



Sen. Jacqueline Y. Collins

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10200SB0767sam002

LRB102 04585 KMF 25846 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. A no-knock search warrant
6 may not be issued unless:

7 (1) based upon a showing of specific facts, there is a
8 reasonable suspicion that knocking and announcing would
9 subject the officer serving the warrant or another person
10 to death or great bodily harm; and

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

14 (b) Warrant upon oral testimony.

15 (1) General rule. When the offense in connection with
16 which a search warrant is sought constitutes terrorism or
17 any related offense as defined in Article 29D of the
18 Criminal Code of 2012, and if the circumstances make it
19 reasonable to dispense, in whole or in part, with a
20 written affidavit, a judge may issue a warrant based upon
21 sworn testimony communicated by telephone or other
22 appropriate means, including facsimile transmission.

23 (2) Application. The person who is requesting the
24 warrant shall prepare a document to be known as a
25 duplicate original warrant and shall read such duplicate
26 original warrant, verbatim, to the judge. The judge shall

1 enter, verbatim, what is so read to the judge on a document
2 to be known as the original warrant. The judge may direct
3 that the warrant be modified.

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

20 (4) Recording and certification of testimony. When a
21 caller informs the judge that the purpose of the call is to
22 request a warrant, the judge shall immediately place under
23 oath each person whose testimony forms a basis of the
24 application and each person applying for that warrant. If
25 a voice recording device is available, the judge shall
26 record by means of the device all of the call after the

1 caller informs the judge that the purpose of the call is to
2 request a warrant, otherwise a stenographic or longhand
3 verbatim record shall be made. If a voice recording device
4 is used or a stenographic record made, the judge shall
5 have the record transcribed, shall certify the accuracy of
6 the transcription, and shall file a copy of the original
7 record and the transcription with the court. If a longhand
8 verbatim record is made, the judge shall file a signed
9 copy with the court.

10 (5) Contents. The contents of a warrant upon oral
11 testimony shall be the same as the contents of a warrant
12 upon affidavit.

13 (6) Additional rule for execution. The person who
14 executes the warrant shall enter the exact time of
15 execution on the face of the duplicate original warrant.

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

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

25 (9) No evidence obtained pursuant to this subsection
26 (b) shall be inadmissible in a court of law by virtue of

1 subdivision (8).

2 (c) Warrant upon testimony by simultaneous video and audio
3 transmission.

4 (1) General rule. When a search warrant is sought and
5 the request is made by electronic means that has a
6 simultaneous video and audio transmission between the
7 requestor and a judge, the judge may issue a search
8 warrant based upon sworn testimony communicated in the
9 transmission.

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

12 (A) if circumstances allow, the requestor shall
13 transmit a copy of the warrant together with a
14 complaint for search warrant to the judge by
15 facsimile, email, or other reliable electronic means;
16 or

17 (B) if circumstances make transmission under
18 subparagraph (A) of this paragraph (2) impracticable,
19 the requestor shall read the duplicate original
20 warrant, verbatim, to the judge after being placed
21 under oath as provided in paragraph (4) of this
22 subsection (c). The judge shall enter, verbatim, what
23 is so read to the judge on a document in the judge's
24 possession.

25 Under both subparagraphs (A) and (B), the document in
26 possession of the judge shall be known as the original

1 warrant. The judge may direct that the warrant be
2 modified.

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

17 (4) Recording and certification of testimony. When a
18 requestor initiates a request for search warrant under
19 this subsection (c), and after the requestor informs the
20 judge that the purpose of the communication is to request
21 a warrant, the judge shall place under oath each person
22 whose testimony forms a basis of the application and each
23 person applying for that warrant. A record of the facts
24 upon which the judge based his or her decision to issue a
25 warrant must be made and filed with the court, together
26 with the original warrant.

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

11 (B) When the requestor has not provided the judge
12 with a written complaint for search warrant, or when
13 the judge has taken oral testimony essential to
14 establishing probable cause not contained in the
15 written complaint for search warrant, the essential
16 facts in the oral testimony that form the basis of the
17 judge's decision to issue the warrant shall be
18 included in the record together with the written
19 complaint, if any. If a recording device is used or a
20 stenographic record is made, the judge shall have the
21 record transcribed, shall certify the accuracy of the
22 transcription, and shall file a copy of the original
23 record and the transcription with the court. If a
24 longhand record is made, the judge shall file a signed
25 copy with the court.

