones-Sawyer, Sr., Chair
Assembly Public Safety Committee
State Capitol, Room 2117
Sacramento, California 95814

Subject: Assembly Bill 2710 (Oberholte), as introduced – Support/Sponsor
Hearing: Assembly Public Safety Committee – April 10, 2018

Dear Assembly Member Jones-Sawyer:

The Judicial Council is pleased to support and sponsor AB 2710, which promotes procedural efficiencies by streamlining and modernizing the warrant process. More specifically, the bill amends Penal Code¹ sections 817 and 1526 by: (1) providing that the warrant signed by the magistrate and received by the officer be deemed the original warrant; (2) no longer requiring the magistrate to print the warrant; and (3) eliminating the oral oath requirement, with the magistrate exercising discretion to call the officer when appropriate.

Under current law, although the procedures set forth in sections 817 and 1526 are similar, there are several differences resulting from recent amendments to section 1526 (AB 39, ch. 193, Stats. 2015.) Whereas, section 817 currently requires multiple telephonic conversations between the magistrate and the officer, section 1526 requires only one. In addition, section 817 provides that the completed warrant, as signed by the magistrate, is deemed the original warrant and requires that the magistrate authorize the officer to write “duplicate original” on the copy of the completed warrant. (§ 817(c)(2)(C)–(D).) Section 1526 instead provides that “[t]he completed search warrant, as signed by the magistrate and received by the affiant, shall be deemed to be the

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Hon. Reginald B. Jones-Sawyer, Sr.

April 3, 2018

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original warrant.” (§ 1526(b)(2)(D).) AB 2710 aligns section 817 with section 1526 by deeming the warrant signed by the magistrate and received by the officer as the original warrant and no longer requiring the magistrate to print the warrant.

In addition, AB 2710 amends sections 817 and 1526 to allow magistrates to issue arrest and search warrants electronically without a telephonic conversation between the officer and the magistrate by eliminating the requirement of an oral oath, while retaining the written oath requirement under existing law. AB 2710 provides the magistrate with discretion to question telephonically the officer about any concerns and to clarify any ambiguity in the affidavit or declaration. The council believes this will make the warrant procedure more efficient because the magistrate will no longer have to wait hours for the officer to return their phone call. Currently, it is not uncommon for magistrates to wait—often late in the night or early morning—for the officer to return their call because the officer has been called away on another assignment or is otherwise unavailable. Also, the affidavits and probable cause declarations for the offenses more commonly committed at this hour, such as driving under the influence, are frequently submitted on a standardized form containing check boxes, with the result that fewer ambiguities and questions arise. Finally, by eliminating the requirement of an oral oath, AB 2710 aligns electronic and paper processes. The statutes currently do not require an oral statement under oath if the officer submits written affidavits and probable cause declarations in paper form. (§§ 817(b), 1526(a).) They do allow, but not require, the magistrate to examine the person seeking the warrant under oath. (*Id.*, §§ 817(d), 1526(a).)

For these reasons, the Judicial Council is pleased to support and sponsor AB 2710.

Should you have any questions or require additional information, please contact Sharon Reilly at 916-323-3121.

Sincerely,

Mailed on April 3, 2018

Cory T. Jaspersen

Director, Governmental Affairs

CTJ/SR/yc-s

cc: Members, Assembly Public Safety Committee
Hon. Jay Obernolte, Member of the Assembly
Mr. David Billingsley, Counsel, Assembly Public Safety Committee
Mr. Gary Olson, Consultant, Assembly Republican Office of Policy
Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California



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Director, Governmental Affairs

June 18, 2018

Hon. Nancy Skinner, Chair
Senate Public Safety Committee
State Capitol, Room 2059
Sacramento, California 95814

Subject: Assembly Bill 2710 (Obernolte), as amended June 13, 2018 – Support/Sponsor
Hearing: Senate Public Safety Committee – June 26, 2018

Dear Senator Skinner:

The Judicial Council is pleased to support and sponsor AB 2710, which promotes procedural efficiencies by streamlining and modernizing the warrant process. More specifically, the bill amends Penal Code¹ sections 817 and 1526 by: (1) providing that the warrant signed by the magistrate and received by the officer be deemed the original warrant; (2) no longer requiring the magistrate to print the warrant; and (3) eliminating the oral oath requirement, with the magistrate exercising discretion to call the officer when appropriate.

Under current law, although the procedures set forth in sections 817 and 1526 are similar, there are several differences resulting from recent amendments to section 1526 (AB 39, ch. 193, Stats. 2015). Whereas, section 817 currently requires multiple telephonic conversations between the magistrate and the officer, section 1526 requires only one. In addition, section 817 provides that the completed warrant, as signed by the magistrate, is deemed the original warrant and requires that the magistrate authorize the officer to write “duplicate original” on the copy of the completed warrant. (§ 817(c)(2)(C)–(D).) Section 1526 instead provides that “[t]he completed search warrant, as signed by the magistrate and received by the affiant, shall be deemed to be the

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Hon. Nancy Skinner

June 18, 2018

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original warrant.” (§ 1526(b)(2)(D).) AB 2710 aligns section 817 with section 1526 by deeming the warrant signed by the magistrate and received by the officer as the original warrant and no longer requiring the magistrate to print the warrant.

