



Rep. Patrick Windhorst

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10400HB4138ham002

LRB104 15465 RLC 36704 a

1 AMENDMENT TO HOUSE BILL 4138

2 AMENDMENT NO. _____. Amend House Bill 4138 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Code of Criminal Procedure of 1963 is
5 amended by changing Section 108-10 as follows:

6 (725 ILCS 5/108-10) (from Ch. 38, par. 108-10)

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

8 (a) A return of all instruments, articles or things seized
9 shall be made without unnecessary delay before the judge
10 issuing the warrant or before any judge named in the warrant or
11 before any court of competent jurisdiction.

12 (b) Telecommunications carriers shall return all
13 electronic instruments, articles, or things within 7 business
14 days. If the judge issuing the warrant finds exigent
15 circumstances exist, the return of the electronic instruments,
16 articles, or things shall be as soon as possible. For the

1 purposes of this subsection (b), "exigent circumstances" means
2 circumstances involving the immediate risk of harm to an
3 individual, imminent danger to the community, or risk of
4 flight from the jurisdiction by a suspect. The judge issuing
5 the warrant shall make a finding of applicability of this
6 subsection and shall enter a reference to this subsection upon
7 the warrant.

8 (c) Telecommunications carriers shall not charge a fee for
9 production of the electronic instruments, articles, or things
10 listed in the search warrant.

11 (d) An inventory of any instruments, articles or things
12 seized shall be filed with the return and signed under oath by
13 the officer or person executing the warrant. The judge shall
14 upon request deliver a copy of the inventory to the person from
15 whom or from whose premises the instruments, articles or
16 things were taken and to the applicant for the warrant.

17 (e) As used in this Section, "telecommunications carrier"
18 has the meaning given to that term in Section 13-202 of the
19 Public Utilities Act.

20 (f) This amendatory Act of the 104th General Assembly does
21 not affect the ability of a law enforcement agency to obtain
22 information under the Freedom From Location Surveillance Act.

23 (Source: Laws 1963, p. 2836.)".