26 The material to be filed need not be filed until the

1 warrant has been executed or has been returned "not
2 executed".

3 (5) Contents. The contents of a warrant under this
4 subsection (c) shall be the same as the contents of a
5 warrant upon affidavit. A warrant under this subsection is
6 a warrant of the judge issuing the same and not the warrant
7 of the court in which he or she is then sitting and these
8 warrants need not bear the seal of the court or the clerk
9 of the court.

10 (6) Additional rule for execution. The person who
11 executes the warrant shall enter the exact time of
12 execution on the face of the duplicate original warrant.

13 (7) Motion to suppress based on failure to obtain a
14 written affidavit. Evidence obtained under a warrant
15 issued under this subsection (c) is not subject to a
16 motion to suppress on the ground that the circumstances
17 were not such as to make it reasonable to dispense with a
18 written affidavit, absent a finding of bad faith. All
19 other grounds to move to suppress are preserved.

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

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

1 (725 ILCS 5/108-8) (from Ch. 38, par. 108-8)

2 (Text of Section before amendment by P.A. 101-652)

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

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

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

12 (1) That the officer reasonably believes that if
13 notice were given a weapon would be used:

14 (i) against the officer executing the search
15 warrant; or

16 (ii) against another person.

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

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

20 (Text of Section after amendment by P.A. 101-652)

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

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

25 (b) The court issuing a warrant may authorize the officer

1 executing the warrant to make entry without first knocking and
2 announcing his or her office if it finds, based upon a showing
3 of specific facts, the existence of the following exigent
4 circumstances:

5 (1) That there is a reasonable suspicion that knocking
6 and announcing would subject the officer serving the
7 warrant or another person to death or great bodily harm.
8 ~~That the officer reasonably believes that if notice were~~
9 ~~given a weapon would be used:~~

10 ~~(i) against the officer executing the search~~
11 ~~warrant; or~~

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

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

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

21 Prior to serving a warrant issued under this subsection,
22 the supervisor of the officers serving the search warrant
23 shall ensure that a Special Weapons and Tactics or other
24 tactical team supervisor has been notified that a no-knock
25 search warrant has been issued under this subsection.

26 (c) Prior to the issuing of a warrant under subsection

1 (b), the officer must attest that:

2 (1) prior to entering the location described in the
3 search warrant, a supervising officer will ensure that
4 each participating member is assigned a body worn camera
5 and is following policies and procedures in accordance
6 with Section 10-20 of the Law Enforcement Officer-Worn
7 Body Camera Act; provided that the law enforcement agency
8 has implemented body worn camera in accordance with
9 Section 10-15 of the Law Enforcement Officer-Worn Body
10 Camera Act. If a law enforcement agency has not
11 implemented a body camera in accordance with Section 10-15
12 of the Law Enforcement Officer-Worn Body Camera Act, the
13 officer must attest that the interaction authorized by the
14 warrant is otherwise recorded;

15 (2) steps were taken in planning the search to ensure
16 accuracy and plan for children or other vulnerable people
17 on-site; and

18 (3) if an officer becomes aware the search warrant was
19 executed at an address, unit, or apartment different from
20 the location listed on the search warrant, that member
21 will immediately notify a supervisor who will ensure an
22 internal investigation ensues.

23 (Source: P.A. 101-652, eff. 7-1-21.)

24 (725 ILCS 5/108-15 new)

25 Sec. 108-15. Wrong raid. A law enforcement agency must

1 conduct a critical incident after-action review for search
2 warrants identified as wrong raids or in other circumstances
3 identified by the chief. The results of each such review will
4 be presented to the chief for a personal, secondary review and
5 determination of any required actions, including modifications
6 to agency policies, tactics, equipment, or training. The chief
7 will arrange for an annual evaluation of all the reviews.

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

16 Section 95. No acceleration or delay. Where this Act makes
17 changes in a statute that is represented in this Act by text
18 that is not yet or no longer in effect (for example, a Section
19 represented by multiple versions), the use of that text does
20 not accelerate or delay the taking effect of (i) the changes
21 made by this Act or (ii) provisions derived from any other
22 Public Act."