



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 02/04/04, by Frank Aguilar, John J. Millner, Linda Chapa LaVia

SYNOPSIS AS INTRODUCED:

725 ILCS 5/108-3

from Ch. 38, par. 108-3

Amends the Code of Criminal Procedure of 1963. Provides that a judge may approve the issuance of a search warrant based on an oral statement that is audio recorded. Provides that when the judge approves such a warrant, the judge shall orally authorize the law enforcement officer requesting the warrant to sign the judge's name and document the exact time and date when the warrant was ordered to be issued on the original warrant.

LRB093 18451 RLC 44162 b

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 108-3 as follows:

6 (725 ILCS 5/108-3) (from Ch. 38, par. 108-3)

7 Sec. 108-3. Grounds for search warrant.

8 (a) Except as provided in subsection (b), upon the written
9 complaint or oral statement that shall be audio recorded of any
10 person under oath or affirmation which states facts sufficient
11 to show probable cause and which particularly describes the
12 place or person, or both, to be searched and the things to be
13 seized, any judge may issue a search warrant for the seizure of
14 the following:

15 (1) Any instruments, articles or things designed or
16 intended for use or which are or have been used in the
17 commission of, or which may constitute evidence of, the
18 offense in connection with which the warrant is issued; or
19 contraband, the fruits of crime, or things otherwise
20 criminally possessed.

21 (2) Any person who has been kidnaped in violation of
22 the laws of this State, or who has been kidnaped in another
23 jurisdiction and is now concealed within this State, or any
24 human fetus or human corpse.

25 When a judge approves the issuance of a search warrant
26 based on oral statement that is audio recorded, the judge shall
27 orally authorize the law enforcement officer requesting the
28 warrant to sign the judge's name and document the exact time
29 and date when the warrant was ordered to be issued on the
30 original warrant.

31 The law enforcement officer shall record all of the call
32 after the caller informs the judge that the purpose of the call

1 is to orally request a warrant and the judge consents to being
2 recorded.

3 When a caller informs the judge the purpose of the call is
4 to obtain a search warrant, the judge shall immediately place
5 under oath each person whose testimony forms a basis of the
6 application and each person applying for the warrant.

7 The audio recording shall be delivered at the same time as
8 the return to court of the things seized under Section 108-10
9 of this Code. The judge shall have the recording transcribed
10 and shall certify the accuracy of the transcription or at his
11 or her discretion may authorize a duplicate of the audio
12 recording be made so a transcript may be prepared of the
13 conversation which the judge shall as soon as practical review
14 and if appropriate certify the accuracy of the transcription.
15 The audio recording, the transcription of the audio recording,
16 and the certification of accuracy of the transcription
17 thereafter shall be filed with the court. The loss of the audio
18 recording shall not itself invalidate the warrant.

19 (b) When the things to be seized are the work product of,
20 or used in the ordinary course of business, and in the
21 possession, custody, or control of any person known to be
22 engaged in the gathering or dissemination of news for the print
23 or broadcast media, no judge may issue a search warrant unless
24 the requirements set forth in subsection (a) are satisfied and
25 there is probable cause to believe that:

26 (1) such person has committed or is committing a
27 criminal offense; or

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

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