

1 ENGROSSED SENATE
2 BILL NO. 1660

By: Weaver of the Senate

3 and

4 Duel of the House

5
6 An Act relating to search warrants; amending 22 O.S.
7 2021, Sections 1221, 1222, 1225, 1226, 1230, and
8 1233, which relate to definitions, issuance,
9 requisites, form, service, and return of search
10 warrants; authorizing search warrant for certain
11 purpose; defining term; requiring certain information
12 in search warrant; modifying form of search warrant
13 under certain circumstances; specifying timing of
14 service of certain search warrant; establishing
15 requirements for return of certain search warrant;
16 making language gender neutral; updating statutory
17 language; and providing an effective date.

18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19 SECTION 1. AMENDATORY 22 O.S. 2021, Section 1221, is
20 amended to read as follows:

21 Section 1221. A. A search warrant is an order in writing, in
22 the name of the state, signed by a magistrate, directed to a peace
23 officer, commanding ~~him~~ the peace officer to search for personal
24 property or to search for a person for whom an arrest warrant has
been issued and bring ~~it~~ the property or person before the
magistrate.

B. For purposes of Sections 1221 through 1241 of this title,
~~the term "personal:~~

1 1. "Arrest warrant" means an outstanding arrest warrant for any
2 felony offense or a misdemeanor offense of domestic assault and
3 battery as provided in subsection C of Section 644 of Title 21 of
4 the Oklahoma Statutes. The term shall include arrest and bench
5 warrants, but shall not include warrants issued solely for failure
6 to pay court financial obligations, other than restitution, as
7 defined in subsection A of Section 983 of this title; and

8 2. "Personal property" or "property" shall mean means items and
9 information that can be analyzed, seen, weighed, measured, felt or
10 touched or that are in any other manner perceptible to the senses.

11 SECTION 2. AMENDATORY 22 O.S. 2021, Section 1222, is
12 amended to read as follows:

13 Section 1222. A. A search warrant may be issued and property
14 seized upon any of the following grounds:

15 First: When the property was stolen or embezzled, in which case
16 it may be taken on the warrant, from any house or other place in
17 which it is concealed, or from the possession of the person by whom
18 it was stolen or embezzled, or of any other person in whose
19 possession it may be.

20 Second: When it was used as the means of committing a felony,
21 in which case it may be taken on the warrant from any house or other
22 place in which it is concealed, or from the possession of the person
23 by whom it was used in the commission of the offense, or of any
24 other person in whose possession it may be.

1 Third: When it is in the possession of any person, with the
2 intent to use it as the means of committing a public offense, or in
3 the possession of another to whom the person may have delivered it
4 for the purpose of concealing it or preventing its being discovered,
5 in which case it may be taken on the warrant from such person, or
6 from a house or other place occupied by the person, or under the
7 person's control, or from the possession of the person to whom the
8 person may have so delivered it.

9 Fourth: When the property constitutes evidence that an offense
10 was committed or that a particular person participated in the
11 commission of an offense.

12 Fifth: When there is probable cause to believe that, at a
13 future time, the property or items sought which are intended to be
14 used to commit a public offense, will be located at a particular
15 place. Under such circumstances, the magistrate shall insert a
16 direction in the search warrant making execution of the warrant
17 contingent upon the happening of an event which evidences probable
18 cause that the item to be seized is in the place to be searched.

19 Sixth: As authorized by any provision of the Security of
20 Communications Act.

21 B. A search warrant may be issued to allow peace officers to
22 enter, search for, and seize a person for whom an arrest warrant has
23 been issued.

SECTION 3. AMENDATORY 22 O.S. 2021, Section 1225, is amended to read as follows:

Section 1225. A. If a magistrate ~~be thereupon~~ is satisfied of the existence of grounds of the application, or that there is probable cause to believe their existence, ~~he must~~ the magistrate shall issue a search warrant, signed by ~~him,~~ the magistrate with ~~his~~ the name of office, to a peace officer of this state, commanding ~~him~~ the officer to search the person or place named, for the property or person specified, and to bring it before the magistrate, and also to arrest the person in whose possession the ~~same~~ property may be found, to be dealt with according to law.

B. In addition to any other procedure authorized by law, a proposed search warrant, affidavit or both search warrant and affidavit may be communicated to the magistrate by telephone or by electronic mail or any similar electronic communication which delivers a complete printable image of the warrant or affidavit.

1. If the proposed search warrant is communicated telephonically, the affiant shall:

- a. recite information establishing probable cause to support issuance of the search warrant, and
- b. recite the proposed search warrant to the magistrate verbatim and obtain the oral permission of the magistrate to print the name of the magistrate on the

1 search warrant along with the date and time of the
2 signature.

3 The oral recorded authorization of the magistrate to print the
4 name of the magistrate on the search warrant shall constitute
5 issuance of the search warrant under this section. The conversation
6 establishing probable cause, reciting the contents of the search
7 warrant verbatim and any authorization to sign by the magistrate,
8 shall be audio-recorded, transcribed and filed together with the
9 warrant in accordance with Section 1223.1 of this title.

