



Sen. Jacqueline Y. Collins

Filed: 4/12/2021

10200SB0767sam001

LRB102 04585 KMF 24469 a

1 AMENDMENT TO SENATE BILL 767

2 AMENDMENT NO. _____. Amend Senate Bill 767 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 Sections 108-4 and 108-8 and by adding
6 Section 108-15 as follows:

7 (725 ILCS 5/108-4) (from Ch. 38, par. 108-4)

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

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

1 The search warrant upon written complaint may be issued
2 electronically or electromagnetically by use of electronic
3 mail or a facsimile transmission machine and this warrant
4 shall have the same validity as a written search warrant.

5 (a-5) No-knock search warrant.

6 (1) A no-knock search warrant may not be issued
7 unless:

8 (A) based upon a showing of specific facts, there
9 is a reasonable suspicion that knocking and announcing
10 would be dangerous to the life or safety of the
11 officers serving the warrant or another person; and

12 (B) the no-knock search warrant has been
13 personally reviewed and approved by the chief of the
14 law enforcement agency requesting the warrant and not
15 by a designee.

16 (2) Prior to serving a no-knock search warrant, the
17 supervisor of the officers serving the search warrant will
18 ensure:

19 (A) that each participating member is assigned a
20 functioning body worn camera and is following
21 appropriate policies and procedures; and

22 (B) that a Special Weapons and Tactics or other
23 tactical team supervisor has been notified that a
24 no-knock search warrant has been issued pursuant to
25 Section 108-8.

26 (3) As used in this subsection, "no-knock search

1 warrant" means a search warrant to be executed by making
2 entry without the serving officer first knocking and
3 announcing his or her office.

4 (b) Warrant upon oral testimony.

5 (1) General rule. When the offense in connection with
6 which a search warrant is sought constitutes terrorism or
7 any related offense as defined in Article 29D of the
8 Criminal Code of 2012, and if the circumstances make it
9 reasonable to dispense, in whole or in part, with a
10 written affidavit, a judge may issue a warrant based upon
11 sworn testimony communicated by telephone or other
12 appropriate means, including facsimile transmission.

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

20 (3) Issuance. If the judge is satisfied that the
21 offense in connection with which the search warrant is
22 sought constitutes terrorism or any related offense as
23 defined in Article 29D of the Criminal Code of 2012, that
24 the circumstances are such as to make it reasonable to
25 dispense with a written affidavit, and that grounds for
26 the application exist or that there is probable cause to

1 believe that they exist, the judge shall order the
2 issuance of a warrant by directing the person requesting
3 the warrant to sign the judge's name on the duplicate
4 original warrant. The judge shall immediately sign the
5 original warrant and enter on the face of the original
6 warrant the exact time when the warrant was ordered to be
7 issued. The finding of probable cause for a warrant upon
8 oral testimony may be based on the same kind of evidence as
9 is sufficient for a warrant upon affidavit.

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

26 (5) Contents. The contents of a warrant upon oral

1 testimony shall be the same as the contents of a warrant
2 upon affidavit.

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

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

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

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

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

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

26 (2) Application. The requestor shall prepare a

1 document to be known as a duplicate original warrant, and

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

7 (B) if circumstances make transmission under
8 subparagraph (A) of this paragraph (2) impracticable,
9 the requestor shall read the duplicate original
10 warrant, verbatim, to the judge after being placed
11 under oath as provided in paragraph (4) of this
12 subsection (c). The judge shall enter, verbatim, what
13 is so read to the judge on a document in the judge's
14 possession.

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

19 (3) Issuance. If the judge is satisfied that grounds
20 for the application exist or that there is probable cause
21 to believe that grounds exist, the judge shall order the
22 issuance of a warrant by directing the requestor to sign
23 the judge's name on the duplicate original warrant, place
24 the requestor's initials below the judge's name, and enter
25 on the face of the duplicate original warrant the exact
26 date and time when the warrant was ordered to be issued.

1 The judge shall immediately sign the original warrant and
2 enter on the face of the original warrant the exact date
3 and time when the warrant was ordered to be issued. The
4 finding of probable cause for a warrant under this
5 subsection (c) may be based on the same kind of evidence as
6 is sufficient for a warrant under subsection (a).

7 (4) Recording and certification of testimony. When a
8 requestor initiates a request for search warrant under
9 this subsection (c), and after the requestor informs the
10 judge that the purpose of the communication is to request
11 a warrant, the judge shall place under oath each person
12 whose testimony forms a basis of the application and each
13 person applying for that warrant. A record of the facts
14 upon which the judge based his or her decision to issue a
15 warrant must be made and filed with the court, together
16 with the original warrant.

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

1 (B) When the requestor has not provided the judge
2 with a written complaint for search warrant, or when
3 the judge has taken oral testimony essential to
4 establishing probable cause not contained in the
5 written complaint for search warrant, the essential
6 facts in the oral testimony that form the basis of the
7 judge's decision to issue the warrant shall be
8 included in the record together with the written
9 complaint, if any. If a recording device is used or a
10 stenographic record is made, the judge shall have the
11 record transcribed, shall certify the accuracy of the
12 transcription, and shall file a copy of the original
13 record and the transcription with the court. If a
14 longhand record is made, the judge shall file a signed
15 copy with the court.

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

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

26 (6) Additional rule for execution. The person who

1 executes the warrant shall enter the exact time of
2 execution on the face of the duplicate original warrant.

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

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

14 (Source: P.A. 98-829, eff. 8-1-14; 98-905, eff. 1-1-15; 99-78,
15 eff. 7-20-15.)

16 (725 ILCS 5/108-8) (from Ch. 38, par. 108-8)

17 Sec. 108-8. Use of force in execution of search warrant.

18 (a) All necessary and reasonable force may be used to
19 effect an entry into any building or property or part thereof
20 to execute a search warrant.

21 (b) The court issuing a warrant may authorize the officer
22 executing the warrant to make entry without first knocking and
23 announcing his or her office if it finds, based upon a showing
24 of specific facts, the existence of the following exigent
25 circumstances:

1 (1) That there is a reasonable suspicion that knocking
2 and announcing would be dangerous to the life or safety of
3 the officers serving the warrant or another person. ~~That~~
4 ~~the officer reasonably believes that if notice were given~~
5 ~~a weapon would be used.~~

6 ~~(i) against the officer executing the search~~
7 ~~warrant, or~~

8 ~~(ii) against another person.~~

9 (2) That if notice were given there is an imminent
10 "danger" that evidence will be destroyed.

11 The court may only grant authorization under this
12 subsection if the law enforcement agency seeking such
13 authorization provides to the court evidence that the request
14 for such authorization has been personally reviewed and
15 approved by the chief of the law enforcement agency requesting
16 the warrant and not by a designee.

17 (Source: P.A. 92-502, eff. 12-19-01.)

18 (725 ILCS 5/108-15 new)

19 Sec. 108-15. Wrong raid. A law enforcement agency must
20 conduct a critical incident after-action review for search
21 warrants identified as wrong raids or in other circumstances
22 identified by the chief. The results of each such review will
23 be presented to the chief for a personal, secondary review and
24 determination of any required actions, including modifications
25 to agency policies, tactics, equipment, or training. The chief

1 will arrange for an annual evaluation of all the reviews.

2 As used in this Section, "wrong raid" means a search
3 warrant that is served at a location that is different than the
4 location listed on the search warrant, or an incident where a
5 law enforcement officer serving a search warrant encounters,
6 identifies, or should reasonably have become aware of
7 circumstances or facts that are inconsistent with the factual
8 basis for the probable cause documented and used to obtain the
9 search warrant."