

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 59th Legislature (2024)

4 ENGROSSED SENATE
5 BILL NO. 1660

By: Weaver of the Senate

and

Duel of the House

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

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

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

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

1 been issued and bring ~~it~~ the property or person before the
2 magistrate.

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

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

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

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

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

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

1 Second: When it was used as the means of committing a felony,
2 in which case it may be taken on the warrant from any house or other
3 place in which it is concealed, or from the possession of the person
4 by whom it was used in the commission of the offense, or of any
5 other person in whose possession it may be.

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

14 Fourth: When the property constitutes evidence that an offense
15 was committed or that a particular person participated in the
16 commission of an offense.

17 Fifth: When there is probable cause to believe that, at a
18 future time, the property or items sought which are intended to be
19 used to commit a public offense, will be located at a particular
20 place. Under such circumstances, the magistrate shall insert a
21 direction in the search warrant making execution of the warrant
22 contingent upon the happening of an event which evidences probable
23 cause that the item to be seized is in the place to be searched.
24

1 Sixth: As authorized by any provision of the Security of
2 Communications Act.

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

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

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

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

22 1. If the proposed search warrant is communicated
23 telephonically, the affiant shall:
24

- 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 search warrant along with the date and time of the signature.

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

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

- a. A warrant may be issued by the magistrate pursuant to this subsection by physically signing a printed copy of the affidavit and proposed warrant and transmitting ~~said~~ such documents back to the affiant by electronic

1 mail or other electronic communication. The printed
2 copy received by the affiant shall constitute a search
3 warrant and be executed as such. After execution, the
4 search warrant shall be filed along with the printed
5 copy of the affidavit received by the affiant, as
6 provided for in Section 1233 of this title.

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

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

22 SECTION 4. AMENDATORY 22 O.S. 2021, Section 1226, is
23 amended to read as follows:
24

1 Section 1226. The warrant must be in substantially the
2 following form:

3 County of _____

4 In the name of the State of Oklahoma. To any peace officer of
5 this state.

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

13 You are therefore commanded, in the daytime (or "at any time of
14 the day or night," as the case may be, according to Section 1230, as
15 amended, of Title 22 of the Oklahoma Statutes), to make immediate
16 search on the person of C.D. (or "in the house situated," describing
17 it, or any other place to be searched, with reasonable
18 particularity, as the case may be), for the following property
19 (describing it with reasonable particularity) or person for whom an
20 arrest warrant has been issued (describe the person and the court
21 from which the arrest warrant has been issued), and if you find the
22 same, or any part thereof, to bring it forthwith before me, at
23 (stating the place) or before a magistrate who presides in the
24

judicial district in which the property or person was found and seized.

Dated at _____ the _____ day of _____, ~~19~~
20.

(Signature of Judge)

(Judge's Official Designation)

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

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

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

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

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

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

1 If any of the above criteria are met the judge may insert a
2 direction that the warrant be served at any time of the day or
3 night. Search warrants for sites other than occupied dwellings may
4 be served at any time of the day or night without a special
5 direction.

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

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

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

20 B. Any peace officer who executes a search warrant to search a
21 third-party residence for a person with an outstanding warrant must
22 forthwith return the search warrant to the magistrate who authorized
23 the warrant or to a magistrate who presides in the judicial district
24 in which the person was found by filing an arrest and booking

1 affidavit or by filing a separate return identifying the person and
2 the location where the person was found, verified by the affidavit
3 of the officer, and taken before the magistrate, to the following
4 effect:

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

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

9
10 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CRIMINAL, 03/27/2024 -
11 DO PASS.