

SENATE BILL NO. 1234

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR ROBERTS.

5868S.01I

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal section 542.276, RSMo, and to enact in lieu thereof one new section relating to warrants.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 542.276, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 542.276,
3 to read as follows:

542.276. 1. Any peace officer or prosecuting attorney
2 may make application under section 542.271 for the issuance
3 of a search warrant.

4 2. The application shall:

5 (1) Be in writing;

6 (2) State the time and date of the making of the
7 application;

8 (3) Identify the property, article, material,
9 substance or person which is to be searched for and seized,
10 in sufficient detail and particularity that the officer
11 executing the warrant can readily ascertain it;

12 (4) Identify the person, place, or thing which is to
13 be searched, in sufficient detail and particularity that the
14 officer executing the warrant can readily ascertain whom or
15 what he or she is to search;

16 (5) State facts sufficient to show probable cause for
17 the issuance of a search warrant;

18 (6) Be verified by the oath or affirmation of the
19 applicant;

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 (7) Be filed in the proper court;

21 (8) Be signed by the prosecuting attorney of the
22 county where the search is to take place, or his or her
23 designated assistant.

24 3. The application may be supplemented by a written
25 affidavit verified by oath or affirmation. Such affidavit
26 shall be considered in determining whether there is probable
27 cause for the issuance of a search warrant and in filling
28 out any deficiencies in the description of the person,
29 place, or thing to be searched or of the property, article,
30 material, substance, or person to be seized. Oral testimony
31 shall not be considered. The application may be submitted
32 by facsimile or other electronic means.

33 4. The judge shall determine whether sufficient facts
34 have been stated to justify the issuance of a search
35 warrant. If it appears from the application and any
36 supporting affidavit that there is probable cause to believe
37 that property, article, material, substance, or person
38 subject to seizure is on the person or at the place or in
39 the thing described, a search warrant shall immediately be
40 issued. The warrant shall be issued in the form of an
41 original and two copies.

42 5. The application and any supporting affidavit and a
43 copy of the warrant shall be retained in the records of the
44 court from which the warrant was issued.

45 6. The search warrant shall:

46 (1) Be in writing and in the name of the state of
47 Missouri;

48 (2) Be directed to any peace officer in the state;

49 (3) State the time and date the warrant is issued;

50 (4) Identify the property, article, material,
51 substance or person which is to be searched for and seized,

52 in sufficient detail and particularity that the officer
53 executing the warrant can readily ascertain it;

54 (5) Identify the person, place, or thing which is to
55 be searched, in sufficient detail and particularity that the
56 officer executing the warrant can readily ascertain whom or
57 what he or she is to search;

58 (6) Command that the described person, place, or thing
59 be searched and that any of the described property, article,
60 material, substance, or person found thereon or therein be
61 seized or photographed or copied and within ten days after
62 filing of the application, any photographs or copies of the
63 items may be filed with the issuing court;

64 (7) Be signed by the judge, with his or her title of
65 office indicated.

66 7. A search warrant issued under this section may be
67 executed only by a peace officer. The warrant shall be
68 executed by conducting the search and seizure commanded.
69 The search warrant issued under this section may be issued
70 by facsimile or other electronic means.

71 8. A search warrant shall be executed as soon as
72 practicable and shall expire if it is not executed and the
73 return made within ten days after the date of the making of
74 the application. A search and any subsequent searches of
75 the contents of any property, article, material, or
76 substance seized and removed from the location of the
77 execution of any search warrant during its execution may be
78 conducted at any time during or after the execution of the
79 warrant, subject to the continued existence of probable
80 cause to search the property, article, material, or
81 substance seized and removed. [A search and any subsequent
82 searches of the property, article, material, or substance
83 seized and removed may be conducted after the time for

84 delivering the warrant, return, and receipt to the issuing
85 judge has expired.] A supplemental return and receipt shall
86 be delivered to the issuing judge upon final completion of
87 any search which concludes after the expiration of time for
88 delivering the original return and receipt.

89 **9. No arrest warrant or search warrant shall be issued**
90 **authorizing entry without notice unless:**

91 (1) The court finds by clear and convincing evidence
92 that the person or persons subject to the warrant either
93 have a history of violent criminal activity; or, the offense
94 alleged is a class A felony, an offense designated under
95 sections 565.072 to 565.074, sections 565.110 to 565.130, a
96 sexually violent offense as defined in section 632.480, or a
97 felony under chapter 571;

98 (2) As established by facts specific to the case,
99 giving notice prior to entry of a building or inhabitable
100 structure will endanger the life or safety of any person, or
101 result in the loss or destruction of evidence sought by the
102 warrant;

103 (3) The law enforcement officer seeking the warrant
104 has obtained the approval of his or her supervising officer,
105 or has the approval of the highest-ranking officer in his or
106 her law enforcement agency;

107 (4) The law enforcement officer seeking the warrant
108 discloses to the judge, as part of the application, any
109 other attempt to obtain a warrant authorizing entry without
110 notice for the same premises, or for the arrest of the same
111 individual; and

112 (5) The warrant authorizes that the entry without
113 notice occur only between the hours of 6 a.m. and 10 p.m.,
114 except in exigent circumstances where the court finds by
115 clear and convincing evidence that there are substantial and

116 **imminent risks to the health and safety of the persons**
117 **executing the warrant, the occupants of the premises, or the**
118 **public that justify the entry without notice occur during**
119 **other hours designated by the court.**

120 **10. Any law enforcement officer who executes a warrant**
121 **pursuant to subsection 9 of this section shall:**

122 **(1) Be equipped with body-worn cameras;**

123 **(2) Be equipped with clearly visible insignia on the**
124 **front and back of protective equipment or outermost clothing**
125 **that clearly identifies the officer as a peace officer; and**

126 **(3) Have a certified or licensed paramedic or**
127 **emergency medical technician present at the closest safe**
128 **location to provide medical assistance, if needed.**

129 **[9.] 11.** After execution of the search warrant, the
130 warrant with a return thereon, signed by the officer making
131 the search, shall be delivered to the judge who issued the
132 warrant. The return shall show the date and manner of
133 execution, what was seized, and the name of the possessor
134 and of the owner, when he or she is not the same person, if
135 known. The return shall be accompanied by a copy of the
136 itemized receipt required by subsection 6 of section
137 542.291. The judge or clerk shall, upon request, deliver a
138 copy of such receipt to the person from whose possession the
139 property was taken and to the applicant for the warrant.

140 **[10.] 12.** A search warrant shall be deemed invalid:

141 **(1) If it was not issued by a judge; or**

142 **(2) If it was issued without a written application**
143 **having been filed and verified; or**

144 **(3) If it was issued without probable cause; or**

145 **(4) If it was not issued in the proper county; or**

146 **(5) If it does not describe the person, place, or**
147 **thing to be searched or the property, article, material,**

148 substance, or person to be seized with sufficient certainty;
149 or

150 (6) If it is not signed by the judge who issued it; or

151 (7) If it was not executed within the time prescribed
152 by subsection 8 of this section.

153 **[11.] 13.** The application or execution of a search
154 warrant shall not be deemed invalid for the sole reason that
155 the application or execution of the warrant relies upon
156 electronic signatures of the peace officer or prosecutor
157 seeking the warrant or judge issuing the warrant.

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