10 2. If communication of the proposed affidavit is made by
11 electronic mail or other electronic communication, the affidavit may
12 contain a notarized acknowledgement or the affiant may swear to the
13 affidavit by telephone. A magistrate administering an oath
14 telephonically shall endorse upon the face of the affidavit the date
15 and time which the affiant undertook the oath by telephone.

16 a. A warrant may be issued by the magistrate pursuant to
17 this subsection by physically signing a printed copy
18 of the affidavit and proposed warrant and transmitting
19 ~~said~~ such documents back to the affiant by electronic
20 mail or other electronic communication. The printed
21 copy received by the affiant shall constitute a search
22 warrant and be executed as such. After execution, the
23 search warrant shall be filed along with the printed
24

1 copy of the affidavit received by the affiant, as
2 provided for in Section 1233 of this title.

3 b. A magistrate may also issue a warrant pursuant to this
4 paragraph without printing and signing a physical copy
5 of the affidavit and warrant by return electronic
6 communication to the affiant authorizing issuance of
7 the warrant as submitted, or as modified by the
8 magistrate, provided a copy of the modified document
9 is included with the return electronic communication
10 to the affiant.

11 C. A search warrant authorized by this section may be issued by
12 any magistrate for a search of a person or property within the
13 judicial district in which the magistrate presides or outside the
14 judicial district if there was probable cause to believe the
15 property was within the judicial district when the warrant was
16 sought, but moved outside the judicial district before the warrant
17 was executed.

18 SECTION 4. AMENDATORY 22 O.S. 2021, Section 1226, is
19 amended to read as follows:

20 Section 1226. The warrant must be in substantially the
21 following form:

22 County of _____

23 In the name of the State of Oklahoma. To any peace officer of
24 this state.

1 Probable cause having been shown on this date before me, by
2 (name every officer and person who has made affidavit or given oral
3 testimony supplementing an affidavit) for believing the following
4 property (describe the property) or person for whom an arrest
5 warrant has been issued (describe the person and the court from
6 which the arrest warrant has been issued) is located at (specify the
7 location where the property is shown to be).

8 You are therefore commanded, in the daytime (or "at any time of
9 the day or night," as the case may be, according to Section 1230, as
10 amended, of Title 22 of the Oklahoma Statutes), to make immediate
11 search on the person of C.D. (or "in the house situated," describing
12 it, or any other place to be searched, with reasonable
13 particularity, as the case may be), for the following property
14 (describing it with reasonable particularity) or person for whom an
15 arrest warrant has been issued (describe the person and the court
16 from which the arrest warrant has been issued), and if you find the
17 same, or any part thereof, to bring it forthwith before me, at
18 (stating the place) or before a magistrate who presides in the
19 judicial district in which the property or person was found and
20 seized.

21 Dated at _____ the _____ day of _____, 19
22 20____.

23 _____

24 (Signature of Judge)

1 _____
2 (Judge's Official Designation)

3 SECTION 5. AMENDATORY 22 O.S. 2021, Section 1230, is
4 amended to read as follows:

5 Section 1230. Search warrants for occupied dwellings shall be
6 served between the hours of six o'clock a.m. and ten o'clock p.m.,
7 inclusive, unless the judge finds the existence of at least one of
8 the following circumstances:

9 1. The evidence or person is located on the premises only
10 between the hours of ten o'clock p.m. and six o'clock a.m.;

11 2. The search to be performed is a crime scene search;

12 3. The affidavits ~~be~~ are positive that the property is on the
13 person, or in the place to be searched and the judge finds that
14 there is likelihood that the property named in the search warrant
15 will be destroyed, moved or concealed; or

16 4. The search to be performed is a search for evidence relating
17 to the illegal manufacture of methamphetamine or other controlled
18 dangerous substance.

19 If any of the above criteria are met the judge may insert a
20 direction that the warrant be served at any time of the day or
21 night. Search warrants for sites other than occupied dwellings may
22 be served at any time of the day or night without a special
23 direction.
24

SECTION 6. AMENDATORY 22 O.S. 2021, Section 1233, is amended to read as follows:

Section 1233. A. Any peace officer who executes a search warrant must forthwith return the warrant to the magistrate who authorized the warrant or to a magistrate who presides in the judicial district in which the property was found and seized together with a written inventory of the property taken, which shall be made publicly, or in the presence of the person from whose possession it was taken and of the applicant for the warrant, if they ~~be~~ are present, verified by the affidavit of the officer, and taken before the magistrate, to the following effect:

I, A. B., the officer by whom this warrant was executed, do swear that the above inventory contains a true and detailed account of all the property taken by me on the warrant.

B. Any peace officer who executes a search warrant to search a third-party residence for a person with an outstanding warrant must forthwith return the search warrant to the magistrate who authorized the warrant or to a magistrate who presides in the judicial district in which the person was found by filing an arrest and booking affidavit or by filing a separate return identifying the person and the location where the person was found, verified by the affidavit of the officer, and taken before the magistrate, to the following effect:

I, A. B., the officer by whom this warrant was executed, do
swear that the above contains the true name and location of arrest
for the person arrested by me pursuant to the warrant.

SECTION 7. This act shall become effective November 1, 2024.

Passed the Senate the 14th day of March, 2024.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2024.

Presiding Officer of the House
of Representatives