

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 is then sitting and such warrants need not bear the seal of the  
12 court or clerk thereof. The complaint on which the warrant is  
13 issued need not be filed with the clerk of the court nor with  
14 the court if there is no clerk until the warrant has been  
15 executed or has been returned "not executed".

16 The search warrant upon written complaint may be issued  
17 electronically or electromagnetically by use of electronic  
18 mail or a facsimile transmission machine and any such warrant  
19 shall have the 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         (Source: P.A. 97-1150, eff. 1-25-13.)

12          Section 99. Effective date. This Act takes effect upon  
13          becoming law.