



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**

Introduced 2/5/2004, by Peter J. Roskam

**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 20929 RLC 46907 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.)