



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5267

Introduced 2/8/2012, by Rep. Dennis M. Reboletti

SYNOPSIS AS INTRODUCED:

| | |
|-------------------|--------------------------|
| 725 ILCS 5/108-3 | from Ch. 38, par. 108-3 |
| 725 ILCS 5/108-6 | from Ch. 38, par. 108-6 |
| 725 ILCS 5/108-7 | from Ch. 38, par. 108-7 |
| 725 ILCS 5/108-10 | from Ch. 38, par. 108-10 |

Amends the Code of Criminal Procedure of 1963. Provides that upon the written complaint of a person under oath or affirmation which states facts sufficient to show probable cause to install and use a tracking device, a judge may issue a search warrant to install and use a tracking device. Provides that a tracking device search warrant must identify the person or property to be tracked, designate the judge to whom it must be returned, and specify a reasonable length of time that the device may be used. Provides that the time must not exceed 45 days from the date the tracking device search warrant was issued. The court may, for good cause, grant one or more extensions for a reasonable period not to exceed 45 days each. Provides that the tracking device search warrant must command the officer to complete the installation authorized by the warrant within a specified time no longer than 10 days from the time of issuance of the tracking device search warrant.

LRB097 18499 RLC 63730 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Criminal Procedure of 1963 is
5 amended by changing Sections 108-3, 108-6, 108-7, and 108-10 as
6 follows:

7 (725 ILCS 5/108-3) (from Ch. 38, par. 108-3)

8 Sec. 108-3. Grounds for search warrant.

9 (a) Except as provided in subsection (b), upon the written
10 complaint of any person under oath or affirmation which states
11 facts sufficient to show probable cause and which particularly
12 describes the place or person, or both, to be searched and the
13 things to be seized, any judge may issue a search warrant for
14 the seizure of the following:

15 (1) Any instruments, articles or things designed or
16 intended for use or which are or have been used in the
17 commission of, or which may constitute evidence of, the
18 offense in connection with which the warrant is issued; or
19 contraband, the fruits of crime, or things otherwise
20 criminally possessed.

21 (2) Any person who has been kidnaped in violation of
22 the laws of this State, or who has been kidnaped in another
23 jurisdiction and is now concealed within this State, or any

1 human fetus or human corpse.

2 (b) When the things to be seized are the work product of,
3 or used in the ordinary course of business, and in the
4 possession, custody, or control of any person known to be
5 engaged in the gathering or dissemination of news for the print
6 or broadcast media, no judge may issue a search warrant unless
7 the requirements set forth in subsection (a) are satisfied and
8 there is probable cause to believe that:

9 (1) such person has committed or is committing a
10 criminal offense; or

11 (2) the things to be seized will be destroyed or
12 removed from the State if the search warrant is not issued.

13 (c) Upon the written complaint of a person under oath or
14 affirmation which states facts sufficient to show probable
15 cause to install and use a tracking device, a judge may issue a
16 search warrant to install and use a tracking device. As used in
17 this Section, "tracking device" means an electronic or
18 mechanical device which permits the tracking of the movement of
19 a person or object. A tracking device search warrant must
20 identify the person or property to be tracked, designate the
21 judge to whom it must be returned, and specify a reasonable
22 length of time that the device may be used. The time must not
23 exceed 45 days from the date the tracking device search warrant
24 was issued. The court may, for good cause, grant one or more
25 extensions for a reasonable period not to exceed 45 days each.
26 The tracking device search warrant must command the officer to:

1 (i) complete the installation authorized by the
2 warrant within a specified time no longer than 10 days;

3 (ii) perform the installation authorized by the court
4 at any time of any day or night; and

5 (iii) return the warrant to the judge designated in the
6 warrant.

7 (Source: P.A. 89-377, eff. 8-18-95.)

8 (725 ILCS 5/108-6) (from Ch. 38, par. 108-6)

9 Sec. 108-6. Execution of search warrants.

10 (a) The warrant shall be executed within 96 hours from the
11 time of issuance. If the warrant is executed the duplicate copy
12 shall be left with any person from whom any instruments,
13 articles or things are seized or if no person is available the
14 copy shall be left at the place from which the instruments,
15 articles or things were seized. Any warrant not executed within
16 such time shall be void and shall be returned to the court of
17 the judge issuing the same as "not executed".

18 (b) Execution of tracking device search warrants. The
19 tracking device search warrant shall specify a reasonable
20 length of time that the device may be used. The time must not
21 exceed 45 days from the date the tracking device search warrant
22 was issued. The court may, for good cause, grant one or more
23 extensions for a reasonable period not to exceed 45 days each.
24 The tracking device search warrant must command the officer to
25 complete the installation authorized by the warrant within a

1 specified time no longer than 10 days from the time of issuance
2 of the tracking device search warrant. The tracking device
3 search warrant authorizes the use of the tracking device within
4 the State of Illinois, and outside the State of Illinois if the
5 tracking device was installed within the State of Illinois. The
6 officer executing a tracking device warrant must enter on it
7 the exact date and time the device was installed and the period
8 during which it was used. Within 10 days after the use of the
9 tracking device has ended, the officer executing the warrant
10 must return it to the judge issuing the tracking device search
11 warrant, or before a judge named in the tracking device search
12 warrant or before a court of competent jurisdiction. Within 10
13 days after the use of the tracking device has ended, the
14 officer executing a tracking device search warrant must serve a
15 copy of the tracking device search warrant on the person who
16 was tracked or whose property was tracked. Service may be
17 accomplished by delivering a copy to the person who, or whose
18 property, was tracked, or by leaving a copy at the person's
19 residence or usual place of abode with an individual of
20 suitable age and discretion who resides at that location and by
21 mailing a copy to the person's last known address. Upon the
22 request of the State, the judge may delay notice. A warrant not
23 executed within that time shall be void and shall be returned
24 to the court of the judge issuing the same as "not executed."

25 (Source: Laws 1963, p. 2836.)

1 (725 ILCS 5/108-7) (from Ch. 38, par. 108-7)

2 Sec. 108-7. Command of search warrant.

3 (a) The warrant shall command the person directed to
4 execute the same to search the place or person particularly
5 described in the warrant and to seize the instruments, articles
6 or things particularly described in the warrant.

7 (b) The tracking device search warrant must command the
8 person directed to execute the warrant to:

9 (i) complete the installation authorized by the
10 warrant within a specified time no longer than 10 days;

11 (ii) perform the installation authorized by the court
12 at any time of any day or night; and

13 (iii) return the warrant to the judge designated in the
14 warrant.

15 (Source: Laws 1963, p. 2836.)

16 (725 ILCS 5/108-10) (from Ch. 38, par. 108-10)

17 Sec. 108-10. Return to court of things seized.

18 (a) A return of all instruments, articles or things seized
19 shall be made without unnecessary delay before the judge
20 issuing the warrant or before any judge named in the warrant or
21 before any court of competent jurisdiction. An inventory of any
22 instruments, articles or things seized shall be filed with the
23 return and signed under oath by the officer or person executing
24 the warrant. The judge shall upon request deliver a copy of the
25 inventory to the person from whom or from whose premises the

1 instruments, articles or things were taken and to the applicant
2 for the warrant.

3 (b) Within 10 days after the use of the tracking device has
4 ended, the officer executing the tracking device search warrant
5 must return it to the judge issuing the tracking device search
6 warrant, or before a judge named in the tracking device search
7 warrant or before a court of competent jurisdiction. The return
8 may take the form of a printout, or electronic copy, of the
9 electronic tracking device data.

10 (Source: Laws 1963, p. 2836.)