In addition, AB 2710 amends sections 817 and 1526 to allow magistrates to issue arrest and search warrants electronically without a telephonic conversation between the officer and the magistrate by eliminating the requirement of an oral oath, while retaining the written oath requirement under existing law. AB 2710 provides the magistrate with discretion to question telephonically the officer about any concerns and to clarify any ambiguity in the affidavit or declaration. The council believes this will make the warrant procedure more efficient because the magistrate will no longer have to wait hours for the officer to return their phone call. Currently, it is not uncommon for magistrates to wait—often late in the night or early morning—for the officer to return their call because the officer has been called away on another assignment or is otherwise unavailable. Also, the affidavits and probable cause declarations for the offenses more commonly committed at this hour, such as driving under the influence, are frequently submitted on a standardized form containing check boxes, with the result that fewer ambiguities and questions arise. Further, the statutes currently do not require an oral statement under oath if the officer submits written affidavits and probable cause declarations in paper form. (§§ 817(b), 1526(a).) They do allow, but not require, the magistrate to examine the person seeking the warrant under oath. (*Id.*, §§ 817(d), 1526(a).) Thus, by eliminating the requirement of an oral oath, AB 2710 aligns electronic and paper processes. Finally, AB 2710 retains the requirement that the magistrate must verify that all the pages sent have been received, that all the pages are legible, and that the declarant’s signature, digital signature, or electronic signature is genuine.

For these reasons, the Judicial Council is pleased to support and sponsor AB 2710.

Should you have any questions or require additional information, please contact Sharon Reilly at 916-323-3121.

Sincerely,

Mailed on June 18, 2018

Cory T. Jaspersen

Director, Governmental Affairs

CTJ/SR/yc-s

cc: Members, Senate Public Safety Committee
Hon. Jay Obernolte, Member of the Assembly
Ms. Mary Kennedy, Chief Counsel, Senate Public Safety Committee
Mr. Eric Csizmar, Consultant, Senate Republican Office of Policy
Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California



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Chief Justice of California
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MARTIN HOSHINO
Administrative Director

CORY T. JASPERSON
Director, Governmental Affairs

August 8, 2018

Hon. Edmund G. Brown, Jr.
Governor of California
State Capitol, First Floor
Sacramento, California 95814

Subject: Assembly Bill 2710 (Oberholte) – Request for Signature

Dear Governor Brown:

The Judicial Council is pleased to support and sponsor AB 2710 and respectfully requests your signature. AB 2710 promotes procedural efficiencies by streamlining and modernizing the warrant process. More specifically, the bill amends Penal Code¹ sections 817 and 1526 by: (1) providing that the warrant signed by the magistrate and received by the officer be deemed the original warrant; (2) no longer requiring the magistrate to print the warrant; and (3) eliminating the oral oath requirement, with the magistrate exercising discretion to call the officer when appropriate.

Under current law, although the procedures set forth in sections 817 and 1526 are similar, there are several differences resulting from recent amendments to section 1526 (AB 39, Stats. 2015, ch. 193). Whereas, section 817 currently requires multiple telephonic conversations between the magistrate and the officer, section 1526 requires only one. In addition, section 817 provides that the completed warrant, as signed by the magistrate, is deemed the original warrant and requires that the magistrate authorize the officer to write “duplicate original” on the copy of the

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Hon. Edmund G. Brown, Jr.

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completed warrant. (§ 817(c)(2)(C)–(D).) Section 1526 instead provides that “[t]he completed search warrant, as signed by the magistrate and received by the affiant, shall be deemed to be the original warrant.” (§ 1526(b)(2)(D).) AB 2710 aligns section 817 with section 1526 by deeming the warrant signed by the magistrate and received by the officer as the original warrant and no longer requiring the magistrate to print the warrant.

In addition, AB 2710 amends sections 817 and 1526 to allow magistrates to issue arrest and search warrants electronically without a telephonic conversation between the officer and the magistrate by eliminating the requirement of an oral oath, while retaining the written oath requirement under existing law. AB 2710 provides the magistrate with discretion to question telephonically the officer about any concerns and to clarify any ambiguity in the affidavit or declaration. The council believes this will make the warrant procedure more efficient because the magistrate will no longer have to wait hours for the officer to return their phone call. Currently, it is not uncommon for magistrates to wait—often late in the night or early morning—for the officer to return their call because the officer has been called away on another assignment or is otherwise unavailable. Also, the affidavits and probable cause declarations for the offenses more commonly committed at this hour, such as driving under the influence, are frequently submitted on a standardized form containing check boxes, with the result that fewer ambiguities and questions arise. Further, the statutes currently do not require an oral statement under oath if the officer submits written affidavits and probable cause declarations in paper form. (§§ 817(b), 1526(a).) They do allow, but not require, the magistrate to examine the person seeking the warrant under oath. (*Id.*, §§ 817(d), 1526(a).) Thus, by eliminating the requirement of an oral oath, AB 2710 aligns electronic and paper processes. Finally, AB 2710 retains the requirement that the magistrate must verify that all the pages sent have been received, that all the pages are legible, and that the declarant’s signature, digital signature, or electronic signature is genuine.

For these reasons, the Judicial Council requests your signature on AB 2710.

Should you have any questions or require additional information, please contact Sharon Reilly at 916-323-3121.

Sincerely,

Mailed August 7, 2018

Cory T. Jasperson
Director, Governmental Affairs

CTJ/SR/yc-s

cc: Hon. Jay Obernolte, Member of the Assembly
Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California