



Sub. H.B. 34

126th General Assembly
(As Reported by H. Criminal Justice)

Reps. Setzer, Flowers, Kearns, Allen, Webster, DeGeeter, Carano, Taylor, Latta, D. Evans, Gilb, Hughes, Seitz, Willamowski, Perry

BILL SUMMARY

- Specifies that a search warrant must be returned promptly, and replaces current law's requirement that a search warrant be returned not later than three days after issuance.

CONTENT AND OPERATION

Current search warrant law

Under current law, a judge of a court of record within the judge's jurisdiction may issue a search warrant for a house or place. The search warrant may authorize a search for the following items (R.C. 2933.21, *not in the bill*):

(1) Property stolen, taken by robbers, embezzled, or obtained under false pretense;

(2) Weapons, implements, tools, instruments, articles or property used as a means of the commission of a crime, or when any of the objects or articles are in the possession of another person with the intent to use them as a means of committing crime;

(3) Forged or counterfeit coins, stamps, imprints, labels, trade-marks, bank bills, or other instruments of writing, and dies, plates, stamps, or brands for making them;

(4) Obscene materials and materials harmful to minors involved in a violation of R.C. 2907.31 or 2907.32, but only so much of such materials may be seized as are necessary for evidence in a prosecution of the violation;

(5) Any gaming table, establishment, device, or apparatus kept or exhibited for unlawful gaming, or to win or gain money or other property, and for money or property won by unlawful gaming;

(6) The existence of physical conditions that are or may become hazardous to the public health, safety, or welfare, when governmental inspections of property are authorized or required by law.

A judge is not authorized to issue a search warrant unless there is probable cause (R.C. 2933.22, *not in the bill*). Also, the judge must receive an affidavit that (1) particularly describes the place to be searched, (2) names or describes the person to be searched, (3) names or describes the property to be searched for and seized, (4) states substantially the offense in relation to the property, (5) states that the affiant believes and has good cause to believe that the property is concealed at the place or on the person, and (6) states the facts upon which the affiant's belief is based. (R.C. 2933.23, *not in the bill*.)

When a judge issues a search warrant, the warrant must direct the proper law enforcement officer to search the place or person named or described in the warrant and bring the person and property before the judge or magistrate. Under current law, the warrant must be returned by the officer or individual holding it not later than three days after its issuance. (R.C. 2933.24.)

Operation of the bill

The bill removes the provision in current law that requires a search warrant to be returned not later than three days after issuance and instead specifies that a search warrant must be returned promptly (R.C. 2933.24(A)).¹

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-03-05	p. 183
Reported, H. Criminal Justice	05-04-05	pp. 748-749

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¹ *Criminal Rule 41(D) also specifies that a search warrant must be made promptly.*