

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

SENATE BILL 1660

By: Weaver

AS INTRODUCED

An Act relating to search warrants; amending 22 O.S. 2021, Sections 1221, 1222, 1225, 1226, 1230, and 1233, which relate to definitions, issuance, requisites, form, service, and return of search warrants; authorizing search warrant for certain purpose; requiring certain information in search warrant; modifying form of search warrant under certain circumstances; specifying timing of service of certain search warrant; establishing requirements for return of certain search warrant; making language gender neutral; updating statutory language; and providing an effective date.

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

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

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 to search for personal 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 property" or "property" shall mean items and

1 information that can be analyzed, seen, weighed, measured, felt or
2 touched or that are in any other manner perceptible to the senses.

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

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

7 First: When the property was stolen or embezzled, in which case
8 it may be taken on the warrant, from any house or other place in
9 which it is concealed, or from the possession of the person by whom
10 it was stolen or embezzled, or of any other person in whose
11 possession it may be.

12 Second: When it was used as the means of committing a felony,
13 in which case it may be taken on the warrant from any house or other
14 place in which it is concealed, or from the possession of the person
15 by whom it was used in the commission of the offense, or of any
16 other person in whose possession it may be.

17 Third: When it is in the possession of any person, with the
18 intent to use it as the means of committing a public offense, or in
19 the possession of another to whom the person may have delivered it
20 for the purpose of concealing it or preventing its being discovered,
21 in which case it may be taken on the warrant from such person, or
22 from a house or other place occupied by the person, or under the
23 person's control, or from the possession of the person to whom the
24 person may have so delivered it.

1 Fourth: When the property constitutes evidence that an offense
2 was committed or that a particular person participated in the
3 commission of an offense.

4 Fifth: When there is probable cause to believe that, at a
5 future time, the property or items sought which are intended to be
6 used to commit a public offense, will be located at a particular
7 place. Under such circumstances, the magistrate shall insert a
8 direction in the search warrant making execution of the warrant
9 contingent upon the happening of an event which evidences probable
10 cause that the item to be seized is in the place to be searched.

11 Sixth: As authorized by any provision of the Security of
12 Communications Act.

13 B. A search warrant may be issued to allow peace officers to
14 enter and search a residence in order to seize a person for whom an
15 arrest warrant has been issued in cases where the residence to be
16 searched is not the residence of the person for whom the warrant has
17 been issued.

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

20 Section 1225. A. If a magistrate ~~be thereupon~~ is satisfied of
21 the existence of grounds of the application, or that there is
22 probable cause to believe their existence, ~~he must~~ the magistrate
23 shall issue a search warrant, signed by ~~him,~~ the magistrate with ~~his~~
24 the name of office, to a peace officer of this state, commanding ~~him~~

1 ~~forthwith~~ the officer to search the person or place named, for the
2 property or person specified, and to bring it before the magistrate,
3 and also to arrest the person in whose possession the ~~same~~ property
4 may be found, to be dealt with according to law.

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

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

- 12 a. recite information establishing probable cause to
13 support issuance of the search warrant, and
- 14 b. recite the proposed search warrant to the magistrate
15 verbatim and obtain the oral permission of the
16 magistrate to print the name of the magistrate on the
17 search warrant along with the date and time of the
18 signature.

19 The oral recorded authorization of the magistrate to print the
20 name of the magistrate on the search warrant shall constitute
21 issuance of the search warrant under this section. The conversation
22 establishing probable cause, reciting the contents of the search
23 warrant verbatim and any authorization to sign by the magistrate
24

1 shall be audio-recorded, transcribed and filed together with the
2 warrant in accordance with Section 1223.1 of this title.

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

9 a. A warrant may be issued by the magistrate pursuant to
10 this subsection by physically signing a printed copy
11 of the affidavit and proposed warrant and transmitting
12 said documents back to the affiant by electronic mail
13 or other electronic communication. The printed copy
14 received by the affiant shall constitute a search
15 warrant and be executed as such. After execution, the
16 search warrant shall be filed along with the printed
17 copy of the affidavit received by the affiant, as
18 provided for in Section 1233 of this title.

19 b. A magistrate may also issue a warrant pursuant to this
20 paragraph without printing and signing a physical copy
21 of the affidavit and warrant by return electronic
22 communication to the affiant authorizing issuance of
23 the warrant as submitted, or as modified by the
24 magistrate, provided a copy of the modified document

1 is included with the return electronic communication
2 to the affiant.

3 C. A search warrant authorized by this section may be issued by
4 any magistrate for a search of a person or property within the
5 judicial district in which the magistrate presides or outside the
6 judicial district if there was probable cause to believe the
7 property was within the judicial district when the warrant was
8 sought, but moved outside the judicial district before the warrant
9 was executed.

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

12 Section 1226. The warrant must be in substantially the
13 following form:

14 County of _____

15 In the name of the State of Oklahoma. To any peace officer of
16 this state.

17 Probable cause having been shown on this date before me, by
18 (name every officer and person who has made affidavit or given oral
19 testimony supplementing an affidavit) for believing the following
20 property (describe the property) or person for whom an arrest
21 warrant has been issued (describe the person and the court from
22 which the arrest warrant has been issued) is located at (specify the
23 location where the property is shown to be).

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

14 Dated at _____ the _____ day of _____, 19
15 20.

16 _____
17 (Signature of Judge)

18 _____
19 (Judge's Official Designation)

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

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

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

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

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

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

13 If any of the above criteria are met the judge may insert a
14 direction that the warrant be served at any time of the day or
15 night. Search warrants for sites other than occupied dwellings may
16 be served at any time of the day or night without a special
17 direction.

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

20 Section 1233. A. Any peace officer who executes a search
21 warrant must forthwith return the warrant to the magistrate who
22 authorized the warrant or to a magistrate who presides in the
23 judicial district in which the property was found and seized
24 together with a written inventory of the property taken, which shall

1 be made publicly, or in the presence of the person from whose
2 possession it was taken and of the applicant for the warrant, if
3 they be present, verified by the affidavit of the officer, and taken
4 before the magistrate, to the following effect:

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

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

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

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

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