

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 Section 108-4 as follows:

6 (725 ILCS 5/108-4) (from Ch. 38, par. 108-4)

7 Sec. 108-4. Issuance of search warrant.

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

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

20 (b) Warrant upon oral testimony.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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