

SB2852



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB2852

Introduced 2/4/2014, by Sen. Michael Connelly

SYNOPSIS AS INTRODUCED:

725 ILCS 5/108-4

from Ch. 38, par. 108-4

Amends the Code of Criminal Procedure of 1963. Allows a search warrant upon written complaint to be issued by use of electronic mail in addition to by facsimile transmission machine. Effective immediately.

LRB098 18181 MRW 53310 b

A BILL FOR

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.