



Sen. Kirk W. Dillard

Filed: 3/22/2012

09700SB3701sam001

LRB097 18498 RLC 67744 a

1 AMENDMENT TO SENATE BILL 3701

2 AMENDMENT NO. _____. Amend Senate Bill 3701 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 108-3, 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) or (c), upon the
10 written complaint of any person under oath or affirmation which
11 states facts sufficient to show probable cause and which
12 particularly describes the place or person, or both, to be
13 searched and the things to be seized, any judge may issue a
14 search warrant for 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

1 commission of, or which may constitute evidence of, the
2 offense in connection with which the warrant is issued; or
3 contraband, the fruits of crime, or things otherwise
4 criminally possessed.

5 (2) Any person who has been kidnaped in violation of
6 the laws of this State, or who has been kidnaped in another
7 jurisdiction and is now concealed within this State, or any
8 human fetus or human corpse.

9 (b) When the things to be seized are the work product of,
10 or used in the ordinary course of business, and in the
11 possession, custody, or control of any person known to be
12 engaged in the gathering or dissemination of news for the print
13 or broadcast media, no judge may issue a search warrant unless
14 the requirements set forth in subsection (a) are satisfied and
15 there is probable cause to believe that:

16 (1) such person has committed or is committing a
17 criminal offense; or

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

20 (c) Upon the written complaint of a person under oath or
21 affirmation which states facts sufficient to show probable
22 cause to install and use a tracking device, a judge may issue a
23 search warrant to install or otherwise activate and use a
24 tracking device. As used in this Section, "tracking device"
25 means an electronic or mechanical device which permits the
26 tracking of the movement of a person or object. A tracking

1 device search warrant must identify the person or property to
2 be tracked, if known, designate the judge to whom it must be
3 returned, and specify a reasonable length of time that the
4 device may be used. The time must not exceed 45 days from the
5 date the tracking device search warrant was issued. The court
6 may, for good cause, grant one or more extensions for a
7 reasonable period not to exceed 45 days each. The warrant may
8 authorize or direct a third-party to perform the physical
9 installation of the tracking device or otherwise enable the
10 means by which the movement of the person or property named in
11 the tracking device search warrant may be tracked. The tracking
12 device search warrant must command the officer to:

13 (1) complete or cause to be completed the installation
14 authorized by the warrant within a specified time no longer
15 than 10 days from the date of issuance of the tracking
16 device search warrant;

17 (2) perform or cause to be performed the installation
18 authorized by the court at any time of any day or night;
19 and

20 (3) return the warrant to the judge designated in the
21 warrant.

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

23 (725 ILCS 5/108-6) (from Ch. 38, par. 108-6)

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

25 (a) A search ~~The~~ warrant issued under subsection (a) or (b)

1 of Section 108-3 of this Act shall be executed within 96 hours
2 from the time of issuance. If the warrant is executed the
3 duplicate copy shall be left with any person from whom any
4 instruments, articles or things are seized or if no person is
5 available the copy shall be left at the place from which the
6 instruments, articles or things were seized. Any warrant not
7 executed within such time shall be void and shall be returned
8 to the court of the judge issuing the same as "not executed".

9 (b) A tracking device search warrant issued under
10 subsection (c) of Section 108-3 of this Act shall specify a
11 reasonable length of time that the device may be used. The time
12 must not exceed 45 days from the date the tracking device
13 search warrant was issued. The court may, for good cause, grant
14 one or more extensions for a reasonable period not to exceed 45
15 days each. The tracking device search warrant shall command the
16 officer to complete, or cause to be completed, the installation
17 authorized by the warrant within a specified time no longer
18 than 10 days from the time of issuance of the tracking device
19 search warrant. The tracking device search warrant authorizes
20 the use of the tracking device within the State of Illinois,
21 and outside the State of Illinois if the tracking device was
22 installed within the State of Illinois or if the interception
23 of the tracking device information is occurring within the
24 State of Illinois. The officer executing a tracking device
25 warrant must enter on it the exact date and time the device was
26 installed or otherwise activated, the identity of the

1 individual or individuals responsible for the device's
2 installation or activation, and the period during which it was
3 used. Within 10 days after the use of the tracking device has
4 ended, the officer executing the warrant must return it to the
5 judge issuing the tracking device search warrant, or before a
6 judge named in the tracking device search warrant or before a
7 court of competent jurisdiction. Within 10 days after the use
8 of the tracking device has ended, the officer executing a
9 tracking device search warrant must serve a copy of the
10 tracking device search warrant on the person who was tracked or
11 whose property was tracked. Service may be accomplished by
12 delivering a copy to the person who, or whose property, was
13 tracked, if known, or by leaving a copy at the person's
14 residence or usual place of abode with an individual of
15 suitable age and discretion who resides at that location and by
16 mailing a copy to the person's last known address. Upon the
17 request of the State, the judge may delay notice. A warrant not
18 executed within that time shall be void and shall be returned
19 to the court of the judge issuing the same as "not executed."

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

21 (725 ILCS 5/108-7) (from Ch. 38, par. 108-7)

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

23 (a) A search ~~The~~ warrant issued under subsection (a) or (b)
24 of Section 108-3 of this Act shall command the person directed
25 to execute the same to search the place or person particularly

1 described in the warrant and to seize the instruments, articles
2 or things particularly described in the warrant.

3 (b) A tracking device search warrant issued under
4 subsection (c) of Section 108-3 of this Act shall command the
5 person directed to execute the warrant to:

6 (1) complete or cause to be completed the installation
7 authorized by the warrant within a specified time no longer
8 than 10 days from the date of issuance of the tracking
9 device search warrant;

10 (2) perform or cause to be performed the installation
11 authorized by the court at any time of any day or night;
12 and

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

15 (c) The tracking device search warrant may authorize the
16 removal of the tracking device after the use of the tracking
17 device has ended from any public place where the tracking
18 device may be located.

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

20 (725 ILCS 5/108-10) (from Ch. 38, par. 108-10)

21 Sec. 108-10. Return to court of things seized or data
22 collected.

23 (a) Except as provided in subsection (b), a ~~A~~ return of all
24 instruments, articles or things seized shall be made without
25 unnecessary delay before the judge issuing the warrant or

1 before any judge named in the search warrant or before any
2 court of competent jurisdiction. An inventory of any
3 instruments, articles or things seized shall be filed with the
4 return and signed under oath by the officer or person executing
5 the warrant. The judge shall upon request deliver a copy of the
6 inventory to the person from whom or from whose premises the
7 instruments, articles or things were taken and to the applicant
8 for the warrant.

9 (b) Within 10 days after the use of the tracking device has
10 ended, the officer executing the tracking device search warrant
11 must return it to the judge issuing the tracking device search
12 warrant, or before a judge named in the tracking device search
13 warrant or before a court of competent jurisdiction. The return
14 may take the form of a printout, or electronic copy, of the
15 electronic tracking device data.

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