

AN ACT concerning criminal law.

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

Section 5. The Code of Criminal Procedure of 1963 is amended by changing Section 108-4 as follows:

(725 ILCS 5/108-4) (from Ch. 38, par. 108-4)

Sec. 108-4. Issuance of search warrant.

(a) All warrants upon written complaint shall state the time and date of issuance and be the warrants of the judge issuing the same and not the warrants of the court in which he or she is then sitting and these ~~such~~ warrants need not bear the seal of the court or clerk thereof. The complaint on which the warrant is issued need not be filed with the clerk of the court nor with the court if there is no clerk until the warrant has been executed or has been returned "not executed".

The search warrant upon written complaint may be issued electronically or electromagnetically by use of a facsimile transmission machine and this ~~any such~~ warrant shall have the same validity as a written search warrant.

(b) Warrant upon oral testimony.

(1) General rule. When the offense in connection with which a search warrant is sought constitutes terrorism or any related offense as defined in Article 29D of the

Criminal Code of 2012, and if the circumstances make it reasonable to dispense, in whole or in part, with a written affidavit, a judge may issue a warrant based upon sworn testimony communicated by telephone or other appropriate means, including facsimile transmission.

(2) Application. The person who is requesting the warrant shall prepare a document to be known as a duplicate original warrant and shall read such duplicate original warrant, verbatim, to the judge. The judge shall enter, verbatim, what is so read to the judge on a document to be known as the original warrant. The judge may direct that the warrant be modified.

(3) Issuance. If the judge is satisfied that the offense in connection with which the search warrant is sought constitutes terrorism or any related offense as defined in Article 29D of the Criminal Code of 2012, that the circumstances are such as to make it reasonable to dispense with a written affidavit, and that grounds for the application exist or that there is probable cause to believe that they exist, the judge shall order the issuance of a warrant by directing the person requesting the warrant to sign the judge's name on the duplicate original warrant. The judge shall immediately sign the original warrant and enter on the face of the original warrant the exact time when the warrant was ordered to be issued. The finding of probable cause for a warrant upon oral testimony may be

based on the same kind of evidence as is sufficient for a warrant upon affidavit.

(4) Recording and certification of testimony. When a caller informs the judge that the purpose of the call is to request a warrant, the judge shall immediately place under oath each person whose testimony forms a basis of the application and each person applying for that warrant. If a voice recording device is available, the judge shall record by means of the device all of the call after the caller informs the judge that the purpose of the call is to request a warrant, otherwise a stenographic or longhand verbatim record shall be made. If a voice recording device is used or a stenographic record made, the judge shall have the record transcribed, shall certify the accuracy of the transcription, and shall file a copy of the original record and the transcription with the court. If a longhand verbatim record is made, the judge shall file a signed copy with the court.

(5) Contents. The contents of a warrant upon oral testimony shall be the same as the contents of a warrant upon affidavit.

(6) Additional rule for execution. The person who executes the warrant shall enter the exact time of execution on the face of the duplicate original warrant.

(7) Motion to suppress based on failure to obtain a written affidavit. Evidence obtained pursuant to a warrant

issued under this subsection (b) is not subject to a motion to suppress on the ground that the circumstances were not such as to make it reasonable to dispense with a written affidavit, absent a finding of bad faith. All other grounds to move to suppress are preserved.

(8) This subsection (b) is inoperative on and after January 1, 2005.

(9) No evidence obtained pursuant to this subsection (b) shall be inadmissible in a court of law by virtue of subdivision (8).

(c) Warrant upon testimony by simultaneous video and audio transmission.

(1) General rule. When a search warrant is sought and the request is made by electronic means that has a simultaneous video and audio transmission between the requestor and a judge, the judge may issue a search warrant based upon sworn testimony communicated in the transmission.

(2) Application. The requestor shall prepare a document to be known as a duplicate original warrant, and

(A) if circumstances allow, the requestor shall transmit a copy of the warrant together with a complaint for search warrant to the judge by facsimile, email, or other reliable electronic means; or

(B) if circumstances make transmission under subparagraph (A) of this paragraph (2) impracticable,

the requestor shall read the duplicate original warrant, verbatim, to the judge after being placed under oath as provided in paragraph (4) of this subsection (c). The judge shall enter, verbatim, what is so read to the judge on a document in the judge's possession.

Under both subparagraphs (A) and (B), the document in possession of the judge shall be known as the original warrant. The judge may direct that the warrant be modified.

(3) Issuance. If the judge is satisfied that grounds for the application exist or that there is probable cause to believe that grounds exist, the judge shall order the issuance of a warrant by directing the requestor to sign the judge's name on the duplicate original warrant, place the requestor's initials below the judge's name, and enter on the face of the duplicate original warrant the exact date and time when the warrant was ordered to be issued. The judge shall immediately sign the original warrant and enter on the face of the original warrant the exact date and time when the warrant was ordered to be issued. The finding of probable cause for a warrant under this subsection (c) may be based on the same kind of evidence as is sufficient for a warrant under subsection (a).

(4) Recording and certification of testimony. When a requestor initiates a request for search warrant under this subsection (c), and after the requestor informs the judge

that the purpose of the communication is to request a warrant, the judge shall place under oath each person whose testimony forms a basis of the application and each person applying for that warrant. A record of the facts upon which the judge based his or her decision to issue a warrant must be made and filed with the court, together with the original warrant.

(A) When the requestor has provided the judge with a written complaint for search warrant under subparagraph (A) of paragraph (2) of this subsection (c) and the judge has sworn the complainant to the facts contained in the complaint for search warrant but has taken no other oral testimony from any person that is essential to establishing probable cause, the judge must acknowledge the attestation in writing on the complaint and file this acknowledged complaint with the court.

(B) When the requestor has not provided the judge with a written complaint for search warrant, or when the judge has taken oral testimony essential to establishing probable cause not contained in the written complaint for search warrant, the essential facts in the oral testimony that form the basis of the judge's decision to issue the warrant shall be included in the record together with the written complaint, if any. If a recording device is used or a stenographic

record is made, the judge shall have the record transcribed, shall certify the accuracy of the transcription, and shall file a copy of the original record and the transcription with the court. If a longhand record is made, the judge shall file a signed copy with the court.

The material to be filed need not be filed until the warrant has been executed or has been returned "not executed".

(5) Contents. The contents of a warrant under this subsection (c) shall be the same as the contents of a warrant upon affidavit. A warrant under this subsection is a warrant of the judge issuing the same and not the warrant of the court in which he or she is then sitting and these warrants need not bear the seal of the court or the clerk of the court.

(6) Additional rule for execution. The person who executes the warrant shall enter the exact time of execution on the face of the duplicate original warrant.

(7) Motion to suppress based on failure to obtain a written affidavit. Evidence obtained under a warrant issued under this subsection (c) is not subject to a motion to suppress on the ground that the circumstances were not such as to make it reasonable to dispense with a written affidavit, absent a finding of bad faith. All other grounds to move to suppress are preserved.

(d) The Chief Judge of the circuit court or presiding judge in the issuing jurisdiction shall, by local rule, create a standard practice for the filing or other retention of documents or recordings produced under this Section.

(Source: P.A. 97-1150, eff. 1-25-13.)